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Carrier Management

# BETWEEN THE QUARTERS




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# New Capital Unlikely to Immediately Soften Rates: Vantage Risk CEO

*By L.S. Howard*

Greg Hendrick, the CEO and co-founder of the new reinsurance and insurance company Vantage Risk, isn't too concerned about the new capital that has been pouring into the market this year and its potential to drive down rates—at least in the near to medium term.

Hendrick, a 30-year industry veteran and former CEO of AXA XL, founded the company along with Dinos Iordanou, retired president and CEO of Arch Capital Group Ltd. Iordanou is now non-executive chairman of Bermuda-based Vantage Risk.

"The amount of new capital coming in is only a fraction of what has been impacted by all the loss activity from 2017 to 2020," he said in an interview with *Carrier Management*.

"From a macro perspective, in the near to medium term, particularly on the insurance side of the business, there has been a sharp reduction of capacity in many of the lines of business we're going to target, and placements are not getting done to the same level they used to."

Hendrick said most of the lines of business that Vantage Risk is writing are "shared and layered," which means that no one carrier



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provides 100 percent of policies with hundreds of millions of dollars of limit.

There have been a number of capital-raising initiatives so far this year by existing players, such as Beazley, Hiscox, Lancashire, Fidelis and OBE, along with several new companies entering the market, including Conduit Re's Bermuda-based holding company, Conduit Holdings Ltd., which raised $1.1 billion in an initial public offering earlier this month, and Inigo Ltd., a new London insurance group, which raised $800 million and has received approval to start underwriting at Lloyd's on Jan. 1, 2021. All these companies are expecting to benefit from the hardening market and improved terms and conditions.

Vantage Risk and its parent company, Vantage Group Holdings Ltd., launched early in December with $1 billion of equity capital provided by private equity firms The Carlyle Group and Hellman & Friedman (H&F) as well as management.

In a recent report, AM Best said it is unclear whether "the new cycle of rapid capital expansion" across the market will dampen any price improvements. "Capital erosion is not the main driver this time (unlike previous hardening phases)…," said AM Best.

"On the contrary, rates are increasing despite—not because of the lack of—excess capital." Hendrick emphasized, however, that he and his team will be closely watching the effects of overcapacity from a micro-perspective. "We'll be very diligent about how we look at our pricing and the margins that are available, with returns that are available."

He said Vantage Risk's management team, and most importantly, the company's private equity shareholders, are completely aligned with the idea that "if business starts to lose margin, we will not write the business. We'll address and shrink our capital base to fit with the risks that we can underwrite."

However, at the moment, "the macro outweighs the micro," he said. "I just don't think that's going to be a conversation we're going to have in the medium term. It's a very firm market, at the moment."

## Insurance Strategy in 2021

The company has begun to write property-catastrophe and specialty reinsurance—just in time for the January 2021 renewals. In 2021, Vantage intends to launch insurance products in both the Bermuda and North American markets.

"On the insurance side, we'll be more focused on the longer-tail lines. I don't have a percentage, but the majority of it will be longer-tail lines of business, like excess casualty, professional lines—both D&O and E&O—and other classes such as healthcare liability," Hendrick confirmed.

The team is in the process of looking to acquire an existing shell company or identifying potential fronting partners "so that we can start writing both surplus lines and admitted business in the U.S. as soon as possible."

Hendrick reported that the company's tagline is: "We see risk differently."

"I think of that in two dimensions. One is in the near term—the fact that most of the existing carriers, particularly on the insurance side, have cut back capacity or closed their businesses. They are withdrawing from those classes."

While these are not new risks to protect, he described this near-term aim as an opportunity to underwrite profitably and provide capacity to clients and

*"We're very happy to have clean capital from our shareholders. And yes, it's great not to have legacy reserves—but it's even better not to have legacy technology."*



*Greg Hendrick, Vantage Risk*



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brokers when they need it.

But looking through his long-term lens, Hendrick said there are more risks that are uninsured than are insured.

"We are passionate in the mid-to-long term of closing that gap between the economic loss and insured loss and doing that in a way that's creative. Now, can we do it on our balance sheet alone? No, of course not. We're part of a market and an industry, but we think we can over time develop a perspective and analytics that will allow new risks to be covered that haven't gotten enough insurance in the past."

## Operating With a 'Blank Piece of Paper'

Hendrick said a big advantage for Vantage Risk is that it is operating with "a blank piece of paper."

"We're very happy to have clean capital from our shareholders. And yes, it's great not to have legacy reserves—but it's even better not to have legacy technology," Hendrick continued.

The aim with Vantage Risk's technology is to rent platforms that do not add value and build systems on a proprietary basis when they do add value. "It's those proprietary systems that make the difference in terms of efficiency and analytics."

The company aims to be more efficient about submission intake, he continued. "How can we be more efficient about increasing the premium per colleague in the organization and being a more affordable and cost-effective provider from an expense perspective?"

## Talent Attraction

Another advantage of being a startup is that Vantage Risk is able to attract some very talented people, he noted. "A lot of people are in companies that are shrinking or closing businesses, or in general creating opportunities for us to hire great talent."

This combined with the blank piece of paper for technology "really lets us get curious and creative about how we solve our clients', our brokers' risk problems over the medium to long term."

Hendrick described an atmosphere of "nervous energy" at Vantage Risk. "Oh my goodness, there's no renewals! We've got to go get everything! It creates a good energy level."

## Genesis of Vantage Risk

How did Vantage Risk become a reality?

Hendrick recalled a phone call he received from Iordanou in February after he left AXA XL. "[Dinos] said to me: 'Look, I think this market's going to be a hardening market, and we should think about…launching a new carrier.'"

"All of us—Dinos, myself and the investors—saw what was coming at the end of 2019 and beginning of '20," he said, referring to the initial drivers for this year's hardening market.

In 2017 and 2018, the industry shouldered expensive property-catastrophe losses, Hendrick explained. Then in 2019, there were fewer catastrophes, but the market began to see the emergence of loss-cost inflation on long-tail lines in the U.S. and Europe.

"Even before the COVID-19 crisis, the market was hardening, he affirmed.

"Full credit to Dinos for making the call…, but I think all of us were aligned around that idea that something was happening in the marketplace with all the loss activity and retrenchment from existing carriers," Hendrick continued.

"Then, COVID came. If it was COVID in isolation, I don't think a lot would have changed [with market conditions]. But COVID was on top of all the other uncertainty and loss impact. So, that really pushed the momentum forward."

Discussions to form a new company began in earnest in May, he said, and the company was launched in December.

## Future Aims

When asked if Vantage Risk would ever go public, Hendrick said: "We're going to take it year by year. We're going to look at what the opportunities are—whether that's to go public; whether that's to raise debt, using all the leverage you can use when you're running an entity."

Whether a company is public or private, management must do the best they can for their shareholders as their core constituents, he said. "You have colleagues, you have customers and brokers, and you have the community—all four of those are the constituents of management. But obviously, the shareholders, in my mind, are the first priority."

If it's best for the shareholders to stay private, Vantage will stay private, Hendrick said. "If it's best for us to go public, we'll go public. That will come to pass over time as we have successes and depending on where the markets are in terms of opportunities. To me, there's not a preferred route to go. You just do what's best for the shareholders."



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*Where the industry is vulnerable in terms of environmental performance is the environmental practices and policies of insureds.*

# Ranking U.S. Insurers: How They Score on ESG Performance


## Executive Summary:

The insurance industry is in a singular position to effect positive ecological change, heal social inequities in the workplace and enhance corporate behaviors by neither underwriting nor investing in companies that harm the environment; engage in anti-competitive corporate practices; and lack diverse representation of women, people of color and LGBTQ individuals in management ranks. How are they doing with all of that? Veteran journalist Russ Banham asked four assessors about ESG performance, finding that P/C insurer scores on the "E" factor are lagging in terms of who they insure and where they invest.


*By Russ Banham*

For the past several years, environmental, social and governance (ESG) factors have figured prominently in the investment decisions of institutional investors, pension funds and shareholders. The reason is the potential impact of these factors on the value of their investments.

Property/casualty insurers and reinsurers also are large institutional investors. They also underwrite companies with ESG-related risks that may adversely affect their financial condition and creditworthiness, the case with coal mining entities and coal-fired plants that increase air pollution and contribute to climate change.

In effect, the insurance industry is in a singular position to effect positive ecological change, heal social inequities in the workplace and enhance corporate behaviors by neither underwriting nor investing in companies that harm the environment; engage in anti-competitive corporate practices; and lack diverse representation of women, people of color and LGBTQ individuals in management ranks.

Given the industry's clout to move the needle on these issues, how is it doing?

To help answer this question, *Carrier Management* reached out to four firms that analyze, measure and report on ESG perfor-



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mance: ISS Corporate Solutions, Sustainalytics, S&P Global and AM Best Co. We specifically wanted to know how deeply ESG policies and practices are embedded across the industry, where companies are excelling and falling behind, and how well the industry is performing versus industry sectors.

On the whole, the feedback was generally positive, with the industry at "different stages of integrating ESG factors into their businesses," said Maura McGuigan, director, credit rating criteria at AM Best Co. "We are definitely seeing a heightened awareness around ESG."

The other analytical firms provided similar comments, with the industry's ESG performance scoring generally about or above average compared to other industry sectors—including environmental performance.

"In terms of managing their own environmental exposures and approach to climate change, U.S. insurers and reinsurers are above average," said Sercan Soylu, associate director of ESG at Sustainalytics, the largest independent provider of ESG research and ratings. "The impact of environmental concerns on insurance companies is not that high compared to other industries like oil and gas."

This makes sense, given that insurers and reinsurers do not produce products that harm the environment. Where the industry is vulnerable in terms of environmental performance is the environmental practices and policies of insureds. Companies that harm the environment or the health of people are likely to incur stiff regulatory fines, multimillion-dollar class action liability lawsuits and public condemnation, boomeranging to impair the balance sheets of insurers and reinsurers.

"Since insurance is intangible, you wouldn't think that something tangible like climate change would affect the business performance of an insurance company," said Nicole Bouquest, associate director at ISS Corporate Solutions, a subsidiary of Institutional Shareholder Services, a provider of ESG and other data analytics services. "Yet it can, if the insurer invests in or provides insurance to a company found to have harmed the environment."

## The Spotlight Intensifies

This stark possibility may be in the offing, according to a Dec. 2 report by Insure Our Future, which is composed of more than a dozen environmental and consumer protection organizations like Greenpeace, Public Citizen, 350.org, Rainforest Action Network and The Sunrise Project. The report maintains that many U.S. insurers are playing a key role "enabling damaging practices" by the fossil fuel industry, in contrast to their peers in Europe and Australia.

"While leading global peers are exiting the coal sector and taking steps to restrict oil and gas business, the U.S. [insurance] industry is continuing to pour fuel on the flames of the climate crisis...," said Ginger Cassady, executive director of Rainforest Action Network, in a press release.

Bill McKibben, co-founder of 350.org, puts things into perspective in the same press release: "The insurance industry [has] all the data about what global warming is doing [and] yet they keep underwriting the industry that drives the damage."

Interviews with the ESG analytical firms suggest the industry is aware of the potential negative impact of insuring and investing in fossil fuel companies. A mid-November ESG-related survey of nearly 100 insurers

*"An investment portfolio with climate-related risks that becomes less attractive due to potential regulatory fines and legal liability can affect an insurer's operating performance and business profile."*



*Maura McGuigan, AM BEST*



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and reinsurers globally by AM Best suggests the respondents recognize that ESG policies and practices are increasingly critical to their long-term viability.

"As both risk carriers and institutional investors, ESG factors have the potential to affect both sides of [insurers'] balance sheets," a report announcing the survey findings states. "Survey respondents acknowledged that failure to act on stakeholder pressure around ESG issues could lead to long-term reputational challenges for their organization and the insurance industry at large."

Nevertheless, acknowledgment of the need to integrate ESG into insurer underwriting and investment decisions is not the same thing as actually doing it.

"Every industry has leaders and laggards, depending on their business profile," said Bouquest at ISS Corporate Solutions. "In our corporate ratings on companies in every industry sector, there are good companies and bad companies from an ESG standpoint."

## The Scorecard

None of the four analytical companies would provide specific U.S. insurer and reinsurer ESG scores, partly because this information is proprietary or for sale to the companies. All have different methodologies in how they arrive at their ESG scores.

ISS Corporate Solutions, for example, examines corporate ESG disclosures by companies to discern how they define their ESG policies and practices and the degree to which they've made this information public to consumers and investors. The firm also scores quantitative data, such as a comparison of a company's health and safety policies against actual OSHA violations. "The score factors in what a company is both saying *and* doing," Bouquest said.

Sustainalytics has a different methodology in generating its ESG risk rating scores. "We create a single metric allowing us to compare the ESG risk profiles of every company across different sectors, comparing the risk rating of an insurance company, for instance, against that of an oil and gas company," said Soylu.

S&P Global, a provider of ratings, benchmarks and analytics, incorporates ESG within an overall insurer credit rating. "ESG is part of our ratings, in the sense that we examine the influence of ESG on an insurer's capacity and willingness to meet its financial commitments—that's when we care," said Patricia Kwan, an S&P Global director who covers the North American property/casualty industry.

AM Best updated its rating methodology two years ago to "more conclusively" incorporate the impact of different ESG factors on an insurer's creditworthiness, said McGuigan. Recently, the methodology was again upgraded, with regard specifically to climate-related risks. In assessing this risk, it focuses on three factors: physical risk, which captures the changing frequency and intensity of weather-related events; transitional risk, which is associated with the transition to a low-carbon economy; and liability risk, relating to potential litigation arising from pollution or contamination.

"All these factors can impact an insurer's creditworthiness and affect its financial strength, reputation and performance," said McGuigan. "For example, an investment portfolio with climate-related risks that become less attractive due to potential regulatory fines and legal liability can affect an insurer's operating performance and business

## Where Do Insurers Rank?

*Soylu at Sustainalytics said that ESG performance among U.S. insurers and reinsurers is comparable to other financial institutions, better than fossil fuel sectors but not as good as the retail, mass media, home builders, and textile and apparel sectors.*

*"Workforce diversity is definitely something that insurers are paying attention to, trying to balance gender types, age groups, sexual orientation and color. Some progress is being made."*
**Patricia Kwan, S&P Global**

*"The entire insurance industry needs to stop insuring new fossil fuel projects and phase out insurance for any projects incompatible with the Paris Climate Agreement. Anything less is insuring climate catastrophe."*
**Ross Hammond, Insure Our Future**

*"Strong ESG credentials do not automatically translate into strong creditworthiness, and weak ESG credentials do not automatically translate into weak creditworthiness. That said, there have been instances where an insurer's poor diversity and inclusion practices adversely affected their reputation, earnings and creditworthiness—and our rating," S&P Global's Kwan said.*



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profile."

Despite the differences in approach, the firms' assessments of the industry's overall ESG performance are in alignment. Soylu said that ESG performance among U.S. insurers and reinsurers is comparable to other financial institutions like banks and credit card companies, better than fossil fuel sectors like coal and oil & gas, but not as good as the retail, mass media, home builders, and textile and apparel sectors.

"Summing up all industries and putting them in the same basket, I can say that financial industries like insurance perform 'slightly better than average' regarding unmanaged ESG risks—neither super good nor super bad," he said.

With regard to managing governance performance risks, Soylu said the industry is "particularly good, performing better than other industry sectors, on average." He added that U.S. insurers as a whole perform about average in managing social performance risks, with some carriers doing quite well, others less so and the remainder in between.

Kwan affirmed his perspective, commenting that the industry "could do better when it comes to hiring and promoting women and people of color, but it's not doing too shabby. Workforce diversity is definitely something that insurers are paying attention to, trying to balance gender types, age groups, sexual orientation and color. Some progress is being made."

Nevertheless, she said if an insurer has a good diversity and inclusion policy, "it doesn't automatically mean we'll upgrade the company's rating. It has to translate into an explicit earnings or capital impact. Strong ESG credentials do not automatically translate into strong creditworthiness, and weak ESG credentials do not automatically translate into weak creditworthiness. That said, there have been instances where an insurer's poor diversity and inclusion practices adversely affected their reputation, earnings and creditworthiness—and our rating."



## Unpacking the E of ESG

Whereas U.S. insurers' and reinsurers' S and G scores are about average or above, their E scores rank lower than other industry sectors, said Soylu. This may soon change. "Due to increased focus on the physical risks of climate change, the industry's E scores should improve on an aggregate basis in the coming future," he projected.

Kwan seemed to share this perspective on a carrier-by-carrier basis. "The thing with some insurance companies is they're exceptional risk engineers," she said. "In underwriting an oil and gas company, they'll closely examine historical losses, safety measures, geography and climate impact. They may write the business but will price the insurance at such a high rate that it's prohibitively expensive to buy. In part, this may explain why many energy companies have formed captives to insure their own risks."

