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# CANADIAN UNDERWRITER

SEPTEMBER 2016

PM#40063170

Pay Day?

BY ANGELA STELMAKOWICH

Water Log

BY BLAIR FELTMATE

Commercial Venture

BY CHUCK RUZICKA



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## COVER STORY

### Ransomware

Will spinning the wheel of ransomware risk mean boom or bust for companies and organizations? With more entities being targeted, security and preparedness are clearly key. Absent that protection, the malware will surely continue its costly winning streak.

BY ANGELA STELMAKOWICH

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BY BELINDA BRYCE



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BY CHUCK RUZICKA



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BY GREG MECKBACH

# 2016 UNDERWRITERS OF THE YEAR

The following individuals understand what the role of an underwriter truly is: to write great business that satisfies the clients' needs and creates a win-win for the broker and insurer. What sets these underwriters apart from other hard working underwriters is their attitude.

They communicate in an open and effective manner, and they go out of their way to explain the reasoning behind their decisions and make suggestions, if necessary, to help our member brokerages place the risk elsewhere. Their consistency and helpful nature have made them outstanding underwriters who are a pleasure to work with.



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THE CANADIAN  
BROKER NETWORK IS



Sarah Jowett  
TRAVELERS INSURANCE

PROFILE



Photo: Peter Tym

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BY ANGELA STELMAKOWICH

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# Socially Awkward



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**In all, 84% of those taking part in the poll reported that social media channels such as Twitter and Facebook “can do a great deal of damage to the image of an individual or organization.”**

**Angela Stelmakowich**  
Editor  
Canadian Underwriter  
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Being social is all well and good... until it no longer is.

Social media is a given today, whether for personal or business use. But along with these in-the-moment interactions comes a bit of risk (sometimes more), including for business leaders.

Findings from a new online poll of 1,000 Canadians indicate that social media is the medium most able to cause damage to public image, whether for an individual or an organization.

In all, 84% of those taking part in the poll reported that social media channels such as Twitter and Facebook “can do a great deal of damage to the image of an individual or organization,” notes Signal Leadership Communication Inc. (SLC), which released the findings in late August.

That percentage exceeds the 72% of respondents who felt the same about online news and broadcast television, and far exceeds respondents who felt that way about print newspaper, 52%, and radio, 48%.

Millennials, 88%, and the “general population”, 84%, said social media is able to damage image the most compared to other mediums.

The threat to image damage is such that corporate communicators “need to design social media presence accordingly and invest the necessary resources,” advises SLC principal Bob Pickard.

“It all starts with the leaders, with whom an often-demanding public increasingly seeks

to have a direct personal connection through online networks,” Pickard says.

“There’s far more risk for something to go wrong and explode virally. If it does, the public’s attention is on the leaders online, so they themselves need to understand this new digital dynamic,” says SLC principal Janice Mandel.

A survey out of the United Kingdom a few years back showed young consumers are becoming more likely to complain about products on social media. Half of the 18- to 34-year-olds taking part in the 2013 poll from XL Group said they are more likely to complain via social media than in the previous year.

Having people use social media channels to interact with companies and brands “is great for a company when it is getting ‘liked,’ but when things go wrong — a large recall because there is a fault with a product, for instance, — then a company needs to have the tools and capability to respond — fast,” Ed Mitchell, chief underwriting officer of XL’s product recall group, said at the time.

“Not doing so can cost a firm the loyalty of its customers and its hard-earned reputation,” Mitchell noted, emphasizing companies need to develop response plans with their insurance companies.

Also in 2013, a Marsh report noted social media has intensified the political risk some organizations face and that a rear-view approach to examining related risk man-

agement is not sufficient.

Social media was found to exacerbate political risk by accelerating the formation of political protests, and enabling civil unrest to more easily transition.

Unrest could fuel political risks such as expropriatory actions, forced abandonment, forced divestiture, property damage, contract frustration, business interruption and trade disruption.

Clearly, use of social media can be positive as well. In an emergency, for example, it offers accessibility, speed and the ability to communicate with many people, thereby allowing information to be pushed to individuals through their mobile devices.

Social media can also be used as an investigative tool.

A Deloitte poll out of the United States last year found 45.2% of the 2,490 respondents use publicly available social media content when conducting investigations.

Social media analytics can help reveal connections useful in fraud and corruption investigations, pre-deal diligence and cyber threat sensing, Deloitte reported.

In addition, social media analytics give organizations a means to scan for previously identified threats and potential newer threats, it noted.

Social media can bring with it both good and bad. While the former should be welcomed, the latter must be assessed to allow for responses that are as quick as that next post. ≡

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## Claims

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### **PCS RE-SURVEY ESTIMATES WILDFIRE INSURED DAMAGE TO BE \$4.67 BILLION**

Property insurance losses from the Fort McMurray wildfire have been re-estimated at \$4.67 billion, reports Verisk Analytics Inc.'s Property Claims Services (PCS).

