



October 25-26

## EXECUTIVE SUMMARY

The Claims & Risk Management Working Group, which met October 25-26, 2016, heard from three speakers and worked in small groups to discuss challenges in their firms and high-level issues shaping their job roles. The first presenter, Larry Halprin, a partner at the law firm of Keller and Heckman, reviewed pending OSHA regulations that will impact employers' safety incentive programs and post-injury drug testing. Next, the Council's government affairs team – Joel Wood and Joel Kopperud – previewed the 2016 election and what impact the results may have on our industry's top legislative and regulatory issues. Finally, The Council's Cheryl Matochik presented to the group on a key change occurring within the insurance industry—InsurTech— and how brokers are changing and adapting.

Todd Macumber, President and CEO of the Risk Services Division at HUB International, was selected to serve as the Working Group's first chair. The role of the working group chair is to help craft the meeting agendas, identify presenters, lead group discussions and encourage attendance and participation. Macumber will serve a one-year term starting in 2017.

## PARTICIPANTS

AHT Insurance	Hays Companies
Aon Risk Solutions	HUB International Limited
Assurance Agency, Ltd.	INSURICA
CBIZ Benefits & Insurance Services Group	Murray Securus
Conner Strong & Buckelew	OneGroup, Inc.
Dealey, Renton & Associates	Propel Insurance

## 2016 SUCCESSES

The meeting began with participants sharing one of their successes in 2016. Group members' professional successes included growing teams, investing in and using new data analytics capabilities to win accounts, and starting a new captive.

## OSHA RECORDKEEPING REGULATIONS

**Presenter:** Larry Halprin, Partner, Keller and Heckman  
**Click here for a PDF of Halprin's presentation**

In May 2016, the Occupational Safety and Health Administration (OSHA) issued a final rule that will require employers, starting in 2017, to submit reports of specific workplace injuries which will then be made publicly available. It also expands OSHA's anti-discrimination rule by prohibiting employers from

October 25-26

doing anything that might discourage an employee from reporting a workplace injury. Great American Insurance, the National Association of Manufacturers and others filed a lawsuit in a Texas court in July, requesting a nationwide injunction, but even if they are successful, the rule will remain. The judge is expected to decide the case before December 1, when the rule goes into effect.

Under this rule, OSHA can issue a citation even if no complaint has been filed by an employee. According to the rule's anti-retaliation provision, a workplace safety incentive program or procedure is not allowed if it would discourage an employee from reporting an injury. An example of such an incentive program is when employees who have no injuries during a period are entered into a lottery for a \$100 gift card. Even though the odds of winning this nominal gift are small, ineligibility because of an injury is still seen as a deterrent to reporting workplace injuries. OSHA also issued criteria for determining whether a drug test is reasonable. The employer must have a reasonable basis for suspecting that drug use could have contributed to the injury/condition, or another reasonable basis for requiring the drug test, such as workers comp premium discount.

## **ELECTION 2016 PREVIEW & GOVERNMENT AFFAIRS UPDATE**

**Presenters:** Joel Wood & Joel Kopperud, Government Affairs, The Council

**Click here for a PDF of their presentation**

### **President**

Prepare for a Clinton presidency. And in that case, it is anticipated that Clinton will begin her presidency with a 65 percent disapproval rating on Day 1. The recent Wikileaks posts of Clinton Campaign Chairman John Podesta's emails show that Clinton is actually more moderate than she has been running. If she governs like her husband did his last two years in office, there is a lot she could get done with a Republican Congress. The wild card will be Massachusetts Senator Elizabeth Warren and how much she holds Clinton's feet to the fire by holding up nominations, etc.

### **House**

Republicans will keep control of the House but Speaker Paul Ryan will not have a large majority because there are still 35-40 Tea Party Republicans who view compromise unfavorably. He'll have to find Democrats who are willing to break with their party and vote with Republicans, but that will be extremely challenging.

Democrats in the House are frustrated because leadership has not changed in years and there is no upward mobility into leadership for younger Democrats. This is an issue the Democrats will have to address.



October 25-26

### **Senate**

Republicans only have a four-seat majority and there are twice as many Republican seats up for grabs on November 8. Political Analyst Charlie Cook recently said he believes Republicans are going to lose 5-6 seats, which would mean Democrats take control of the Senate. Senator Chuck Schumer (D-NY) would take over as Majority Leader.