Jessica Botelho, AM Best associate director, pointed to progress being made by some U.S. insurers and reinsurers. "There are mounting pressures on insurers and reinsurers to choose not to underwrite and invest in coal companies," she said. "Some carriers are working with current policyholders to transition into more [environmentally] sustainable business practices."

A case in point is Chubb, which announced its commitment to phasing out insurance for coal mining companies and coal-fired plants by 2022, in addition to ceasing investments in coal companies and restricting coverage to power companies that produce more than 30 percent of energy from coal sources.

Similar efforts are underway by insurers in Europe and Australia, many of them no longer providing coverage for new coal projects and making it more difficult and costlier to secure the insurance that coal projects need to operate, according to Insure Our



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Future. On Dec. 17 last year, for example, the Lloyd's market announced that it is asking Lloyd's managing agents to stop providing new insurance cover for thermal coal-fired power plants, thermal coal mines, oil sands or new Arctic energy exploration activities by Jan. 1, 2022. Lloyd's will also cease new investments in carbon-producing assets by Jan. 1, 2022, phasing out all existing ones by 2025.

Conversely, other insurers in the U.S. are lagging their peers. "U.S. insurers like AIG, Liberty Mutual and Travelers are providing a lifeline to the struggling coal industry and underpinning the expansion of oil and gas infrastructure that the climate cannot afford," stated Rainforest Action Network's Cassady in an Insure Our Future press release. The three insurers either declined or did not respond to requests for an interview.

"By now, it should be very clear to insurers with sophisticated climate impact models that the world needs to rapidly reduce its dependence on fossil fuels," said Ross Hammond, senior strategist at Insure Our Future, in an interview. "While there has been progress among European and Australian insurers on [insuring or investing in] coal and tar sands companies, even their actions are not commensurate with the scale of the climate crisis."

Virtually all of the world's top climate and atmospheric scientists, Hammond said, "have concluded that we have less than 10 years to prevent the worst impacts of climate change. The entire insurance industry needs to stop insuring new fossil fuel projects and phase out insurance for any projects incompatible with the Paris Climate Agreement. Anything less is insuring climate catastrophe."

That seems like a lot to ask of insurers and reinsurers. But expect environmental organizations as well as investors and consumers to pressure the industry in coming years to improve all components in their ESG practices and policies.

*Russ Banham is a Pulitzer-nominated financial journalist and best-selling author.*



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# Building an Inclusive Workplace Takes More Than Lip Service

*By Kimberly Tallon*

Companies need to stop paying lip service to creating a diverse and inclusive workplace and actually take action to make it happen, a D&I training consultant says.

That means investing time and resources into setting clear goals and expectations, figuring out a way to measure progress, rethinking processes, and holding individuals throughout the organization accountable for doing their part in driving D&I, said Angela Peacock, CEO of PDT Global, during a panel at the IICF Inclusion in Insurance Forum in October.

Peacock said she thinks "the whole diversity and inclusion industry at the moment is guilty of premature self-congratulation…Very often, we're seeing organizations win diversity awards…and



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the very next day declaring gender pay gaps or ethnicity pay gaps that quite frankly deserve them to be publicly whipped in the street, not held up in high regard."

Most companies still have a long way to go when it comes to narrowing those gaps, she said. It could take generations, she suggested, noting that "it's not my daughter that would stand the same chance as my son of being your next CEO [and] it's not my granddaughter that would stand the same chance as my grandson of being your next CEO. At our current rate of progress, in most countries and in most organizations, it would be my great-granddaughter that would stand the same chance as my great-grandson of being your next CEO—and then only if she were Caucasian and only if she were heterosexual. Any other move away from those characteristics would knock it back potentially another generation."

Peacock discussed nine "levers" that need to be implemented if an organization truly wants to be inclusive, but she cautioned that "unless we implement them all together and at the same time, then actually we scupper any effects that any of the work we're doing might have."

## 1. Watch your language.

Peacock said that you need to begin by agreeing on a clear definition of diversity and inclusion—what they mean and what they do—and then look at how each can affect your business.

She defined diversity as "anything that if it were possible to ask (and in some jurisdictions it's not) and people were willing to share (and they are not always willing to share), you could measure it."

However, she noted that having a diverse workforce isn't enough. "You can bring the most diverse group of people to the table you like—red, yellow, Black, white, gay, straight. Hell, you can even have women there. But if what's going on around the outside of them is toxic, you will eat away at them day by day, step by step, moment by moment, until finally the prophecy of the fact 'they are not as good as us' gets proven...We make it so because of the environments we bring the diversity into and the lack of honest appraisal for what we need to do differently."

She said that's where inclusion comes in, defining it as "creating an environment where everyone with the capability to excel can do so."

## 2. Make a case for D&I.

Clearly articulate the business case for D&I in your organization. Be specific—don't just make a grand diversity statement that talks about "enhancing creativity and innovation" or "increasing engagement." People aren't listening anymore, and they're not buying into it.

## 3. Measure wisely.

Find a way to measure inclusion and actually hold people accountable. If you're not measuring it, you can't prove it, Peacock said.

Employment engagement surveys are a useful measuring tool. Make sure there are several questions where people can indicate whether they feel included in your organization. Do they feel valued? Heard? Do they feel like they will be promoted?

*"At our current rate of progress, in most countries and in most organizations, it would be my great-granddaughter that would stand the same chance as my great-grandson of being your next CEO—and then only if she were Caucasian and only if she were heterosexual. Any other move away from those characteristics would knock it back potentially another generation."*



*Angela Peacock, CEO of PDT Global*



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Look at hiring numbers as well as talent velocity, she said. How fast is the diverse talent you hired actually moving through the organization? And hold individual managers accountable for the way they have driven inclusion forward in the past six months, one year, etc.

## 4. Make the procurement director your friend.

Peacock noted that procurement directors have "held their organizations to account for things like modern slavery and also things like sustainability [and] have pushed out to insist vendors fall into line from a compliance point of view around those topics." She believes they can do the same for diversity and inclusion. Companies need to look down through their supply chain and insist they all meet a certain standard in terms of their own D&I.

## 5. Make training and embedding mandatory.

Compulsory training can only go so far; without embedding, it's a one-off experience. Peacock said managers need to also have follow-up discussions with their teams about how they're going to use that training to drive D&I forward.

## 6. Leverage the performance management system.

Encourage individuals to drive inclusion in the organization and measure their progress. This may help encourage people to attend different employee resource group (ERG) meetings or to mentor someone from a different race or gender.

## 7. Ensure D&I and HR are empowered.

Councils, committees and ERG groups can be valuable in driving inclusion, but they need to be held accountable, not just be an excuse to have yet another inspirational speaker. Ask them to draw up a comprehensive business plan, including specific ways they can make an impact on the organization.

## 8. Try to rid your processes of bias.

Peacock said it's important to admit that "every single process you have, from recruitment to who you choose to go on projects with,...will be heavy with bias."

To start getting rid of that bias, one simple step is looking at the "unwritten rules" and "working out the levels of toxicity" in them, she said. Then it's time to identify the "pinch points of bias" in your processes. For example, she noted that many job descriptions have so many requirements that they actually discourage diversity. Instead, she advised using the "smallest amount of criteria possible to attract the broadest diversity group possible."

It's also important to look at how interviews are being conducted. The criteria for the interview should correlate with the job role and be scored independently. And that scoring should be ready to be shared and justified before a hiring decision is made.

## 9. Make sure the C-suite means it.

If your D&I lead has been given no resources in terms of people or finances, good intentions will not make a difference, Peacock said, noting that you "can't create diversity on a shoestring."



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# Actuary to Actuary: Understanding Racism in the Workplace


## Executive Summary:

A leader and mentor for the International Association of Black Actuaries shares her experiences and those of other members (with permission) in dealing with racism in and outside the workplace, some research about diversity in the actuarial profession, and IABA recommendations about what white actuaries and other insurance professionals can do to work toward eradicating racism in the P/C insurance industry. "It only requires you to be intentional, vulnerable and open to learning," she writes, providing a list of dos and don'ts that starts with acknowledging the issue.



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*By Gloria Asare*

Events in 2020 that included protests in response to the brutal killings of several unarmed Black people—George Floyd, Breonna Taylor and Ahmaud Arbery to name a few—reignited passionate conversations around systemic racism in North America and across the world. We have had to revisit questions like: Does racism really still exist? To what extent? How is it systemic? And what can we do about it?

Even if you wanted to get away from the topic of race, the May 2020 incident involving Society of Actuaries member Amy Cooper calling the police on birdwatcher Chris Cooper (coincidental last name) in New York's Central Park brought this right to our doorstep as actuaries.

As an organization whose drive since 1992 has been to increase the number of Black actuaries and provide support to them in overcoming racial barriers to be successful in the profession, the International Association of Black Actuaries (IABA) was primed to further our work with company executives to bring tangible long-term solutions to tackle the issue of racism in the actuarial profession. In fact, over the summer the IABA released a crucial document: a list of recommendations for employers to increase and advance diversity internally.

But where do you personally fit into this grand picture?

That is what I will share with you here. I plan to shed light on the realities of racism in the workplace, why it is important for each of us to address in some way, and how we can do so rea-




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sonably and meaningfully.

However, it is important to first note that different Black people have different experiences. For instance, looking at the IABA, our members are truly international, coming from different parts of the world in addition to the U.S. Some are the first in their family to suffer racial discrimination and prejudice in the U.S. or Canada, while others have experienced systemic racism for generations in their families before them. Thus, even though most, if not all, experience some form of racism, the particular experiences and histories differ for different Black actuaries, resulting in different opinions on what action should be taken to eradicate racism.

In writing this article, I intentionally draw not just from my personal experience in working in the U.S. and Canada but primarily from my involvement with the IABA. As the Toronto Affiliate founder and co-lead, I am grateful to have been a part of the conversations and work referenced above in addition to participating in conversations and events the IABA has fostered centered on racism in the workplace.

## Why Should Racism Matter to You?

It is common industry knowledge today that companies that are more diverse and inclusive have better top- and bottom-line results. (See, for example, "Why Diversity Matters," McKinsey & Company, 2015). But imagine the impact on personal productivity if you had to endure any of the following real-life examples from actuaries.

Are you a parent? Have you ever wondered, as I have repeatedly, at what point society will change from viewing your children as adorable and cute to viewing them as aggressive threats to be neutralized?

Have you ever considered that one of your team members of color may just unexpectedly not show up to work?

- Nathan Ortiz, ACAS, is frequently stopped by the police for no apparent reason. He often has to prove that he is neither driving a stolen car nor has drugs in his car before the police begrudgingly let him go. Over time, one response he has developed to these incidents is, "Well, this is an interesting reason to be late to work."

- IABA member and Hartford Affiliate Co-Leader Rodrigue Djikeuchi was arrested in 2015 after a family dinner in town. To this day, he does not know why. He had two flat tires and his insurance company was considerably delayed in assisting him. Hours later he called the police for help. Upon their arrival, they handcuffed him, took him to the local precinct, then transferred him to a county jail for the night. After speaking with the judge the next day, he was let go.

*(Editors' Note: These stories are shared with permission.)*

Many Americans read the news in 2018 about Botham Jean, a 26-year-old Black man who was fatally shot and killed while unarmed in his own apartment, when a police officer entered the apartment wrongly believing it to be her own. Jean was an accountant in the Risk Assurance practice of the Dallas office of PwC at the time. Can you imagine the grief of the employees who worked with him?

This is just a small sample of outrageous cases that can have an impact on work outcomes. Some of your colleagues are constantly going through fear-

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*Gloria Asare*



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ful, tormenting and, at times, life-threatening situations solely because of the color of their skin.

We can often get so caught up in our work and daily routines that it can be hard to remember we are all human beings. We each have our families, relationships, aspirations, joys and sorrows that shape our individual worlds—even if we live in different neighborhoods. Having concern for our fellow human beings is vital, and we must realize that not everyone experiences the same level of safety and security in the world. We may not be able to change all these things, but at a minimum, let us do our best to address that which is right in our midst.

## Racism in the Workplace

Racism is brought to the forefront in extreme cases like recorded police brutality, but it is also prevalent in the office environment. In 2018, C+R Research, a market research firm based in Chicago, shared the results of a study it had conducted on diversity and inclusion in the actuarial profession. One of many pertinent facts the firm shared is that "discrimination in the [actuarial] field is real even if it is non-intentional." (Source: "Diversity & Inclusion Research Initiative." Presented to The Actuarial Foundation, CAS, IABA and SOA by Culturebeat—the multicultural division of C+R Research, 2018)

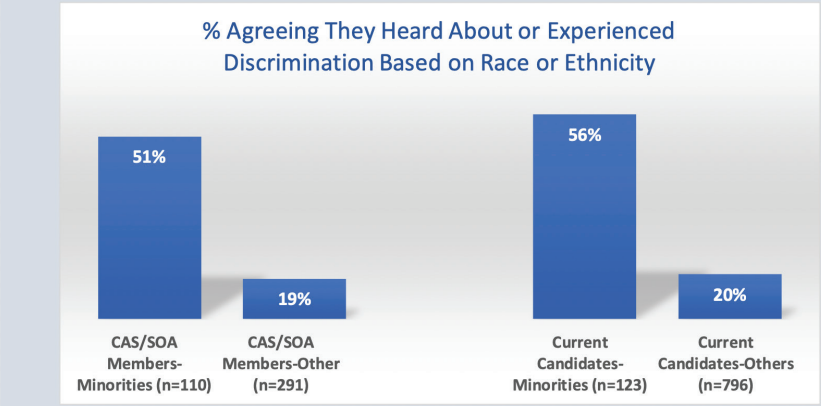
The accompanying chart (upper right) also highlights the importance of listening to your minority colleagues and the challenges of spreading awareness. The study found that non-minorities in the actuarial community were less than half as likely to acknowledge racism compared to minorities.

So, what does racism in the workplace look like?

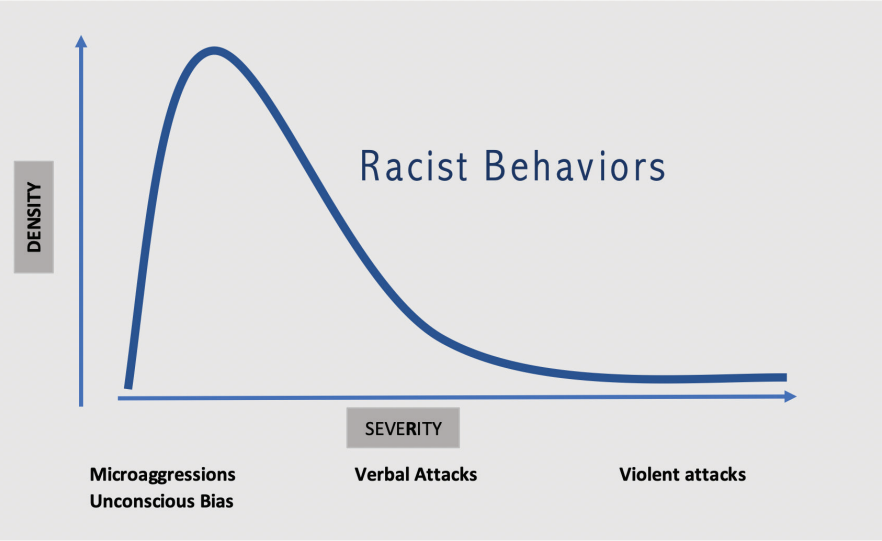
Most times it's not overt, where Black people are openly called the "n" word in the cafeteria or where the hiring manager tells HR to "not consider anyone Black" for the position.

Kuda Chibanda, FCAS and member of the CAS board of directors, said it best during "Racism in the Actuarial Profession," a session at the 2020 IABA Annual Meeting. She explained that most people think racism is all or nothing; either you're a nice person who's not at all racist or you are an evil person who is completely racist, akin to a Bernoulli distribution, which can only be discretely 0 or 1. But racist behaviors are actually more like a Gamma distribution (accompanying bottom picture). There is a range of behaviors from the minor to the extreme, and it should be acknowledged that each person falls somewhere along that spectrum. You can be a very nice person and still perform lower severity racist acts, or microaggressions.

Psychologist and former Spelman College President Beverly Daniel Tatum describes microaggressions as brief and commonplace verbal, behavioral or environmental indignities. Examples include interrupting and talking over Black colleagues in meetings; making comments such as, "Wow, you speak so well" or "You don't sound Black"; sighing loudly or



**Source:** "Diversity & Inclusion Research Initiative," 2018; research conducted by Culturebeat, the multicultural division of C+R Research for The Actuarial Foundation, CAS, IABA and SOA
Note: Minorities = African Americans and Hispanics






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yawning when a Black colleague begins a presentation; or not inviting your Black colleague to team socials.