Measured by insured losses, the wildfire in May was the most expensive natural catastrophe in Canadian history. The average claim from the Alberta wildfire was \$120,159, PCS notes.

The new estimate is 31% higher than the \$3.58 billion estimate released July 7 by Insurance Bureau of Canada, based on figures from Catastrophe Indices and Quantification Inc. That estimate takes into account losses before reinsurance.

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### **PRAIRIES STORM CAUSES MORE THAN \$48 MILLION IN INSURED DAMAGE: CATIQ**

A severe storm that swept through Alberta, Saskatchewan and Manitoba during the second week of July has resulted in insured damage of more than \$48 million, note figures from Catastrophe Indices and Quantification Inc.

From July 8 to 11, severe thunderstorms in the Prairies, produced strong winds, hail, lightning, heavy rainfall and funnel clouds, reports Insurance Bureau of Canada.

Most property damage was reported in Saskatchewan, with the system causing

significant flooding in Estevan and a brief tornado touchdown in Humboldt.

The most severe isolated thunderstorm cell over Estevan produced as much as 130 millimetres of rain in a short period, overwhelming the local storm water systems and causing streets to flood and sewers to back up.

## Canadian Market

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### **OMEX OPTS TO SUSPEND RECIPROCAL UNDERWRITING**

The Ontario Municipal Insurance Exchange (OMEX) suspended reciprocal underwriting operations August 11 "to allow it time to fully assess the needs of Ontario municipalities with a view to redesigning its products to better service the needs of its future members."

As a result of the decision, OMEX will immediately cease to write renewal business for the remainder of 2016, and will not pursue new business, it notes in a statement.

Existing members are advised to seek coverage from alternate insurers.

A "low pricing environment, combined with the impact of joint and several liability on municipal claim settlements has made it difficult to offer sustainable pricing while still addressing the municipalities' concern about retro assessments," OMEX notes.

The move was made "at a time when the finances of OMEX are very strong,

enabling it to discharge all financial obligations as they arise. Other than the fact that OMEX will have no new or renewal premium for the next year, it will be "business as usual."

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### **TOTTEN GROUP ACQUIRES CANADIAN RESOURCES INSURANCE SOLUTIONS**

Totten Insurance Group has acquired the shares of Canadian Resources Insurance Solutions, Inc. (CRIS), an insurance wholesaler in Sudbury, Ontario.

Terms of the acquisition were not disclosed, but Hub International Limited reports that the strategic acquisition expands the managing general agent's footprint in the Canadian marketplace and "further defines its specialization in providing exceptional underwriting service in key industry segments."

Totten is one of Hub International's wholesale insurance brokerage operations. "The synergies created by this partnership will add significant value to our broker partners and further enhance Totten's focus on specialty underwriting across Canada," says Totten Insurance Group president Susan Murphy.

CRIS provides wholesale insurance solutions specializing in natural resources and other specialty niches.

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### **NEW 3-IN-1 PRODUCT FOR CLAIMS, LOSS PREVENTION FROM AVIVA CANADA**

Aviva Canada has released its Home Protect Bundle product, calling it an the

first insurance solution "to help Canadian homeowners prevent claims from reoccurring, repair damages before a claim occurs, and provide unlimited professional assistance."

Scheduled to be available in Canada as of August, the 3-in-1 bundle (prevent, fix, assist) can be added to an existing home or condominium policy from the insurer.

Among other things, the bundle offers Claim Prevent, with which customers receive as much as \$2,500 to install an approved loss prevention device to prevent reoccurring claims; and Home Repair Assure, which offers professional services for minor repair needs, before they become major issues.

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### **AIG CANADA OFFERS RISK SERVICE FOR RESIDENTIAL CONSTRUCTION PROJECTS**

AIG Insurance Company of Canada has launched Smart Build, a risk management and mitigation service for residential construction projects with budgets of \$5 million or more.

Calling it a first in Canada, the company reports that the program is available to AIG Private Client Group clients who are "embarking on new residential construction or a significant home renovation project."

AIG Canada notes the group's team of risk managers will work closely with a client's architect and builder to collaboratively mitigate the often costly risks associated with residential construction.

## Risks

### CITY SEEKS FINANCIAL REMUNERATION FROM HUSKY ENERGY AFTER SPILL

The City of Prince Albert in Saskatchewan started a claims process in August seeking financial remuneration from Husky Energy following a lengthy oil spill that the city contends has cost it millions of dollars.

The city is seeking compensation on a wide variety of costs, including the salaries of city workers and contractors and “material costs in constructing two water pipelines as alternative water sources for the city.”