### **Legislative Issues**

Wood and Kopperud also provided a review of The Council's top legislative priorities: Affordable Care Act (ACA) issues, taxation of employer-sponsored plans, Colorado Amendment 69 and FATCA. One of the major issues next year will be ACA exchanges. Some states will experience double-digit rate increases on exchange plans next year. The Administration will have to figure out what they can do to make ACA improvements through regulation because Clinton likely won't be able to get anything through Congress.

## **KEY INDUSTRY TREND: INSURTECH**

**Presenter:** Cheryl Matochik, SVP, Strategic Resources & Initiatives, The Council

**[Click here for a PDF of Matochik's presentation](#)**

Insurance Technology, or InsurTech, is an evolving sector aimed at using technology to drive efficiency within insurance services. Emerging InsurTech startups in the commercial insurance space are generally aimed at four areas: new means of distribution, help in claims adjusting, big data analysis for underwriting and early efforts at incorporating the Internet of Things.

The forces behind InsurTech are the combination of data and technology exploding, expanding client expectations and significant capital available from traditional and alternative providers. Small commercial, workers comp and personal lines (particularly life and auto) are especially attractive to tech entrepreneurs as they are massive product lines that accompany painful consumer experiences (notably for younger generations that value direct access and self-education). Traditional and new players are emerging as e-agencies (Embroker) and direct carrier models (Lemonade) as traditional insurance talent is migrating to the insurance tech ecosystem. For now, the focus of new ventures is mostly on solving problems that exist within the industry, as opposed to those that provide broadly applicable technology, such as data warehousing or blockchain.

Analyst VJ Dowling expects disintermediation in the micro/smaller end of the commercial insurance market, but brokers will continue to win on larger accounts with value-add services such as risk management. With both secular and cyclical trends driving demand for risk, the value of customer ownership only increases and brokers with scale and technical capabilities have a lot to gain.

October 25-26

The Council's CIO Chris Gagnon provided an overview of recently-launched Lemonade, which is a self-proclaimed "peer-to-peer" insurance company providing renters' insurance in New York. Lemonade donates its excess profits (and get tax deductions) to charity (instead of giving insureds excess profit). They are a high volume, low premium business, geared toward millennials.

In conclusion, brokers must focus on:

- Cost-value exchange
- Data
- Customer experience
- High collaborative IQ
- Economies of scale
- Strategic risk management

## SMALL GROUP BREAKOUT SESSION

Working Group members were broken out into three small groups based on their job function of claims or risk management, and encouraged to share their current challenges and thoughts about the changing nature of the industry and their job functions.

Common themes and key takeaways included:

- Talent
  - Attracting, training and retaining the right people
  - Internship programs and recruiting Millennials
- Data/Analytics
  - Accessing it and then being able to use it in meaningful way
  - Serving client demands with it (e.g., quality control, benchmarking, risk modelling)
- Federal regulations
  - Becoming increasingly onerous
- Need to reduce the total cost of risk management programs (and claims departments) in a soft market with less money coming in
- Need to demonstrate specialization and expertise
  - The days of being a generalist are gone. Firms are hiring talent that has a deep expertise in specific markets.
- Seeing expansion in client expectations
  - Requires strategic plan for staffing to align resources accordingly
  - As clients streamline operations, they are leaning on claims and risk managers more



October 25-26

- How to effectively demonstrate ROI to clients
  - Talk about the investment
  - Track wins you achieved for your client and how much that win was worth
  - Marketing materials with specific examples
- Brokers are investing in technology
  - Greater risk analytics
  - Talent
  - Data warehousing
  - RMIS (Risk Management Information Systems)
  - Workers Comp predictive modeling
- Methods of billing/quantifying claims services vary across firms
  - Specific services are incorporated at certain revenue thresholds
  - Sometimes the producer determines which services are included and he/she is charged back
- Claims reporting
  - Some clients insist on reporting claims through their broker; others do it themselves
  - Some brokers won't report comp claims because of HIPAA concerns
  - Claims professionals are consultants, not claims adjusters; limit E&O exposure
- Wearable technology, drones, etc.
  - Not yet incorporating this into day-to-day risk management or claims strategy
- Firms are looking to carriers to identify emerging trends, leveraging carriers' sophisticated tools for forecasting and predicting

## NEXT MEETING

The next Claims & Risk Management Working Group meeting will during The Council's Legislative & Working Groups Summit, Monday, February 6 – Tuesday, February 7, at the Mandarin Oriental in Washington, D.C.

## QUESTIONS

Contact The Council's Rob Boyce at [robert.boyce@ciab.com](mailto:robert.boyce@ciab.com).