On their website, the University of California San Francisco's Office of Diversity and Outreach defines unconscious biases as social stereotypes about certain groups of people that individuals form outside of their own conscious awareness. Examples include mistaking a Black person you meet for the first time for an office assistant, when they are actually an actuary; spending more time checking for errors in work submitted by a Black colleague; not considering when hiring the added challenges most Black people face in pursuing this career; showing low interest in resumes with names that "sound Black"; investing less time training a Black hire; and requiring extra demonstrations of aptitude from Black men and women before promoting them.

Dr. Valerie Purdie-Greenaway, a psychology professor at Columbia University, spoke to these lower severity examples of racism in the session "George Floyd and beyond: What does real anti-racism look like in organizations and how to lead through change," which was part of the 2020 IABA Annual Meeting. She also discussed the psychological cost to Black employees of working in such an environment. They are consistent with items LaFawn Davis, the VP for Diversity, Inclusion & Belonging at Indeed, shared in episode 12 of Indeed's online series "Here to Help." When someone is constantly trying their best to do the right thing at work but ends up with adverse outcomes over and over again, they can feel a lack of belonging based on their identity as a Black person. Their daily motivation weakens, leading to undermined performance as creativity, morale and engagement drop substantially while the potential for other mental health issues such as anxiety and depression rises.

These different acts of racism and the cost put on Black employees are significant contributors to the lack of representation of Black individuals in the actuarial profession. While in the U.S. Black people make up around 13 percent of the population (U.S. Census, as of July 1, 2019), approximately 1 percent of U.S. actuaries are Black.

In the future, the IABA will share the corresponding figures for Canada.

*Related article below, "Actuary to Actuary: How to Help Combat Racism in the Workplace"*

## Actuary to Actuary: How to Help Combat Racism in the Workplace

*By Gloria Asare*

As actuaries and other professionals in the property/casualty insurance industry start to better understand racism, many people genuinely want to help, but they don't know how.

They may also fear saying something wrong or being implicated themselves, especially since, as we saw in the accompanying article, you can be well-meaning but still perform a racist act.

The International Association of Black Actuaries (IABA) wants to encourage you to not give up. Following is a list of solid steps you can take to be an ally to your Black colleagues and make a positive difference. It only requires you to be intentional, vulnerable and open to learning.

1. **Acknowledge that racism exists.** Acknowledging its existence is neither a personal attack nor a disregard for the challenges you have overcome to reach your level of success. It is about accepting that, due to structural systems embedded and normalized in society over generations, Black people continue to face several barriers that prevent them from attaining that same level of achievement even with the same level of effort. Reflecting on and accepting your unintentional role in this system is a necessary first step to address the issue. The next point suggests how to do this.

2. **Educate yourself about racism.** Doing research on your own first will accord you an informed base and thus more confidence in broaching the topic. Read a book centered on race.

Consider, for instance:

• "How to Be an Antiracist" by Ibram X. Kendi

• "White Fragility: Why It's So Hard for White People to Talk About Racism" by Robin DiAngelo

• "So You Want to Talk About Race" by Ijeoma Oluo

• "Racism without Racists: Colorblind Racism and the Persistence of Racial Inequality in the United States" by Eduardo Bonilla-Silva



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Don't have time to read a whole book? Watch TED talks online such as:

• "Let's Talk About Race" by Jennifer Chernega, TEDx-Trondheim

• "Let's get to the root of racial injustice" by Megan Ming Francis, TEDxRainier

• "The danger of a single story" by Chimamanda Ngozi Adichie

Another resource we use all the time is Google. Perform basic searches such as "racism in America," "the history of racism" or even "racism today" and read further.

3. **Make a conscious effort to be inclusive.** Do not operate on presumptions about your colleagues. Instead, be friendly, open to connecting and get to know them.

• This can be as basic as scheduling a recurring lunch or intentionally talking to someone new you haven't interacted with before even if you also converse with your usual circle. In conversations, look for things you have in common.

• Research an area of interest pertaining to them. For instance, if you know your teammate is originally from out of the country or out of state, either ask them about or Google their home region. Where is it located? What is the capital? What are some favored dishes? What are some popular sports?

It takes minimal effort but can create a strong positive impression that aids in fostering feelings of belonging for them.

Keep in mind that a lot of people who relocate move not because they dislike their home but because they are looking for different career opportunities.

• **Seek everyone's opinions when collaborating.** Even in time-sensitive situations, make every effort to hear from each team member. Be patient with bilingual colleagues who may take more time to express their opinions in English.

4. **If you see something, say something.** When you witness a potentially racist act, speak up. If a colleague makes an inappropriate joke, even absent a Black person, do not laugh it off to avoid confrontation or tell yourself that you'll address it if it happens again. A rebuke as casual as, "Oh man, that's not appropriate. It doesn't consider…" can be helpful.

Do not leave your Black team members to always be on their toes to keep people in check. If you find it tough to say something, imagine how much harder it is for your Black colleagues. Liken acts of racism to those of sexual harassment—the focus is not if the intent was bad but rather how it made the victim feel.

5. **Request and support diversity, equity and inclusion initiatives in your company.** A truly inclusive environment is the best defense against racism in the workplace. Everyone—minorities and non-minorities—has their unconscious biases and needs training to overcome them.

In addition to the to-do list for being a good ally, there are some things I suggest not doing:

• **Do not talk to your Black colleagues only when race events feature in the news.** This just serves to put them on the spot and makes it even more obvious to them that they are the visible minority, which can overwhelm your Black colleagues with expectations of having to talk about sensitive racial issues on behalf of the entire Black population.

• **Do not assume that your Black colleagues want to discuss their racial experiences with you.** In my earlier article, I mentioned the psychological toll racist experiences can have on the victim. Sharing these sometimes traumatic experiences can bring up delicate emotions your colleagues may want to avoid—especially at work. Do not be offended if you are not one of the people they choose to confide in.

• **Do not ignore the topic of race just hoping it goes away.** Ignoring company meetings or events centered on issues of diversity is a proclamation of your disinterest in the topic and is personally offensive to your minority colleagues. Realize that you are privileged to be able to choose to be interested in this topic, while others are forced to live with the negative realities of being Black on a daily basis. As activist Angela Davis said, "In a racist society, it's not enough to be non-racist; we must be anti-racist."



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# Rise and (Help Others) Shine



*By Katrina Waddy*

What wakes you up every morning? Your alarm clock? The neighbor's (or your) barking dog? Sunrise through your window? A gentle nudge from your significant other?

For most of the world, the year 2020 proved to be the loudest wake-up call of the decade.

In the U.S., the COVID-19 pandemic, civil uprisings and a divisive presidential election shook us from our slumber and forced open our eyes for a clearer look and stronger consideration of scientific facts, a refresher course in the repercussions of our volatile history, and tighter codes of conduct for those in leadership. What a great opportunity to apply these key learnings in our respective workplaces—particularly in the area of diversity, equity and inclusion (DEI).

Last year proved that there is a lack of awareness of and appreciation for minority employees (or customers), and worse, little action toward long-term, corrective remedies. Instead, many companies continue to hit the snooze button, hiding behind quick, short-term solutions.

After the public murder of George Floyd and the resulting riots, corporate leaders gave their full, immediate support to DEI-hosted virtual town halls,



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open dialogue sessions and surveys for minority employees but then snoozed on making meaningful changes to hiring or training practices.

Where are the measurable next steps to hold your company accountable for attracting and retaining minority talent and grooming them for leadership?

Wake up! Because as the saying goes: when you snooze, you lose.

How many more times will you reminisce about those good ones who got away—minorities who left because they were not promoted with the same frequency, preparation or enthusiasm as their non-minority peers? How many were stressed out by problematic managers who wreak havoc on their teams while leadership turns a blind eye and deaf ear? How many were put on the dreaded PIP/PMP (performance improvement/management plan) that not only diminishes past successes or accolades but focuses almost entirely on every single "challenge" or "opportunity for growth" (inevitably marking the beginning of the termination process)?

How much pressure will you put on human resources and recruitment to provide a diverse pool of candidates for employment opportunities that you manage? And how much outreach will you conduct with people and organizations that can make minority recommendations and referrals?

At what point will you be uncomfortable that all of the attendees on your Zoom meetings or all of the leaders featured on your company's website look just like you?

The current year enables organizations to wake up leveraging the energy of a new administration in Washington, D.C. and truly reset. This is a perfect time to look back at what you or your company have always done and, where necessary, to *do something different*.

Start small with personal check-ins to your team—particularly Black and brown members. How are they/their families holding up after 365 days of COVID? Do you have connections to resources—including information, people, services—that could be of immense help? (In this climate, a simple endorsement on LinkedIn or post-exit interview referral can go a long way.) Get familiar with different perspectives on current events by expanding your news sources to include minority media outlets.

The solutions to creating a more inclusive work environment and culture shouldn't be viewed as one-offs or one-dimensional, especially as we navigate the unchartered waters of pandemic living. But since attitude often reflects leadership, the quest should start at the top.

In the first quarter of 2021, we'll turn our clocks ahead to spring forward. When your alarm goes off, will you repeatedly hit snooze, or will you strive to #staywoke?

*"At what point will you be uncomfortable that all of the attendees on your Zoom meetings or all of the leaders featured on your company's website look just like you?"*

*Katrina Waddy is a communications and public relations professional with nearly three decades of experience in the agency, city government, nonprofit, and corporate arenas, including 10 years managing communications and media for global business insurer CNA. She currently serves as Communications/Public Affairs Director for One Chicago Fund, which forges public-private partnerships between neighborhoods, residents, organizations, businesses and the City of Chicago.*

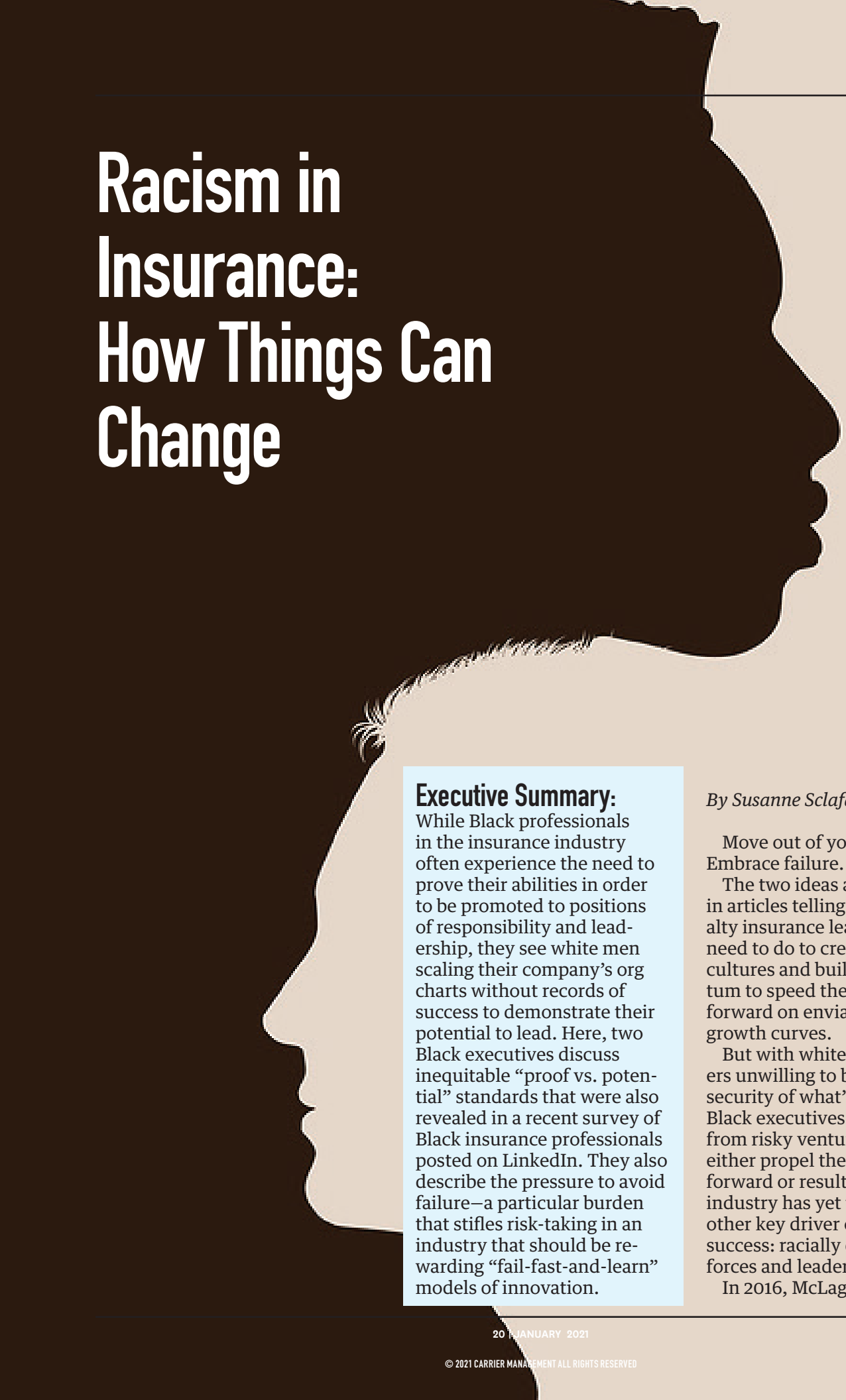


*Katrina Waddy, One Chicago Fund*



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# Racism in Insurance: How Things Can Change




## Executive Summary:

While Black professionals in the insurance industry often experience the need to prove their abilities in order to be promoted to positions of responsibility and leadership, they see white men scaling their company's org charts without records of success to demonstrate their potential to lead. Here, two Black executives discuss inequitable "proof vs. potential" standards that were also revealed in a recent survey of Black insurance professionals posted on LinkedIn. They also describe the pressure to avoid failure—a particular burden that stifles risk-taking in an industry that should be rewarding "fail-fast-and-learn" models of innovation.


*By Susanne Sclafane*

Move out of your comfort zone. Embrace failure.

The two ideas are ever-present in articles telling property/casualty insurance leaders what they need to do to create innovative cultures and build the momentum to speed their companies forward on enviable upward growth curves.

But with white insurance leaders unwilling to budge from the security of what's familiar, and Black executives discouraged from risky ventures that could either propel their careers forward or result in failure, the industry has yet to embrace another key driver of organizational success: racially diverse workforces and leadership teams.

In 2016, McLagan, a subsidiary



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of Aon, reported that 98 percent of the executives at stock insurers and 93 percent of the executives for mutuals were white. For both types of companies, white employees made up 83 percent of their workforces, while Black men and women accounted for just 7 percent. More recently, S&P Global Market Intelligence, compiling data from U.S. Bureau of Labor Statistics, found the numbers haven't changed very much over the past decade. In 2019, Black employees represented 12.4 percent of the insurance carrier workforce, S&P found.

During a recent interview with *Carrier Management*, Michael Chang, one of the few Black men in the industry who has made it to the C-suite ranks, pointed to the industry's "friends and family" culture as a factor holding back long-discussed initiatives to make the industry more racially diverse. Now the CEO of Global Risk Solutions for Sompo International, Chang recalled the conservative culture he encountered during his career. "People, in general, are not comfortable being uncomfortable," he said. "They like to deal with people that fit their mold or those that engage in a lot of the same things they do. That's just normal," he added, describing how jobs and promotions across the industry were often doled out based on country club and community relationships instead of attention to "putting the best players on the field."

Abel Travis, vice president of Fundamental Underwriters, a division of AF Group, identified a slightly different but related problem. "On our journeys, leadership is often based on proof. So even for me, I had to prove the fact that I have the ability to be successful in deploying revenue-producing capabilities, building and leading a team before opportunities were then sent my way," said the Black leader, reflecting on his own 16-year career in the property/casualty insurance industry and contrasting the advancement standards for other communities. "What I see is that others' journeys into leadership and promotion are based on potential."

"You can see others from other communities that haven't had the background but might have a connection either in the industry or might resemble the person that's the hiring manager...Without the experience, they are still more likely to get that job based on what people see as their potential to be successful in that job."

"I don't want to speak for everyone, but that's been my experience," Travis said, noting, however, that other Black and brown professionals he's spoken to have similar assessments.

In fact, a number of other Black insurance professionals used almost the same words to articulate this "proof vs. potential" problem in response to a LinkedIn survey conducted by Susan Johnson, chief diversity and inclusion officer at The Hartford, and Leroy Nunery II, founder and principal of strategic advisory firm PlūsUltré LLC, titled "Why aren't there more Black professionals in leadership roles in the insurance industry?" Respondents to the LinkedIn survey also mentioned a "one and done" standard that they feel applies to them. In an industry where innovation and mantras about learning from failure are becoming more common, *CM* wondered whether Travis, well known as the former host of the "Insurance Innovators Unscripted" podcast, felt the same way.

"Frankly, growing up as a Black person, we're actually taught that we have to perform at a level that's 150 percent better than anyone else around us because, otherwise, we're not going to be

*"Frankly, I believe that anyone that has any semblance of privilege—whether you're white or Black, it doesn't matter—I believe everyone needs to take the opportunity to put that privilege to work."*



*Abel Travis, AF Group*

*"I think that people do hide behind the fact that the talent is not there. That's not true. You've got to work harder to find it—and a lot of it's been chased away."*



*Michael Chang, Sompo Global Risk Solutions*



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taken seriously," he confirmed. "It's really unfortunate because you wind up bearing the weight of your community based on how you perform—because if you fail as a Black and brown person, then people may look at that as if it's a representation as to how everyone that looks like you may wind up performing," he said. "That's a stigma we have to get rid of."

A Black person might tend to play things a little bit more safe to avoid this, he suggested. "I honestly believe that it limits our ability to grow, to get into leadership, to advance into [new] areas...You're not necessarily going to do something that will really rock the boat, because if you fail, it may be looked at as if you're not bringing the exceptional work product expected of you to the table," Travis said.

Chang said he was taught similar lessons about the need to overperform, although he hasn't been afraid to rock the boat. (See related article, "Disrupting Insurer Comfort Zones: Sompo GRS CEO Chang" on *CM*'s website.) "You have to be twice as good—because if you're not, then you will get overlooked," Chang said, quoting the advice instilled in him from his Jamaican mother.

## How Things Can Change

*Carrier Management* asked the leaders to weigh in on what can be done to change the status quo and about whether they thought the declarations by white industry executives renewing their commitments to diversity connected to the Black Lives Matter movement in 2020 will jumpstart meaningful change.

Travis prefaced his response by citing a 2018 Boston Consulting Group study that concluded that companies with diverse leadership teams and management structures throughout their organizations had 19 percent more innovation revenue than those with more homogenous teams. "In my mind, that's an argument to make sure that diversity, equity and inclusion is the pillar of any organization's strategy," said the leader, who has a passion for learning about innovation in insurance. (Related article: "Sharing Knowledge: How AF Group Exec Puts His Privilege to Work" on *CM*'s website)

Addressing steps to move ahead, Travis said that any insurance professional who is serious about change should first become an ally to an underrepresented community. "There are seven-and-a-half billion people on this earth. So, there are seven-and-a-half billion different versions of what diversity, equity and inclusion actually means to everyone on the planet. But when you become an ally to underrepresented communities, it helps you to understand the obstacles and it supercharges the ability to be an effective sponsor and mentor within those underrepresented communities," he said. "I think it's the key to unlocking the power of diversity and inclusion."

"The other thing that can be done—I think this is really important: People have to understand that they have privilege," Travis said, "For example, as a Black educated male with an MBA in finance, economics and entrepreneurship, I know that I hold a level of privilege to those Black and brown individuals that do not have college degrees. I understand my level of privilege, [and] I believe that there are other people within the industry that should recognize that they also have privilege and they need to put that privilege to work to really amplify the voices of the underrepresented communities in the workplace."

Vividly recalling an incident during his own career when he was giving a presentation and a white professional overtly ignored him and refused to address her questions to him, Travis recounted what others in the room did in response. "No one said a word. But imagine if they just used their voice to amplify what I was saying to show that I was in the position of leadership at that point...That could have been powerful."

"Frankly, I believe that anyone that has any semblance of privilege—whether you're white or Black, it doesn't matter—I believe everyone needs to take the opportunity to put that privilege to work."

Travis also said that taking steps to change the industry won't come naturally to people who don't know how to engage with communities other than their own. "You also have to look to change yourself and what's around you...What's going on in your personal life based on what you expose yourself to culturally, who you surround yourself with, the type of foods you eat?...Even though that does not necessarily have anything to do with the industry, it has to do with [changing a] person to really become more effective at understanding different cultures," he said, circling back to the idea that people tend to hire those that they're comfortable with.

"As soon as you start to become comfortable with other cultures, that barrier naturally starts to break down."

Travis believes carrier progress is mixed on DEI efforts in 2020 following the pronouncements carrier executives made supporting the Black Live Matter movement. "That was five or six months ago. When you start to look at where those organizations are now, there are some that are doing a phenomenal job and continuing to persist,"



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he said. For others, "it feels like what they were saying was just platitudes," he said. "It was the thing at the time. But that's really what you want to get away from. If you're going to be an ally to a community and if you're going to put out this bold statement, it can't be a platitude. It has to be coming from a point where the organization really means that the message of support, action and change is what they're hoping to accomplish."

"There are some organizations that just get it. They have essentially been able to tap into their Black and brown employees in a way that doesn't put the weight of diversity, equity and inclusion on them," he said. "They're putting actual resources into understanding and setting into action what it takes to be an ally [and] to be successful with diversity efforts," he said, also highlighting industry partnerships with historically Black colleges and universities.

Chang said he's not sure that the statements he read from industry executives outside of his company after George Floyd's murder are leading to any real change. "Anybody can talk. It's about the action behind it. And these conversations about diversifying the P/C industry, they're not new. This has been happening for 20 and 30 years that they've said this is a challenge and they want to fix it."

"I am concerned that the momentum does get lost and we don't hold folks accountable for making the change that's needed right now at the top levels of organizations," Chang said. "And I think that people do hide behind the fact that the talent is not there. That's not true. You've got to work harder to find it—and a lot of it's been chased away." People of color "haven't stayed because they don't see the change that needs to happen at the top," he said. (Related article, "Why POC Don't Stay in Insurance," next page.)

"If you really want more people to stay in this industry, to make it diverse, you have got to really change what the top looks like *immediately* to get that type of result," Chang stressed. "You're putting all these messages out that say, 'We are about diversity and inclusion,' but then you're not showing me. You're just telling me,'" he said, verbalizing the thoughts of ambitious people of color with leadership aspirations. "That is not a recipe for success short or long term," he said, contrasting executives who are "sincere in making real, impactful change that's sustainable."

Changing the way the industry looks is something Chang believes will ultimately lead to better business results across the industry in totality—an assessment he can make based on the success of his profitable $1 billion operation, guided by a diverse senior and mid-level management team. (Over half the Sompo GRS team is made up of women, people of color and members of the LGBTQ community.)

"As you start to bring more people in from underrepresented communities, you also help to be a catalyst for change within those underrepresented communities," added Travis, referring to the fact that some Black communities don't have the same wealth levels as white communities. "Hiring one or two people from an underrepresented community, while it's still not a lot, it can actually change the makeup of families for generations just by giving them that small opportunity," he said.

Travis, who has been learning about and collaborating with the InsurTech community for several years, said he believes talent may be more diverse at the technology companies. But there are inequities in terms of access to capital. Specifically, he recalled reading a statistic indicating that only 2 percent of executives at the top 10 most-funded InsurTechs are Black.

"In my mind, it's abysmal," he said, noting that Black InsurTechs are more likely to get funded in South Africa and Europe than in the United States.

Programs like one that Magic Johnson put together, deliberately targeting Black and women-owned companies for funding, may be a way forward. But "it shouldn't have to be this way," Travis said, noting that InsurTech entrepreneurs from underrepresented communities are just as intelligent and ambitious as their white counterparts.

Returning to a question about the traditional industry, Chang, a self-described optimist by nature, said "the changing of the guard" makes him optimistic about the industry's future. "You're going to have more millennials. You're going to have more Gen-Zs now coming up through the ranks" and individuals who "are more tolerant, more accepting. They are more willing to have more diversity at the top because they know it just makes sense."

Predicting how things will play out over the next 10 years, he said, "People will move out of senior leadership roles that may not have been as supportive of D&I." So, despite where the industry is today, Chang said he would definitely recommend a career in insurance to any one of his children and to younger people he mentors. "We're in a fascinating industry that requires so many skills, whether that's financial analysis, interpersonal skills, analytical skills…"

"I do believe that if you're really good, you will be able to rise regardless of what you look like in the future," he added.



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## Why Don't POC Stay in Insurance?

What is the insurance industry doing to elevate people of color?

When Amy O'Connor, *Insurance Journal's* southeast editor, raised the question to Black insurance industry professionals during a special webinar last summer, Nina Boone, senior client partner, chief commercial officer, Power of All, Korn Ferry, began her response by describing the industry's relationship with its Black professionals as "an abusive one."

"When I look at organizations in terms of advancement, what's happening is nothing," she said.

Boone, who is also the former U.S. chair of Aon's Diversity & Inclusion Board, quoted a friend who observed, "You tell me that there's opportunity and you get me excited about it—and yet nothing ever happens."

Boone also told O'Connor that she had recently had a conversation with a client whose firm had a goal of developing a hundred Black colleagues. "What are you going to do with them after you develop them?" Boone recalled asking.

"You saw it with women; you see it with people of color: What [companies] do is they put them in development programs, and they send them to these great [programs] that do cost a little bit of money. Sometimes. And then we get back and we say, 'We're ready.'"

"But guess what? They never planned for us to be ready. Or they did plan and then they're not going to give us what it is that they now paid to prepare us for."

"Companies are spending a lot of money developing talent—Black talent, brown talent, LGBTQ, female talent—and doing very little with them. Instead, you're just preparing them for the next company," Boone concluded.

Boone went on to talk about the lack of advancement opportunities for Black women, in particular.

"Black women are the No. 1 entrepreneur group in the country. This is not a coincidence. This is because they cannot get anywhere in their current organization," she said, also describing the long odds they face in raising capital. "Yet they do. Isn't that someone you want on your leadership team?" she asked.

Another webinar speaker, Mernice Oliver, president of Mernice Oliver International, provided a living example of the lack of follow-through that forces Black candidates for leadership to leave the industry. The former agent is now a business consultant whose firm helps women launch, build and grow their own thriving insurance agencies.

Agreeing with Boone, she noted: "We do a great job of developing programs...We do a great job of getting ready. But once you get us ready, where are you taking us? Where are the opportunities?"

"We had to leave the industry and build our own road map—[build] our own highway for success," said Oliver, who is also founder and CEO of the National Association for Advancement of Women in Insurance.

The full webinar, "How the Insurance Industry Can Be an Active Ally to the Black Community," which also features Tyler Whipple, vice president of Inclusive Excellence at American Family Insurance, is available on demand on the Research section of *Carrier Management's* website. Read more about it on *Insurance Journal* in the Dec. 7, 2020 article, "Moment of Change."



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# More Emerging Risks for 2021: Aggregate Insurance Costs for Violence Unclear


## Executive Summary:

Following up on an exclusive article that he wrote for *Carrier Management* last year, veteran risk watcher Charlie Kingdollar reviews risks that came to light in the subsequent months—risks created by the pandemic and by violence, and the risks of blue light emanating from all the devices we have been staring at as we hunkered down.

While estimates vary, the industry is keeping track of COVID costs, but tallies of insurer defense and indemnity costs for mass shootings and workplace violence cases remain unknown.

As for blue light risks, litigation related to health issues could be a decade away, but the numbers of potential plaintiffs' and corporate defendants suggest it's an issue worth watching, Kingdollar writes.


*By Charlie Kingdollar*

When I wrote about emerging issues facing the property/casualty insurance industry for *Carrier Management* early in 2020, I stated, "Insurers and reinsurers face numerous emerging issues arising from: the rapid pace of scientific, technological and medical advances; new products; changing social mores; court decisions abrogating various insurance policy defenses; as well as new and amended laws and regulations."

It may not have been clear, but that list of circumstances that gives rise to emerging issues was not all-inclusive. The year 2020 has highlighted additional circumstances that also give rise to emerging issues.

The COVID-19 pandemic was



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just one of them.

As of Nov. 20, 2020, insurers and reinsurers globally reported COVID losses, estimated losses and IBNR of $28.1 billion. Lloyd's has estimated that COVID commercial insurance losses could be as high as $107 billion in 2020.

Clearly, these are early estimates that will likely increase as the effects of the pandemic are also felt in fourth-quarter 2020 and into 2021. For some context, asbestos losses in North America are expected to cost the P/C insurance industry $100 billion ($120 billion globally); U.S. pollution losses, $47 billion.

One wonders how much of these early estimates are attributed to third-party liability litigation filed in the U.S. As of early October 2020, personal injury lawsuits have been filed against nursing homes, hospitals, meatpackers, restaurants, grocery stores and warehousing operations. The list of potential defendants will likely grow as the pandemic continues. This litigation could impact general liability and commercial umbrella policies as well as medical and hospital professional liability policies.

It is also unclear as to whether these estimates include the potential for take-home COVID claims. According to an Oct. 2 article in Risk Management Monitor, "Praedicat modelers estimate that 7-9 percent of COVID-19 deaths in the first [COVID] wave have been family members of workers in essential industries who acquired coronavirus at work. With widespread testing and improved contact tracing, take-home transmission could be relatively easy to demonstrate during a second wave. The first take-home COVID-19 lawsuits were filed in August against an electrical supply company and a meatpacking facility, and the precursors to these complaints are present in earlier lawsuits filed against Amazon and McDonald's," the article said.

Separately, in an article they wrote for *Carrier Management* in July, Praedicat executives estimated that take-home COVID losses could exceed $50 billion for a catastrophic scenario involving a second wave of COVID-19 cases in the fall and winter—one in which the ultimate size of the pandemic in the United States rose to 300,000 deaths. More recently, the analysts updated the figure to $21.2 billion for the same 300,000-death scenario. (Recall, U.S. deaths are over 268,000 at this writing.)

How will the ongoing U.S. trend of social inflation of bodily injury verdicts and settlements impact COVID third-party litigation? How was this considered in these early COVID claims estimates?

Additionally, COVID-19 will affect workers compensation as several states have granted various workers a rebuttable presumption for COVID-19 illnesses under their workers compensation systems. The pandemic will also likely result in litigation filed by shareholders impacting directors and officers coverage as well as wrongful termination litigation filed by former employees terminated for reporting COVID safety violations in the workplace.

It would seem these early loss estimates may have nowhere to go but up.

Unfortunately, the pandemic is only one emerging issue the P/C insurance industry is currently dealing with.

## Emerging Issue: Violence

Compared to other first-world countries, the United States has a violence problem.

The P/C insurance industry tends to chop up coverage for

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*Charlie Kingdollar*



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violence into different buckets. At first, I was just going to discuss the recent U.S. racial injustice protests—some of which had turned violent—leading to vandalism and arson, which could be covered under the riot and civil commotion coverage section of property policies. But these protests were ignited by actions taken by police officers that resulted in the deaths of often unarmed civilians—which could be covered under police professional, a.k.a., law enforcement legal liability policies. So, already there were two lines of business impacted.

But these are very tumultuous times in the U.S. Mass shootings and acts of workplace violence also can result in litigation and claims. It's doubtful that the P/C industry tracks the costs of "violence" and its combined impact on the industry. But "violence" clearly is a costly issue for insurers and reinsurers.

The recent civil unrest may result in the biggest payout to date by the industry under riot and civil commotion coverage. Property Claim Services Inc., a unit of data analytics firm Verisk Analytics Inc., based in Jersey City, N.J., designated the civil disorder from May 26 to June 8 as a multi-state catastrophe event. PCS and the Insurance Information Institute also said that the cat event would likely surpass the Los Angeles riots of 1992, which caused $775 million in insured losses, or $1.4 billion in 2020 dollars.

Some cities have seen additional or ongoing protests that have also resulted in some vandalism since June 8, and such protests are likely to continue when future incidents of racial injustice occur. Hopefully, these protests will be peaceful, but insurers may yet see additional claims seeking coverage under riots and civil commotion provisions.

But riots and civil commotion aren't the only acts of violence impacting insurers and reinsurers. The U.S. has a mass shooting problem. We can't even settle on a definition of a "mass shooting."

The Congressional Research Service defines mass shootings as multiple firearm-related homicide incidents, involving four or more victims at one or more locations close to one another. The FBI definition is essentially the same. Often there is a distinction made between private and public mass shootings (e.g., a school, place of worship or a business establishment). Mass shootings undertaken by foreign terrorists are not included, "no matter how many people die or where the shooting occurs," according to an article on the University of Pennsylvania Department of Criminology website. ("What is a Mass Shooting? What Can Be Done?" by Professor Richard Berk)

The crime and violence research group Gun Violence Archive defines "mass shooting" as having "a minimum of four victims shot, either injured or killed, not including any shooter..." Still other organizations that track mass shootings define it as having three or more rather than four or more homicide victims.

According to the Gun Violence Archive, there were:

- 269 mass shootings in 2014.
- 335 in 2015.
- 382 in 2016.
- 346 in 2017.
- 337 in 2018.
- 417 in 2019.

Mass shooting incidents can lead to significant litigation. Potential defendants can include:

- Owners and operators of businesses or facilities where the shooting occurs.
- Event promoters.
- Security firms.
- Law enforcement.
- Parents/relatives of the shooter.
- Employers.
- Mental health providers.
- Retailers or gun shops where the assailant acquired weapons (if acquired illegally).
- Straw purchasers.
- Organizations that fail to report disqualifying information to authorities.
- Anyone in a position to know of or intervene in the shooter's plan.

As you can see in the list above, in cases where the parents of a shooter are named defendants, mass shootings can also impact personal lines.

In many jurisdictions, business owners are not liable for injuries caused by the criminal acts of a third party unless the criminal act was foreseeable. Historically, courts have found the actions of mass shooters to be "so unexpected and remote that, as a matter of law, no rational juror could find that a business owner should have foreseen them," according to an article on the American Bar Association website. This also largely held true for acts of workplace violence. Given, however, the uptake in frequency of both mass shootings and workplace violence, could this be changing?

Take, for instance, the deadliest mass shooting in the U.S., which occurred in Las Vegas on Oct. 1, 2017. Fifty-eight people were killed and more than 850 injured at an open-air concert near the Mandalay Bay resort. A settlement has been approved by the district court totaling $800 million from casino company MGM Resorts International and its insurers to more than 4,400 relatives and victims of the mass shooting. Authorities said more than 22,000 people were attending an outdoor music



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festival when a gunman firing military-style weapons from windows on the 32nd floor of the Mandalay Bay rained rapid-fire bullets into the crowd…MGM Resorts, owner of the hotel and the concert venue, acknowledged no liability. It will pay $49 million, while its insurance companies will pay $751 million," an October AP report said. This does not include three years of defense costs incurred.

Mass shootings, as terrible as they are, do not always result in such a large insurance payout. The shooting at the Marjory Stoneman Douglas High School in Florida killed 17 people and wounded 17 more on Feb. 14, 2018. Many more at the school were traumatized. The Florida Supreme Court recently sided with the Broward School Board, determining the shooting was a single incident and that the district's liability should be capped at $300,000 to be divided among all the victims.

*"The U.S. has a mass shooting problem. We can't even settle on a definition of a 'mass shooting.'"*

With over 2,000 mass shootings in just the last five years—more than one per day—defense and indemnity costs are likely significant. But I have yet to find a source that's keeping track of the annual costs incurred by the P/C insurance industry or the costs over the past five years.

Also keep in mind that the insurers see claims for incidents that don't rise to any of the definitions of "mass shooting." Incidents where two are killed and several wounded are not technically "mass shootings" but can certainly result in costly defense and indemnity costs. These shooting incidents would be added to the total costs of mass shootings should the industry ever become curious about the total impact of violence on the U.S. P/C insurers and reinsurers.

Workplace violence is yet another source of industry claims. According to the Occupational Safety and Health Administration, "Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide. It can affect and involve employees, clients, customers and visitors."

Acts of violence and other injuries is currently the third-leading cause of fatal occupational injuries in the United States. According to the National Safety Council, in 2018, assaults resulted in 20,790 injuries and workplace assaults resulted in 453 fatalities. Workplace assaults have steadily increased since 2011.

Is the P/C insurance industry tracking the defense and indemnity costs of workplace violence?

I have not found an estimate.

There may be little interest in having the industry track defense and indemnity payments paid out across various lines of business as a result of violence. It may be just too impractical and may raise too many questions: Would/should incidents of road rage be included? They are certainly acts of violence, and they have resulted in bodily injury and property damage.

The insurance industry is clearly tracking the costs of riot and civil commotion but may not be tracking the costs of other acts of violence. This may change as, unfortunately, there is little indication that overall violence in the U.S. is on much of a downward trend.

## Emerging Issue: Blue Light

Full disclosure: This is really very early times to discuss the possibility for adverse health effects arising from exposure to blue light emanating from electronic devices, such as televisions, computers, tablets, smartphones and gaming systems. But given how pervasive these devices are and the fact that many frequently use multiple devices throughout the day for work, pleasure, education, etc., I thought the topic may be of some interest.

Recent studies have begun to highlight the potential adverse health effects caused by exposure to blue light. Findings include:

- A study by researchers at the Barcelona Institute for Global Health found that overexposure to mobile phone screens late at night can raise the risk of bowel cancer by as much as 60 percent. According to an article published in The Telegraph, some of the same researchers "previously linked blue light exposure at night with an increased chance of being diagnosed with breast and prostate cancer."

- Blue light exposure can affect sleep and potentially cause disease. Research shows that it may contribute to the causation of cancer, diabetes, heart disease and obesity. While light of any kind can suppress melatonin, blue light at night does so more powerfully. Harvard researchers compared the effects of 6.5 hours of exposure to blue light to exposure to green light of comparable brightness. The blue light suppressed melatonin for about twice as long as the green light and shifted circadian rhythms by twice as much (3 hours vs. 1.5 hours).

- According to an article by U.C.



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Davis Health, "continued exposure to blue light over time could damage retinal cells and cause vision problems such as age-related macular degeneration. It can also contribute to cataracts, eye cancer and growths on the clear covering over the white part of the eye. According to a study funded by the National Eye Institute, children are more vulnerable than adults because their eyes absorb more blue light from digital devices.

Again, it's very early in the developmental emerging issues timeline. It may take a decade or more before there is any litigation, but it's worth monitoring given the serious ailments early studies are linking to exposure, a huge potential plaintiffs' pool, many perceived deep-pocket corporate defendants and retailers, and the potential for limits stacking of occurrence-based policies over policy years.

The P/C insurance industry "faces a plethora of other emerging issues: exposure to nanomaterials, traumatic brain injuries/concussions, pesticide and herbicide exposure, PFAS exposure, exposure to BPA and its substitutes, the changes brought forth by the onset of the 4th industrial revolution (i.e., the adoption of artificial intelligence and robotics), cyber attacks capable of causing bodily injury and actual physical damage—to name just a few.

## Read More About These Emerging Issues

Resources referenced in this article include:

- "The Risk of 'Take-Home' COVID-19 and the 'Next Asbestos'" (*CM* article, published in the July/August 2020 edition)
- "Carrier Management's ExecTalk: Praedicat Highlights Emerging Litigation Trends Facing Re/Insurers" (*CM* Video)
- "Liability for Mass Shootings: Are We at a Turning Point" by Michael Steinlage, a partner for Larson King LLP,, posted on the American Bar Association website, Feb. 7, 2020
- "Exposure to mobile phone light at night raises risk of bowel cancer," The Telegraph, July 30, 2020, and Epidemiology: September 2020 - Vol. 31 - Issue 5 - p 718-727
- "Evaluating the Association between Artificial Light-at-Night Exposure and Breast and Prostate Cancer Risk in Spain" (MCC-Spain Study), Environmental Health Perspectives, Vol. 126, No. 4 (nih.gov)
- "Blue light has a dark side," Harvard Health Publishing, July 7, 2020
- "Is blue light from your cell phone, TV bad for your health?" UC Davis Health, May 9, 2019



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Two recent state court decisions suggest differing interpretations that may exist throughout the country, even when there is pro-insured language in Government Closure orders.

# COVIDigation Part 3: What's the Deal With Business Interruption Claims?


## Executive Summary:

In the third article in the COVIDigation series, Risk-Genius CEO Chris Cheatham and MIT Researcher Bryan Wilson investigate the link between stay-at-home orders and numbers of business interruption insurance coverage lawsuits by state. Among the findings: Weekly levels of lawsuit filings have come down from the high levels observed in April and June 2020, and the highest rates of lawsuits per infection come from states that issued stay-at-home orders.




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*By Chris Cheatham and Bryan Wilson*

Well, 2020 is over. Am I right?

Following up on previous work exploring the relationships between COVID-19 and business interruption insurance litigation, in this article we evaluate trends that have emerged now that more than 1,300 lawsuits have been filed.

Starting in March 2020, a number of federal and state measures were enacted in order to reduce the spread of COVID-19. These included stay-at-home orders, shelter-in-place orders and limitations on the types of businesses that could remain open. Predictably, this had a negative impact on many businesses.

Without revenue coming in and absent meaningful federal intervention, many businesses sought compensation in the form of claims against insurance companies.

These businesses generally alleged that the closures constituted a compensatory business interruption. However, by and large, the insurance industry has denied most of these claims and argued that commercial insurance policies do not cover business interruptions that are caused by the pandemic for two reasons:

1. Most commercial property policies require physical damage to property, and a virus does not create this type of damage.
2. Most commercial property policies include a virus exclusion that was created specifically in response to the SARS pandemic in 2003.

Despite these arguments, however, businesses continue to file lawsuits upon claim denials.

## Rate of BI Lawsuits Filed Is Decreasing

Our previous analysis highlighted a trend that remains important—about one month after the March 2020 government-ordered business closures, there was a spike in lawsuits against insurance companies. The good news for insurance companies is that, despite increases in COVID-19 cases in summer 2020, there was no corresponding increase in cases filed against insurers in the latter half of the year. New lawsuits filed on a monthly basis decreased since June 2020.

This article relied upon COVID-19 lawsuits tracked by the Penn Law COVID Coverage Litigation Tracker. As shown in the graph on the top of the next page, new litigation filings peaked between April and June of 2020. Since then, monthly new filings have been declining despite the subsequent spikes in infections during the summer. A relationship can be observed (although not definitively proven): Logically, it seems the key ingredient to trigger higher frequencies of lawsuits is government-ordered business closures. An increase in COVID infections, like the one seen in summer 2020, does not necessarily entail an increase in lawsuits filed.

We had previously hypothesized that an increase in COVID-19 infections in the third quarter of 2020 might not result in another increase in litigation filings because federal and state governments were less likely to respond to new infections with business closures. Partially based on public opinion and partially on the political atmosphere, government bodies have demonstrated a reluctance to close down businesses for a second time.

While we are unable to definitively conclude that some direct relationship exists between the number of litigation filings and the enactment of government-mandated business clo-

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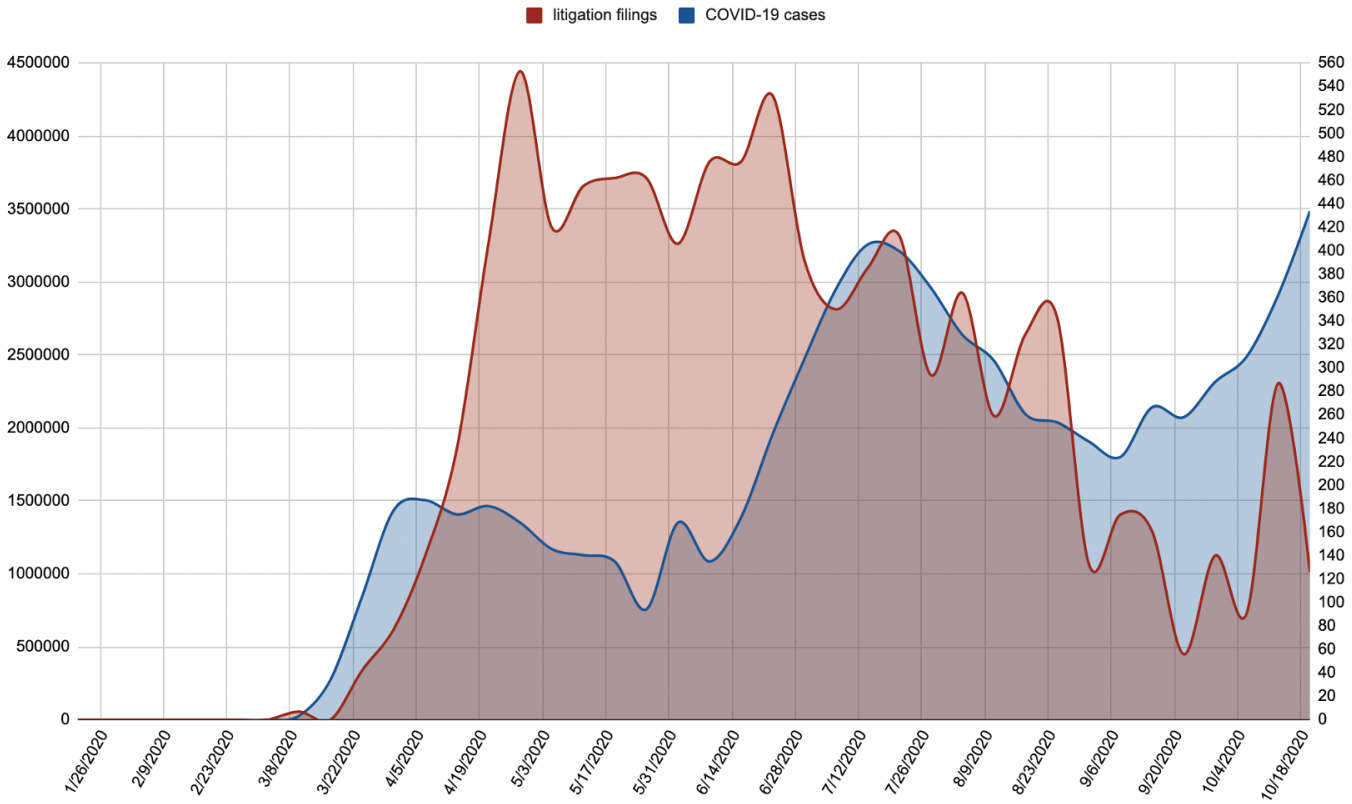


*Chris Cheatham, CEO of RiskGenius*



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## Figure 1: Weekly confirmed COVID-19 infections and litigation filings




sures, we can examine the rate of filings in states that did not issue stay-in-place orders.

## States That Issued Stay-in-Place Orders Have Higher Lawsuit Rates

According to Ballotpedia, seven states did not order "stay-at-home" orders in the first half of 2020: North Dakota, South Dakota, Nebraska, Iowa, Wyoming, Utah and Arkansas. Perhaps unsurprisingly, most of these states have experienced a low rate of insurance lawsuits filed. Six of these seven states had no more than one COVID-19 related lawsuit filed against insurance companies. The only outlier is Iowa, which has nine COVID-19 business lawsuits filed.

Furthermore, when the number of insurance lawsuits filed is compared to the number of COVID-19 infections, six of the seven states that did not issue "stay-at-home" orders rank among the nine with lowest rates. Again, only Iowa is the outlier.

(The chart on the top of the following page shows the 10 states with the lowest ratios of lawsuits per infection to date as of this writing in late November.)

Conversely, nine states have been the source of a majority of COVID-19 business interruption lawsuits: California, Pennsylvania, Florida, Illinois, New Jersey, New York, Ohio, Texas and Washington. Of the 1,348 lawsuits filed (as of late November), these nine states were responsible for 1,009 of them—nearly 75 percent.

Again, when the number of insurance lawsuits is compared to the number of infections, eight of the 14 states with the highest ratios come from this group of states (Figure 3, p. 34). Notably, Pennsylvania has a significantly higher ratio than all other states. This is likely due to multiple



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***Figure 2: States with lowest number of lawsuits to reported COVID-19 infections***

| *state* | *total litigation filings* | *infections* | *lawsuits per infection* |
|---|---|---|---|
| Maine | 0 | 6715 | 0.00000 |
| Wyoming | 0 | 13723 | 0.00000 |
| Delaware | 0 | 25126 | 0.00000 |
| North Dakota | 0 | 45048 | 0.00000 |
| South Dakota | 0 | 47324 | 0.00000 |
| Idaho | 0 | 65272 | 0.00000 |
| Nebraska | 0 | 71666 | 0.00000 |
| Utah | 1 | 116510 | 0.00001 |
| Arkansas | 1 | 113057 | 0.00001 |
| Rhode Island | 1 | 32874 | 0.00003 |

class action lawsuits being filed in the state, which increases the number of individual actions that are filed.

## Courts Respond to Government Closure Orders

As lawsuits continue to be filed, dispositive motions in early filed cases are being heard and decided upon. According to insurance attorney Roy Mura, as of Nov. 15, 2020, there have been a total of 64 rulings in COVID-19 business interruption litigation, and 47 of the rulings have favored insurers.

Of these rulings, two indicators suggest how a court is likely to respond. First, insurers statistically fare much better in federal courts, winning 36 out of 41 rulings in federal courts but only 12 out of 22 rulings in state courts. Second, the presence of a virus exclusion increases the likelihood that insurers will win. To date, insurers with a virus exclusion have been successful in 38 out of 43 cases. When a virus exclusion is not available to the insurer, the win rate is only 11 out of 21 cases.

(Editor's Note: Since this writing, Mura has updated these figures based on 80 rulings as of Dec. 2, but the two trends highlighted in this article continue to hold true. The latest figures are available on Mura's LinkedIn pages.)

Two recent state court decisions suggest the differing interpretations that may exist throughout the country, particularly when potentially pro-insured language has been included in Government Closure orders. In West Virginia, a case filed by Uncorq and Create (a store offering art and cooking classes) resulted in the state court ruling in favor of the insurer. Uncorq and Create was among the non-essential businesses shut down as a result of the governor of West Virginia's executive order in response to COVID-19. This executive order was particularly interesting because it included language that could be construed to support a claim for physical damage to property:

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*MIT Connection Science*



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***Figure 3: States with highest number of lawsuits to reported COVID-19 infections***

| *state* | *total litigation filings* | *infections* | *lawsuits per infection* |
|---|---|---|---|
| Pennsylvania | 169 | 214500 | 0.00079 |
| Vermont | 1 | 2196 | 0.00046 |
| Washington | 48 | 113109 | 0.00042 |
| District of Columbia | 7 | 17369 | 0.00040 |
| New Jersey | 91 | 241422 | 0.00038 |
| Ohio | 77 | 219000 | 0.00035 |
| Illinois | 133 | 424860 | 0.00031 |
| Connecticut | 15 | 71207 | 0.00021 |
| Oregon | 9 | 45419 | 0.00020 |
| Florida | 154 | 807404 | 0.00019 |
| California | 174 | 938883 | 0.00019 |
| Missouri | 34 | 192115 | 0.00018 |
| New York | 91 | 514482 | 0.00018 |
| West Virginia | 4 | 24883 | 0.00016 |

> *"Whereas, these measures relating to the closure of certain businesses and to limit the operation of non-essential businesses are necessary because of the propensity of the COVID-19 virus to spread via personal interactions and because of physical contamination of property due to its ability to remain on surfaces for prolonged periods of time..."*

In finding for the insurer, the court did not reference the language in the executive order and instead concluded that "actual presence of the virus would not be sufficient to trigger coverage for physical damage or physical loss to the property."

However, in New Orleans, a Louisiana court pointed to similar, although more explicit, emergency order pro-insured language in denying an insurer's motion to dismiss. In the first COVID-19 business interruption lawsuit that was filed, Oceana Grill alleged it had suffered damages as a result of the pandemic and resulting business closure orders. The City of New Orleans issued an emergency order that resulted in the closure of Oceana Grill; language included in the order suggested COVID-19 was causing "property loss and damage":

> *"Whereas, there is reason to believe that COVID-19 may be spread amongst the population by various means of exposure, including the propensity*



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*to spread person to person and the propensity to attach to surfaces for prolonged periods of time, thereby spreading from surface to surface and causing property loss and damage in certain circumstances…"*

In allowing the lawsuit to proceed, the court found multiple issues of fact relating to whether COVID-19 constitutes direct physical loss or damage to property. In its ruling, the court cited the order as evidence of a material issue:

"Finally, there is a genuine issue of material fact whether the orders were taken in response to dangerous physical conditions resulting from the damage to other property within one mile of the insured premises…The orders cited damage to property in the city and state."

What does this all mean?

Based on early decisions, insurers will likely benefit from moving COVID-19 business interruption cases to federal court when possible and emphasizing the presence of virus exclusions in policies. Conversely, plaintiffs will benefit where there are no exclusions and when they are able to keep a claim in state court.

While the filing frequency of new COVID-19 business interruption lawsuits seems to be slowing, at the time of this writing in mid-November 2020, the number of COVID-19 infections is increasing even more dramatically than occurred in the summer. Two states—New Mexico and Oregon—have ordered some form of a lockdown in response, and it is entirely likely that other states will follow in their footsteps. (Editor's Note: As this article was going to press, officials in Southern California were announcing lockdowns, citing ICU bed capacity triggers.) It is also important to note that a federal lockdown remains "a measure of last resort," according to the forthcoming Biden administration's COVID-19 Task Force.

As the federal government grapples with another economic intervention and more states consider lockdown measures, there will be questions about the long-term ramifications of COVID-19 on businesses around the United States. And while this analysis focused exclusively on the relationship between COVID-19 infection rates and lawsuit filings, it is important to acknowledge external factors that could also have an impact on litigation trends, including the presence or lack of stimulus payments, the foreseeability of a vaccine, and other geopolitical realities. How the U.S. and state governments respond in first-quarter 2021 will likely have an impact on whether there is an upswing in business interruption lawsuits filed. At the very least, it will be interesting to see how all of this unfolds.

Stay safe.

*The data used for this analysis can be accessed by anyone. Please let us know if you have any questions. Thanks for reading.*



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# How to Avoid Bad Faith Damages in COVID First-Party Property Lawsuits

*By Karen K. Karabinos and Eric R. Mull*

As observed from the numerous COVID-19 first-party property cases that have already been filed, insureds are claiming that insurers have denied their business interruption claims in bad faith. Whether the applicable jurisdiction limits bad faith damages via statute or allows such damages consistent with punitive damages, insurers must ensure their adjusters are handling these COVID-19 claims in good faith.

In a recent COVID-19-related case, a bad faith claim was asserted along with a breach of con-



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tract claim in *Big Onion Tavern Group, LLC, et al. v Society Ins. Co*. (No. 120-cv-02005), filed in the United States District Court for the Northern District of Illinois. The plaintiffs in *Big Onion* are separate businesses that operate in the Chicago area and had in place business interruption insurance from Society Insurance. The basis of the plaintiffs' claims in *Big Onion* originate with Illinois Governor J.B. Pritzker's March 15, 2020 order closing all restaurants, bars, movie theaters, etc., to help stop the spread of COVID-19.

The suit seeks coverage under the plaintiffs' commercial business insurance policies, "which provide coverage for losses incurred due to a 'necessary suspension' of their operations, including when their businesses are forced to close due to a government order." Further, the suit asserts that the Society Insurance policy promises to cover their losses when the government forces closure interruption of their businesses and does not exclude contamination due to communicable disease and/or viruses.

Concerning their bad faith claim, the plaintiffs in *Big Onion* allege that Society Insurance issued blanket denials of their claim for business interruption losses that resulted from the governor's closure order "often within hours of receiving Plaintiffs' claims—without first conducting any meaningful coverage investigation, let alone a 'reasonable investigation based on all available information' as required under Illinois law."

Further, the suit provides that Society Insurance CEO Rick Parks issued a memorandum to "agency partners" providing that under Illinois law, the Society Insurance policies would likely not cover such stoppages. The memorandum provides (in pertinent part):

> *"Whether it be a full shutdown of business, a partial suspension of operations or an alteration in business operations that remain open, Business Income coverage must be due to a suspension caused by direct physical loss of or damage to covered property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. Extra Expense coverage also requires the same coverage triggers. In general, a quarantine of any size, or brought about by a governmental action without a Covered Cause of Loss, would likely not trigger Business Income or Extra Expense coverages under our policies."*

Similarly, in *Treasure Island, LLC v. Affiliated FM Insurance Company*, (No. 2:20-cv-00965), filed in the United States District Court for Nevada, the insured, a casino and resort, alleges that its insurer denied its claim for business interruption losses in bad faith by failing to conduct an adequate and proper investigation. Central to the bad faith claim is a copy of "Talking Points" that AFM reportedly prepared for its adjusters "to ensure that AFM's adjusters reach the same conclusion for all COVID-19 claims." Treasure Island alleges that the "Talking Points" failed to include all of the different "triggers" of coverage that might be involved in responding to COVID-19 claims.

At the outset of the memorandum, the "Talking Points" dispels any notion that the memorandum will address all coverage issues. The memorandum provides that it "will not deal with all the issues associated with [COVID-19 claims] but will be helpful in providing responses

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*Karen K. Karabinos, Drew Eckl & Farnham*



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to basic questions as it relates to the coverage provided by [AFM's] policies." The document goes on to list sample questions and answers to general coverage questions. Treasure Island claims that the answers contradict the specific coverage provisions contained in its policy as interpreted by Nevada law.

Finally, bad faith allegations are also asserted in *Mace Marine Inc. v. Tokio Marine Specialty Insurance Co.* (4:2020-cv-10044), which is pending in the United States District Court for the Southern District of Florida.

In *Mace Marine*, the insured, a dive shop, filed a claim with its carrier asserting that it suffered a direct physical loss to property due to the potential presence of the coronavirus on its premises. After the claim was denied, the insured filed suit seeking coverage and bad faith damages, alleging that its carrier "formally denied the claim on March 30, 2020 without conducting any substantive investigation into the claim. The insurance company did not attempt to inspect the premises, nor did they request any photographs or send out any experts or field adjusters to evaluate the claim." As such, the insured alleges that these actions constituted "willful, wanton, immoral, unlawful, malicious and/or deceptive claims handling practices."

The claims-handling and bad faith allegations in *Big Onion, Treasure Island* and *Mace Marine* illustrate the importance of conducting a diligent investigation into each claim, regular communication with insureds, and the implications of preparing a blanket statement suggesting the lack of coverage prior to receiving and reviewing actual claims.

*Insureds want to be kept in the loop of what is going on with their claims. Return an insured's call, even if there is no new information to provide.*

An insurance company will have a difficult time defending a bad faith claim if the coverage decision is made quickly and without any investigation. But what does a reasonable investigation look like? The investigation must include an interview of the insured, gathering the facts of the claim and a request for documentation, if needed. The facts of the claim must be evaluated in light of the applicable policy provisions, and the claim file should document the details of that evaluation.

The bad faith allegations in *Treasure Island* demonstrate how even an internal memorandum prepared for an insurer's adjusters can be misconstrued as an effort by the carrier to systematically deny coverage without specifically investigating the facts of an insured's claim and applying the particular coverages afforded under the insured's policy.

Having defended numerous bad faith claims over the years, we have found that practicing good customer relations is one of the keys to avoid bad faith. Insureds want to be kept in the loop of what is going on with their claims. Return an insured's call, even if there is no new information to provide.

Customer service, however, is not the only key to avoiding bad faith. Insureds also want someone who is knowledgeable of the provisions of their policy. Adjusters must know the applicable policy inside and out. This is especially true in connection with any COVID-19-related claims that may be filed. The insureds likely do not under-

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stand how the provisions of the policy might or might not cover any business interruption claims. Any confusion on the part of the adjuster or misinterpretation of the policy provisions will be seen by insureds as an attempt by the insurer to deny their claim in bad faith.

Following these pointers will not prevent an insured from filing a bad faith claim, but these pointers, if followed, may prevent a jury from assessing bad faith damages against the insurance company.

*(Editor's Note: As this article went to press, the three cited cases remained pending: Big Onion and Treasure Chest in federal district court, and Mace Marine has been remanded to Florida state court.)*



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# A Crisis Within a Crisis: How COVID-19 Is Driving the Opioid Epidemic

*By Elizabeth Blosfield*

While the current national health conversation has largely centered on the COVID-19 pandemic, another ongoing and deadly battle has been looming in the background: the opioid crisis.

The misuse of and addiction to opioids, including prescription pain relievers, heroin and synthetic opioids such as fentanyl, started becoming widespread in the U.S. in the late 1990s and found its way to the top of the national health radar in 2017, when President Donald Trump officially declared it a public health emergency.

Although the nation's focus may have shifted to the coronavirus pandemic in recent months, the opioid crisis not only remains a challenge, but it may have worsened due to COVID-19's impact, according to speakers during an October webinar co-hosted by The American Property Casualty Insurance





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Association (APCIA) and the U.S. Chamber of Commerce.

"The impact that COVID-19 has had on the opioid addiction crisis in the U.S. has been staggering," said APCIA President and CEO David Sampson.

"During COVID-19, unfortunately, the numbers are going the wrong way," noted The Hartford Chairman and CEO Christopher Swift. "So, we have to double down our efforts."

Drug overdose deaths in the U.S. rose 4.6 percent in 2019 to 70,980, including 50,042 involving opioids, according to data from the Centers for Disease Control and Prevention (CDC). What's more, many U.S. states reported a significant rise in drug fatalities for 2020 as COVID-19 has created new obstacles contributing to increased opioid use, abuse and risk of relapse for those in recovery, Sampson said.

"For those battling addiction, quarantine and social distancing have resulted in disruptions of treatment and recovery services and limited access to mental health services and peer support," he said. "Additionally, interrupted routines, loss of work, housing and prolonged stress."

Because opioid use affects respiratory and pulmonary health, those using opioids and other substances are also more susceptible to COVID-19, compounding these two crises, Sampson said.

## More Than a Health Issue

With this in mind, speakers added that private/public partnerships will be instrumental in fighting the opioid addiction emergency going forward.

As a leading workers compensation provider, The Hartford is working to fight the opioid crisis by providing access to education and programs to reduce opioid use nationwide. This effort, Swift said, will require federal, state and local governments to explore options for increased partnerships with the private sector.

"I think it's a fairly well-known fact…that with a three-to-five-day dose of powerful opioids, you could create an addiction problem over a long period of time," he said. "It's a workforce issue. It costs us money."

The CDC estimates that the total economic burden of prescription opioid misuse in the U.S. is $78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment and criminal justice involvement.

"I think this is more than a health issue," Swift said. "It's a workplace productivity issue. We've done surveys of small business owners where we have a deep understanding that 56 percent of them say that they are impacted or believe they will be impacted by opioids in the future."

Swift called upon employers to review their employee benefit plans and ensure they contain addiction support services that meet employee needs.

"I think business leaders through their HR department could really look hard at their benefit programs and say, "Is it doing everything we can or should do for our employees and their beneficiaries during this period of time?'" he said.

"In a lot of our surveys, 47 percent of small businesses and employers do offer employee assistance programs, but that means 53 percent don't."

As one example, Swift said, The Hartford added prescription digital therapeutics for substance use and opioid use disorder to its benefits package over the past year and began offering a mobile app, as well as a telephonic medical concierge service that provides real-time support for employees to get the help they need.

*"It's a workplace productivity issue. We've done surveys of small business owners where we have a deep understanding that 56 percent of them say that they are impacted or believe they will be impacted by opioids in the future."*



*Christopher Swift*



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"Yes, it's personal, and yes, it's emotional, but it also impacts business," said Suzanne Clark, president of the U.S. Chamber of Commerce. "It impacts entire communities. It impacts your workforce. It impacts the economy. And so, they're reasons for business leaders to be at the table and to be part of the solution."

James Carroll, director of the U.S. Office of National Drug Control Policy, agreed, applauding insurance companies that have stepped up to provide reimbursement for addiction treatment services. Carroll said the current administration has been working to fund these services that are provided through small businesses, hospitals and specialty treatment facilities.

"The COVID-19 pandemic has affected everyone, but it has especially affected those in or seeking treatment and long-term recovery [for addiction]," he said. "We know that many are unable to access medication, counseling, recovery support services, or mutual aid and response. This administration has mobilized the entire federal government to confront this problem."

Carroll serves as the principal adviser to the president of the United States on drug policies and works to coordinate activities between 16 federal government agencies and departments on behalf of the administration's effort to reduce the supply and demand of illicit substances.

"We have to be relentless to erase the stigma and address [the opioid crisis'] impact," he said.

It's an impact that has been far-reaching, not only serving as a public health issue but also an issue of social and economic well-being, according to the National Institute on Drug Abuse.

"We need more companies like The Hartford coming forward and saying, 'We care about this issue, and we're going to put our money where our mouth is and commit to erasing the stigma,'" said Courtney Hunter, vice president of state policy for Shatterproof, a national nonprofit organization dedicated to transforming addiction treatments, ending stigma and supporting communities.

## Change for the Better

Particularly in light of COVID-19, Hunter and Swift both agreed that it's more important than ever for business leaders to have an increased communication strategy that makes it safe and comfortable to talk about addiction and mental health.

"Language is incredibly important—utilizing the right language and making sure that it's advancing our policies and our actions around what the healthcare community is saying, which is that addiction is a disease," Hunter noted. "It is not a moral failing, and we need not have shame."

This has been made easier by advancements in telemedicine and increased use of technology within the health sector, speakers said.

"One silver lining to this terrible pandemic is that it has driven a rapid transition to virtual platforms across the treatment and recovery support sectors, as well as the broader recovery community," Carroll said.

Swift predicts that telemedicine will continue to become more widespread as a complement to in-person medical services in the future.

"I don't think it's going to replace the traditional approach," he said. "I think it will augment it and ultimately give people more comfort and confidence."

Most of all, despite the combined impact of the ongoing opioid epidemic as well as the COVID-19 crisis, Swift and Hunter

*"For those battling addiction, quarantine and social distancing have resulted in disruptions of treatment and recovery services and limited access to mental health services and peer support."*



*David Sampson*



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both emphasized the importance of not losing hope.

"No one in the world thought we would ever live through a pandemic—at least I didn't—and we got set back," Swift said. "Just because we got set back doesn't mean we give up and run away."

Swift said that instead, it's time to double down and continue to fight for those with substance use disorders.

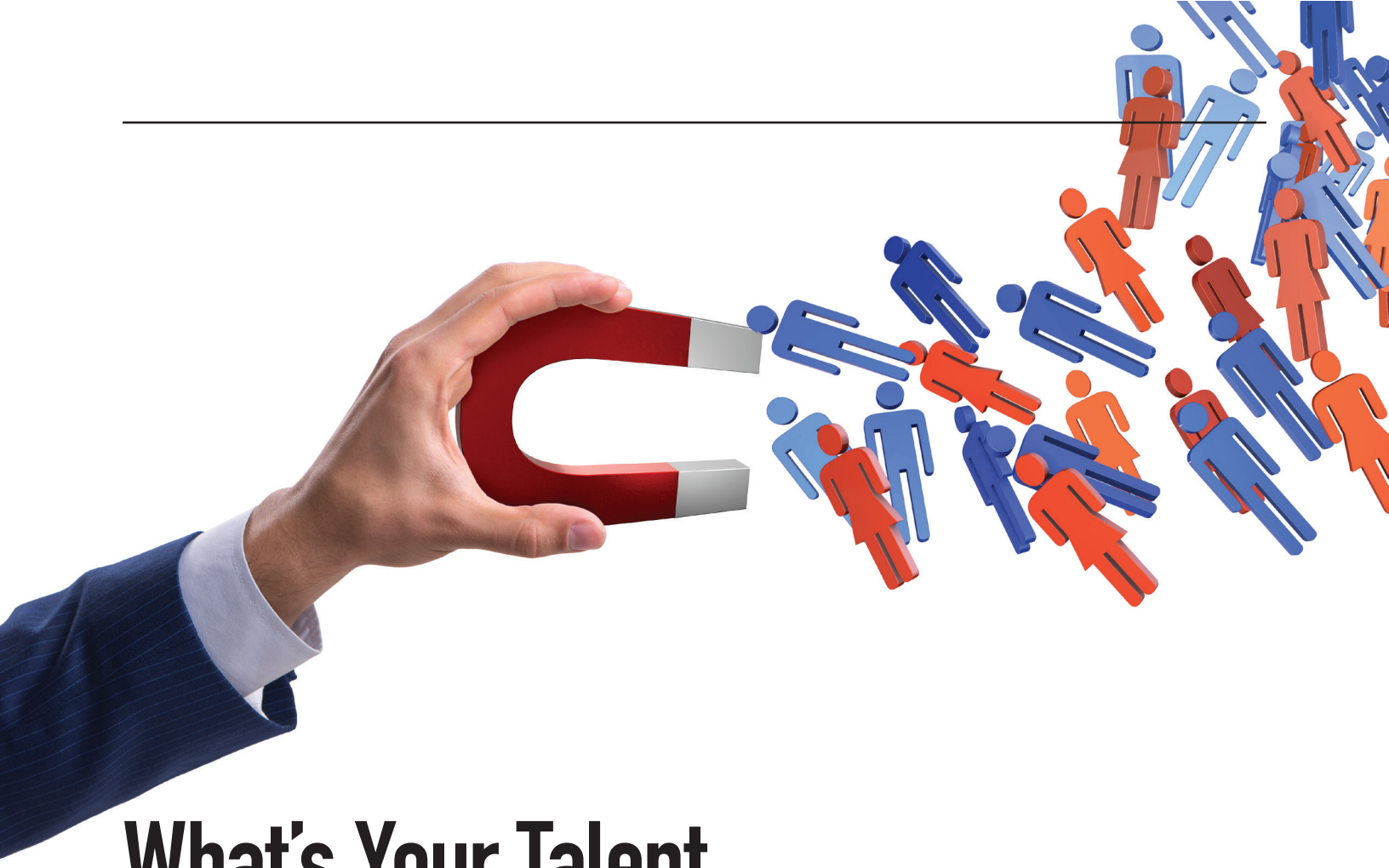
Clark agreed. "Just like the pandemic, there is light at the end of the tunnel," she said. "We know that when companies do well, they can do good. It's a great joy for me in my job to get to meet companies that are doing so well and then turning around and doing so much good. I think the private sector really does lead the way on so many of society's challenges."

But with the pandemic and opioid crisis each exacerbating the other in some ways, is it possible to remain hopeful?

"I hear stories of hope every day," Hunter said. "I work with so many families and people that have lost and continue to advocate and work in this field and change things for the better. So, absolutely, we can do it. There's hope."



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# What's Your Talent Doing During This COVID Crisis?

*By Erin Hamrick*

Since you asked, we'll tell you. Your best talent is sitting at home talking to us—executive recruiting firms. No longer worried about talking to a recruiter at work or checking their personal voicemail at work or checking their personal email at work, your best talent is doing all of that within the confines of their comfy "work-at-home" chair.

We thought you should know.

This great experiment we are living through will have more unintended consequences than the eye can see. One particular unintended consequence that happens to be our business is talent. From the high potentials to senior officers—the questions abound from these cohorts. The main one is, "How do I get promoted?" That was once an easy question with an easy answer: "Be a leader!"

However, the world has changed and we've been thinking, "How do you 'be a leader' these days?" Is leadership different in an office vs. behind a screen with no human interaction? How do you identify "high potentials" or even define the category when you don't meet and observe



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them personally? Does merit become purely production- and output-based? Probably not, but you get the point.

At Sterling James, we assess technical skills against competencies. Competencies are what drives cultural fit and the ability to be successful in the role. What differentiates one CEO, CFO, CUO or even underwriter from another is clearly some specific technical aspects, but that's not the real test. The real test and question is always, "You know our company, will he/she 'fit?'" or "You know the company, and will I fit?" The "fit" is based on the cultural competencies we've identified and assessed. Leadership in some form is always a competency.

Will the pre-COVID culture of a company be different than the post-COVID culture? Does a company want and need more of the post-COVID culture than the pre-COVID culture?

Surely, the answer must be "yes" post-COVID, but maybe not. How can you define cultural fit when no one works in an office together? How can you build your career from behind a screen? If you are to believe the media, many companies do not anticipate going back to the office until next spring—or maybe never.

There are lots of questions with no real answers. Everyone thinks work from home is the new norm. We have our doubts but for reasons you might not think.

Headlines abound with how effective and efficient it is for companies to have their employees working remotely. The tech companies led the charge, most notably Facebook and Twitter, having announced "permanent work from home." So, your saying, 'But we're insurance and we're different, right?' Nope. Nationwide has announced it has closed five regional offices.

After many months it certainly feels like there is no end in sight to working at home.

Juxtapose the headlines spouting this new world order of no offices with headlines showing survey data that state 40.9 percent of respondents reported one adverse or behavioral health condition, i.e., increases in depression, alcohol and drugs. (Czeisler MÉ , Lane RI, Petrosky E, et al. "Mental Health, Substance Use, and Suicidal Ideation During the COVID-19 Pandemic—United States," June 24-30, 2020. MMWR Morb Mortal Wkly Rep 2020;69:1049-1057. DOI: http://dx.doi.org/10.15585/mmwr.mm6932a1.)

Then further juxtapose that with "Crowds Pack 4th of July" and "Crowds pack Labor Day." People are breaking the rules everywhere in order to be together. Reality is we are all human and need social interaction to survive.

Thinking of social interaction and NYC—remember, it was the city that never sleeps. Everyone in the insurance industry had an office in NYC. You could feel the energy and excitement. That energy and excitement and exposure to leadership is what attracted talent. Have you been there lately? Empty.

*Is leadership different in an office vs. behind a screen with no human interaction? How do you identify "high potentials" or even define the category when you don't meet and observe them personally?*

When it comes to talented employees, they were impatient prior to COVID, and months and months of lockdown has just increased their impatience. This cohort will not stand by idly and wait for their company to figure out how to advance their career. Hence, why we've been busier

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in the last year than we were the year before.

As dedicated specialists in insurance and reinsurance, and having personally started my career with The Hartford, we've been discussing everything just mentioned internally. We see a crisis looming on the horizon and needed to speak up. We don't have the answers, but first you have to acknowledge the issue.

From our perspective, if you're in the later part of your career, everything appears to be working just fine—probably even better.

Less travel and better quality of life. Why? You're relationships are built. The reinsurance business is a closed loop society based on relationships built over years of trust. Good example: Lloyd's is working because the networks and relationships are already established.

Lost in all of the discussion is the next generation of talent. How will they build relationships without joining more senior executives and clients for a meeting that is face-to-face? Meetings—and specifically dinners—are a requisite in insurance. It really doesn't matter what kind of meeting—if it is internal or with external constituencies. To really get to the root of an issue you have to gain the confidence of the other party by spending time together.

Can Zoom replace building a relationship face-to-face?

Innovation happens by people being together and socializing ideas. Bump into someone in the hallway. Suggest pulling a group together after lunch to discuss a breakthrough idea.

What we've learned about talent of all ages is they crave learning and interacting with others. They want to build relationships to foster their careers. Insurance admittedly still has an element of apprenticeship. Listen and observe. Join a meeting spontaneously because you might learn something. Learn to read the audience.

This work from home keeps the motor running, but at some point you run out of gas. The new relationships aren't being built and the old relationships are retiring. We're not certain when this will happen and all innovation will stop, but I think talent recognizes this and it's why they are so frustrated and anxious. Talent is searching for a company that will recognize the work-from-home model in its current form is not sustainable. The company that recognizes this and puts forth creative ideas to get people together and lead will attract the best talent.

So, here's the punch line: To all the boards and CEOs managing from their second home comfy chairs, your talent is sitting in their comfy chairs, too. They are assessing their options for the future. If your company can't figure out how to keep them engaged, then someone else will. Those companies will be the winners of the future.

We're nearly a year in and not everyone needs to come back. But your talent and future leaders need to see a path forward. The industry's future will be defined by what you do today, not by spring or summer of 2021.

*The reinsurance business is a closed loop society based on relationships built over years of trust.*



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# Where Are You Investing?

*By Marsha Egan*

No, this article is not about money. This article is about time. And people. And how your investment in them can bring great returns.

When you take the time to invest in people, you invest in success. Very few people have achieved true success without the help of others. As a leader, your personal investment in people not only sets a culture in motion but brings returns well beyond the effort it takes.

Relationships are at the heart of achievement. What better way to build relationships than to invest in others? When you take time to improve the performance of other people, you will also receive dividends—of a different kind. Your actions today create a legacy that will live on beyond you. You are collectively making a mark that cannot be erased.

Investing in others is a way to multiply yourself. Can you remember a coach or a mentor complimenting you or speaking a word of encouragement to you? Suddenly, your posture got straighter and you *wanted* to live



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up to those positive words. Their interest in you created energy. Investing in others is a way to infect them with self-confidence and positive results.

How do you invest in others?

- Share information.
- Be a mentor.
- Create growth opportunities.
- Challenge them to be their best.
- Refer them.
- Recommend them.
- Sponsor them for educational training.
- Give positive feedback.
- Listen.

There is a common thread to all these actions. They are "other-directed." They are altruistic. They are not about money.

By "investing" in others, this means take time with them, give them your attention and mentor them. No doubt, you have lots of experience and know-how. Are you transferring your knowledge, wisdom, skills and even shortcuts to others? Sharing your experience and expertise with others not only helps that individual but also benefits the organization. When you sow seeds of encouragement, you inspire self-confidence and determination, which ultimately can impact the bottom line.

Take the time to explain not only what you are doing but *why* you're doing it, so you instill a sense of ownership in others. When they can see the bigger picture and the reasoning or logic behind the task, they will have a greater commitment to doing the job well. And they will have learned your logic so that they do not need to be coached a second time.

Mentoring does not have to be a full-time job. Many people are hesitant to approach others and ask them to be a mentor. It does not have to be an official relationship. Just showing that you care about a person's success and results, sharing positive tips every now and then, and watching out for their progress can create enough forward energy to impact a career. Mentoring another can be as simple as taking the time to answer their questions, develop their skills and patiently correct their mistakes. People are honored when you invest even a moment in them.

Referring and recommending people to others can be career boosts. Opening the door for new experiences expands the breadth of their knowledge and ability to make healthy decisions.

All these take time, but not necessarily a lot of time. It is more about focus and seizing opportunities. I like to suggest that you make time to enable others' growth, a little bit at a time.

Think back. Who invested in you? I am willing to bet that every successful person has had one or many who have invested in them. When you consider their investment in you, what was it that contributed to your own personal success? Is that something that you can transfer to others? Isn't it time to "pay it forward" and invest in others as much as people have invested in you?

Look around you. Have you invested wisely? What investment opportunities are in front of you? Who can you invest in?

I challenge you to review how and where you are investing your most valuable resource—your time. Your investment in people will bring you the most rewarding dividends of all, with interest.

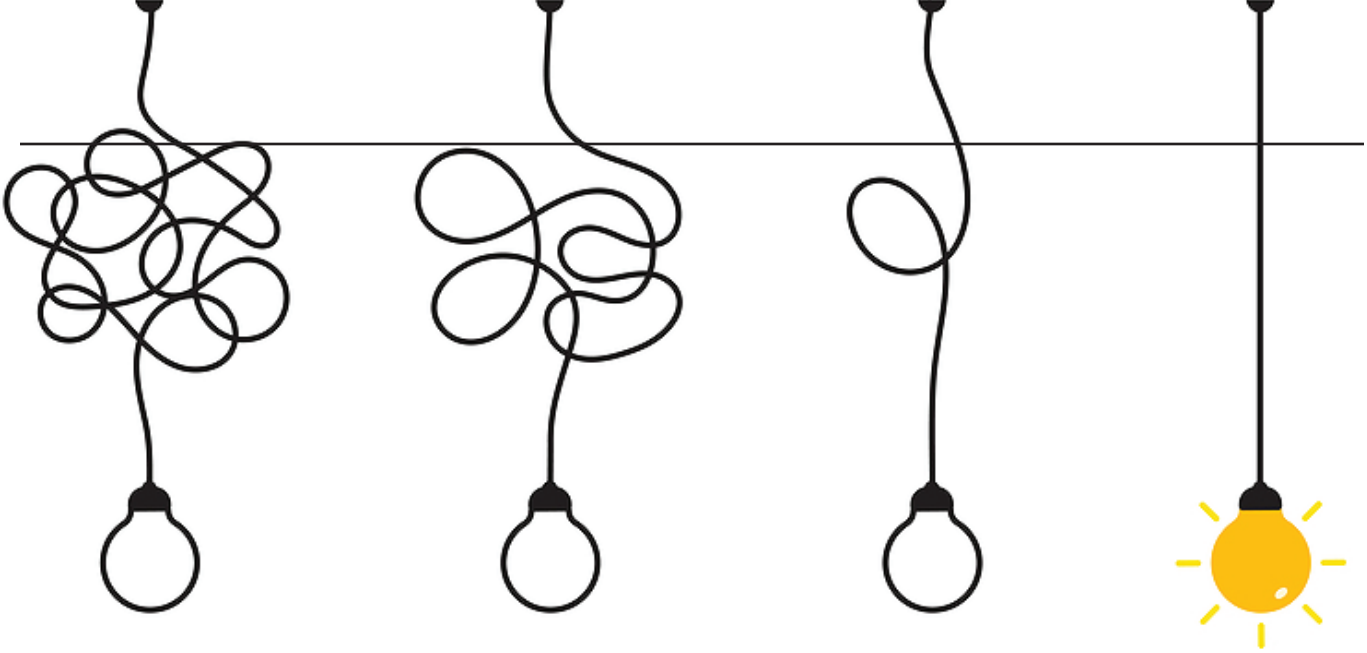
*Marsha Egan, CPCU, CSP, PCC, is a Success Strategist and CEO of The Egan Group, a Nantucket, Mass.-based professional coaching firm. An ICF Certified Professional Coach and Certified Speaking Professional, she is a leading authority on workplace productivity and interpersonal success strategies. She is author of "Inbox Detox and the Habit of Email Excellence" (Acanthus 2009) available on Amazon and at http://MarshaEgan.com/store. Egan is also a former president of the CPCU Society. She can be reached at marsha@marshaegan.com.*



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# BI Innovation Coming Soon: Low-Limit Policies From InsurTech Thimble


## Executive Summary:

See a need and then fill it. That has been the driving motivator of InsurTech Thimble, which had its roots as a provider of on-demand insurance for drones. These days, Thimble is working on a low-limit business interruption policy with a parametric trigger that will help tide businesses over until they can get government assistance during COVID-related shutdowns.


*By L.S. Howard*

See a need and then fill it. That's the secret of most successful businesses—and that was the driving motivator of InsurTech Thimble, which is currently working on coverage for small business customers during business interruptions.

Jay Bregman, co-founder of the New York City-based company, is accustomed to filling gaps in the marketplace, having transformed a company that started with a singular focus on serving the needs of a narrow market—drone operators—into one serving the liability insurance needs of small businesses.

Now focused on business interruptions and the problems of small business owners during pandemic lockdowns, the new policy on the drawing board could be a first line of defense for shuttered businesses, to tide them over until they get help from the government, Bregman



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said during a recent interview. He explained that the BI policy, like the drone cover and liability offerings that preceded it, would deliver low-limit insurance through a simple application process.

Keeping it simple is key to the InsurTech's success, Bregman suggested.

## From Drones to Small Business

As a drone pilot himself, Bregman started the company when he realized that the people who hired drones—such as the CNNs of the world and big real estate brokers—wanted to see pilots covered by aviation insurance on top of normal business insurance because such liability is excluded from general liability policies."

These drone operators were forced to go to aviation brokers to try to buy annual policies for a job that might last a day, he said.

"As a result, we created the world's first episodic, admitted liability insurance filing and got it approved in all 50 states." (Operating as a managing general agent, Thimble's aviation liability or drone capacity is provided by Global Aerospace Inc.)

"People can buy the drone coverage straight from their iPhone at the job site and then immediately show it to their client, which has resulted in sales of "tens of thousands of policies."

Bregman and his co-founder, Eugene Hertz, saw a need and they filled it—and the product was a success. (The company was launched in 2016 as Verifly and was renamed as Thimble in 2019.)

And that success begat new ideas and more successes.

Bregman explained by saying that "a lot of these drone pilots were not actually full-time drone pilots. They were photographers; they were contractors; they were real estate brokers. And so, they asked us if we could provide different kinds of business insurance," Bregman said in an interview with *Carrier Management*. Thimble created a new version of a general liability policy for small businesses, creating on-demand cover with a duration of an hour to a year—with Markel enlisted to provide the capacity.

"We've been gradually increasing the number and the breadth of small businesses and the types of small businesses that we sell to," said Bregman. The company's small-business customers include workers such as carpenters, freelancers, handymen, hair and beauty professionals, landscapers, personal trainers, photographers and pet sitters. More than 130 professions are covered.

Thimble started with one particular type of insurance to address one very defined problem, "and we've built a good business on top of that. Now we're insuring hundreds of different types of businesses, lots of different lines of business, with all the complexities that that entails," noted Bregman.

Thimble's website reveals that 75 percent of its customers never had business insurance before Thimble. The company is filling a need.

"Our secret sauce is we're selling these policies on all kinds of different time frames. We can afford to charge a little bit more for the same amount of time, but the customer is very willing to pay it because of the convenience and the lower overall cost of ownership of the policy on an asset that's assessed," he continued.

"Basically, with just three questions, we can provide a policy that includes all of the things that our customers [need], and that's why they love it. They love it because it's simple."

*"When you start breaking down the time increments and the limits to very low, discrete amounts, you can do very interesting things—things that people have never thought about before."*



*Jay Bregman, Thimble*



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The simplicity of the three questions—What ZIP code are you in? What do you do? How long do you want the policy for?—is the big difference between Thimble and traditional insurers, which can require answers to 20-50 questions before they'll even quote a policy, he explained.

Thimble also has developed a policy with a duration of one month, which is automatically extended monthly, depending on the customer's needs. "It has the best features of annual policies in that it's continuous. If you want to keep working with it, you don't have to worry about it. But you can do cool things, such as pausing the coverage," which Bregman said has been especially handy during the COVID-19 lockdowns.

"This coverage looks a lot more like a Netflix interface, where it's very easy to get going. You answer just three questions to play. You can modify it. If you want to add things to the policy, that's no problem. It all can be done instantly on the app or on the web," he continued.

What people really love about the policy is they're not committing more than a month at a time because they don't know what could happen with their businesses beyond that time frame, he said.

"We've built a game-changing business on this product, and we're just getting started."

Indeed, the company recently rolled out a product that includes general liability, professional liability, inland marine and also care, custody and control, which can be purchased as an annual policy by businesses of between one and 10 employees.

For example, this type of policy could be good for pressure window washers, who need general liability cover as well as cover for care, custody and control, which pays a claim if the window they're working on breaks. In addition, Thimble provides business equipment protection in case of damage or theft.

"Pressure washers actually have been doing great during COVID. If anything, people want more windows washed than they ever did," he affirmed.

## Products in the Pipeline

And what's in the pipeline for Thimble? Bregman said he is developing a low-limit business interruption policy for small companies because a lot of customers approached Thimble with worries that their businesses might be shut down again. He currently is working with the Lloyd's market's innovation accelerator (Lloyd's Lab) as well as the New York Department of Financial Services to develop the product.

Once again, the product looks at using time, which Bregman described as the "biggest vector that matters."

"When you start breaking down the time increments and the limits to very low amounts, very discrete amounts, you can do very interesting things—things that people have never thought about before," he said.

"There are so many different things that can happen differently if you can pay someone quickly and parametrically," Bregman said. "And so we asked, 'How do we get rid of the claims process?' Well, it's very simple. We'll sell very low limits. Instead of selling them $1 million or $2 million worth of business interruption limits, we'll sell $1,000 to $5,000."

In this case, it would be an annual policy. "So, you pay the premium—the premium is based on what type of business you are, where you are and how likely it is that your business could be shut down. It would cover any second wave of COVID and any other pathogen."

The policy would pay out the entire coverage amount as soon as there is a government shutdown in the nominated coverage area, "which is an objectively verifiable trigger event," he said.

"If you bought a $1,000 policy and paid your premium on it, you'll get $1,000. If you bought a $5,000 policy, we'll pay you $5,000, and we'll pay you a couple of days after the shutdown happens."

While he described the policy as a gap filler to tide businesses over until they get help from the government, he also said that capacity levels could be increased once capacity providers are identified.

Bregman said Lloyd's is intrigued by the idea, "and we're working with them to link us up with the right capacity." Thimble also is working with the New York regulator, which has initiated a program to fast-track COVID-19 solutions developed by insurers and other financial institutions. "We submitted one of the first applications for this program. They're very engaged and want to launch this in New York as quickly as possible."

Bregman's theory is that this new policy could be a true differentiator for Thimble in the marketplace.

## Market Disrupter

When asked if the InsurTech is an insurance industry disrupter, Bregman affirmed that Thimble is absolutely a market disrupter. "From a customer perspective, what we're doing is incredibly disruptive. Why? Because customers go to [other insurers] where they're asked 40 or 50 questions to get a price, and they just give up. Modern businesses want simplicity and immediacy. They come to us and they get



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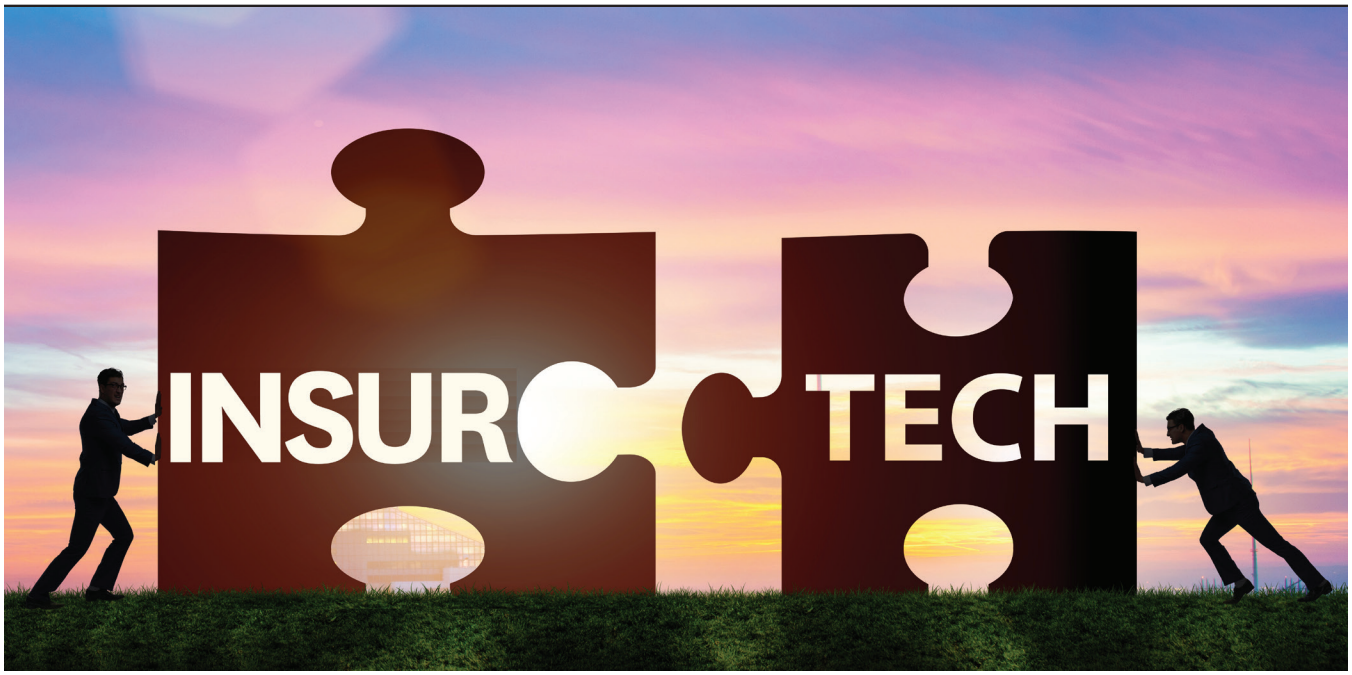
three questions. They get their insurance, they go and get a job with that insurance, and then they write a great review."

He said that the company's net promoter score (NPS) is 82, which is on par with companies like Apple, while "the average NPS for an insurance broker in America is 17."

Thimble's string of business successes in turn has attracted investors such as IAC, the media and Internet holding company that includes consumer brands such as Vimeo, Dotdash and Angie's List. IAC led a $22 million funding round for Thimble in October 2019 along with existing investors AXA Venture Partners, Open Ocean and Slow Ventures.



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# InsurTechs vs. Incumbents: Trends to Watch

**Executive Summary:**
How far have traditional insurers come in their efforts to integrate InsurTech offerings and their innovative cultures into their innovation strategies? Panelists at a recent *CM* Virtual Roundtable event discussed the question and gave advice to carriers and brokers about investment and collaboration strategies.

*Watch the entire Virtual Roundtable—"Is Insurance Innovation Overrated?"—on the Carrier Management channel of InsuranceJournal.TV.*

*By Susanne Sclafane*

Panelists speaking at a recent *Carrier Management* Virtual Roundtable agreed that InsurTechs are sprinting ahead of insurance industry incumbents on the innovation spectrum but said that investments and partnerships can push traditional players up the curve faster.

Phil Edmundson, CEO and founder of Corvus Insurance, described how InsurTechs are bringing new efficiencies to individual activities, such as insurance sales, claims and loss control, offering the example of MediaAlpha, an InsurTech specializing in customer-acquisition services, which recently had an IPO valued at more than a billion dollars.



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MediaAlpha "was nurtured inside White Mountains Insurance. So, it doesn't mean that there aren't roots in the traditional insurance business or that these folks aren't part of the insurance ecosystem. But it is an interesting development because of the availability of capital and now the reception of broad capital markets to support these efforts," Edmundson said.

"Certain functions are being hived out of insurance companies and moving off into tech-only companies," he said. "In essence, a function that might otherwise belong inside each insurance company…is being pulled away, outsourced to a tech company. This type of innovation that might have been happening inside insurers is being outsourced and value is being created within our industry in a new category of players," he said, listing online insurance marketplaces EverQuote for P/C insurance and SelectQuote for life insurance among them.

Panel Moderator Mike Fitzgerald, principal analyst, Insurance for CB Insights, citing a recent analysis by CB Insights and Willis Towers Watson, noted that third-quarter 2020 was the largest quarter in terms of venture capital-backed dollars flowing into InsurTech startups, asking Edmundson to talk about the impact of InsurTech startups on insurance industry innovation in 2020.

Edmundson described several categories of InsurTech players:

- Standalone carrier InsurTechs, like Root and Lemonade, that are competing with traditional insurers.

- Those building functional technology, like MediaAlpha and TruMotion, a telematics specialist that provides software to many of the top 10 personal auto insurers in America.

- Companies like Edmundson's Corvus, which have adopted a managing general underwriting model to underwrite cyber and other commercial risks by applying machine learning to analyze new datasets.

"From my personal experience, I can say it's certainly a smart way for a lot of technology to come to market, to be tested," he said, referring to the MGA/MGU approach, noting that it offers the opportunity to deliver offerings to the marketplace, to get some feedback and figure out which parts are ready for fuller growth.

In general, what's happening in insurance is not dissimilar to fintech, he said. "We can see a lot of cases where there were partnerships between fintech companies and the incumbent banks. The same thing's happening in insurance," Edmundson said.

## Fitting the Pieces Together

Fitzgerald asked the Roundtable panelists to share tips for insurers to deal with challenges of integrating startups into their efforts.

Jeffrey Bohn, chief research and innovation officer for Swiss Re Institute, said in his experience, large insurers just don't do a great job of integrating technology firms that they buy. What works better, he said, is "finding firms that have very specific capabilities that you don't have internally, and they fit well into your process, or [working] with the InsurTech to think about how you're going to re-engineer your process to take advantage of the new technology."

"Often, I see innovation falling flat, not because it's not a great idea but it just doesn't work with the current process," he said, sharing an example of a company

*"Certain functions are being hived out of insurance companies and moving off into tech-only companies."*



*Phil Edmundson, Corvus Insurance*

*"I find that in the startup community, they're not looking for capital these days compared to a few years ago, from the insurers, as much as they're looking for the business use cases and that insight."*



*Jeffrey Bohn, Swiss Re Institute*



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that had tried to implement some new deep learning image recognition for claims processing. "But they actually didn't change the claims process. They still have the claims adjuster involved. So, they now just added expense to an already expensive process. And they didn't get the cost improvement they expected."

"So, you have to think about how you re-engineer the process," Bohn said. "And often the InsurTechs don't understand insurance well enough to provide a lot of insightful advice at the beginning," he said, offering a second tip for insurers—to partner with InsurTechs early on.

"I find that in the startup community, they're not looking for capital these days compared to a few years ago, from the insurers, as much as they're looking for the business use cases and that insight," Bohn reported. Swiss Re talks regularly with representatives of VC platforms in Silicon Valley, Boston and Asia, he said, adding: "The thing they value the most is for us to come in and be very specific about the business cases. And then they introduce portfolio companies that could help solve that."

"That's much better in terms of providing a synergistic relationship between the two sides," he said.

Asha Vellaikal, managing director and global head of Digital Labs for Marsh, drawing on her past non-industry experiences in the Bay Area of California, recalled "much deeper collaboration at very early stages, both in terms of information exchange and quicker experimentation." She added, "It was almost a culture, a different culture of innovation. And I do think that in insurance still, it's somewhat more formal, that divide...Culturally, it may have to shift to being a little bit more fluid [to] help both incumbents and startups."

## The Way Insurance Gets IT Done

Even if overall cultures are slow to change, insurers have warmed up to the idea of working with InsurTechs, according to Fitzgerald, who has been studying the intersection of technology and innovation as analyst for 13-plus years (after a long career working in the insurance industry).

InsurTechs are no longer completely foreign entities to insurers, he said during a post-Roundtable interview. "They're from outside the organization. They do have a different culture. It needs to be managed differently than a standard vendor relationship. And insurers get that. Some of them have been at it longer, and working harder and challenging themselves," he said.

"We're very close to InsurTech being...just a different way to get insurance technology done. It's not an outsourcing model. It's obviously not build-it-yourself. It's somewhere in between," Fitzgerald said. "And it would be hard to imagine insurance technology without the startup environment. Two years ago, I wouldn't have been able to say that," he added.

Fitzgerald noted that graphs of investment activity in InsurTechs typically show an upward trajectory start to take shape in 2015. "We're only five years into this... And now I would say it's solidly an option. And it's an option that many insurers, no matter really their size, are now starting to or have been for a while making a part of their automation portfolio. So, it's here. It's part of the way that insurance IT is done. It hasn't realized all the value or all the potential yet though. It's still evolving."

Asked whether he is disappointed or amazed at the speed

*"It would be hard to imagine insurance technology without the startup environment. Two years ago, I wouldn't have been able to say that."*



*Mike Fitzgerald, CB Insights*



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of change in the insurance industry in recent years, Fitzgerald admitted, "I'm not as encouraged as I wish I would be. And I'm beginning to wonder if there's some demographics involved here where the amount of change that really is necessary is just going to take on your generation of leaders," he said.

"I'm not sure the incentives are there and are aligned that incentivize the proper amount of risk-taking. So, I can't say that I'm all that encouraged in the primary market," he said, noting that he is, however, encouraged about trends happening in the reinsurance area, and "specifically some of the opportunities I see in captives, which might help move some of this forward."

"But generally, I think it's going to continue to be a tough slog for a number of years," Fitzgerald concluded.

## A Carrier Management Special Event

This article is based on a portion of the Carrier Management Virtual Roundtable: "Is Insurance Innovation Overrated?"—a one-hour special event.

Video short takes of the Roundtable include:

- Five Years in: How InsurTechs and Incumbents Work Together
- InsurTech Trends to Watch
- Where Insurers Rank on the Innovation Spectrum
- Innovation Tip: Don't Forget to Budget for Moonshots
- CM Virtual Roundtable on Insurance Innovation: The Highlights

All are available on the Carrier Management channel at InsuranceJournal.TV.



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