The suit follows the oil spill contamination of the North Saskatchewan River that forced the city to close its water treatment plant intake to the river.

### FINANCIAL ASSISTANCE FOR SMALL BUSINESSES AFFECTED BY WILDFIRE

Alberta’s Ministry of Economic Development and Trade will make financial assistance available for small businesses affected by the Fort McMurray wildfire starting in September.

Businesses recovering from the wildfire will have access to two complementary recovery programs as they resume operations and support their employees: the first will provide as much as \$20,000 to cover costs, including new equipment, property damage and clean-up; the second will provide small businesses with

wages and labour assistance.

It is estimated as many as 4,000 small businesses have been affected by the wildfire.

## Technology

### FORD PLANS FOR AUTONOMOUS VEHICLE IN RIDESHARING CAPACITY

Ford Motor Company’s intention is to have a “high-volume, fully autonomous SAE level 4-capable vehicle in commercial operation in 2021 in a ride-hailing or ridesharing service.”

To get there, the company is “investing in, or collaborating with, four start-ups” to enhance its autonomous vehicle development, doubling its Silicon Valley team and more than doubling its campus in Palo Alto.

Ford is expanding its research in advanced algorithms, 3D mapping, light detection and ranging, and radar and camera sensors.

The first fully autonomous vehicle, which will not have a steering wheel or gas and brake pedals, is being designed for commercial mobility services, like ridesharing and ride-hailing.

## Regulation

### TORONTO ISSUES PRIVATE TRANSPORTATION COMPANY LICENCE TO UBER

The City of Toronto recently issued a Private Transportation Company (PTC) licence to Uber.

Since city council gave

Uber the green light in May to operate legally in Toronto, municipal staff have been preparing and implementing the new *Vehicle-for-Hire Bylaw*, in effect July 15.

Under the bylaw, “all taxicab, limousine and PTC vehicles will be required to meet the city’s standards for vehicle inspections and carry automobile liability insurance with a minimum of \$2 million coverage.”

The bylaw also includes changes for the taxi industry, including “flexible” ownership for cab owners, and lower annual licensing fees.

With the Uber’s PTC licence being issued, the city will start to screen and issue PTC driver licences to those performing vehicle-for-hire services through UberX.

### QUEBEC FARM INCOME STABILIZATION PLAN NOT A CONTRACT OF INSURANCE

Quebec’s Farm Income Stabilization Insurance, which protects producers against market and production cost fluctuations, is not actually a contract of insurance under the *Civil Code*, the Supreme Court of Canada (SCC) has ruled.

“The Farm Income Stabilization Insurance (ASRA) program is a collective type of insurance, protecting businesses “against market and production cost fluctuations,” reports La Financière agricole. “ASRA pays compensation when the average selling price is lower than the stabilized income.”

In two appeals against

La Financière agricole, producers argued ASRA is a contract of insurance and in interpreting that contract, the high court must take into account the reasonable expectations of the producers.

The ASRA program “does not have the three main characteristics of a contract of insurance,” the ruling notes.

## Reinsurance

### FEDERAL EMERGENCY BACKSTOP ARRANGEMENT FOR QUAKES RECOMMENDED

A former federal Superintendent of Financial Institutions is calling for a last-resort federal emergency backstop arrangement for property and casualty insurers to minimize the systemic financial impact resulting from a “catastrophic and likely uninsurable natural disaster,” such as earthquake.

Properly designed, the backstop “would minimize the systemic financial impact resulting from such a catastrophic and likely uninsurable event on those affected and on the economy at large,” suggests report author Nicholas Le Pan.

“The backstop arrangement should, however, apportion costs, including a possible tranche of further contingent risk-sharing with industry in a way that lessens moral-hazard issues,” Le Pan writes.

The backstop could kick in beyond an industry-wide trigger of expected losses, with the loss estimate updated periodically, he adds. ≡

# Banking on Brokers

**Angela Stelmakowich**  
Editor

**Robert Harrison, president-elect of the Insurance Brokers Association of Canada, sees broker education as paying big dividends.**

It may not always be the most prudent thing to go meet “the big guy around the corner,” but it sure worked out well for Robert Harrison.

In Toronto for a job interview, the friend Harrison planned to meet for lunch was too busy to get away. The friend, working on the floor of the Toronto Stock Exchange (TSX) in 1979, motioned to Harrison in the gallery to come down, have a seat next to him and check out the floor.

“I sat there for a fascinating 20 minutes, watching the mayhem on the Toronto Stock Exchange, fascinated by the yelling and screaming, the paper, the people running around and phones ringing,” says the now charter financial analyst with Martin Merry & Reid Limited in Toronto.

“At some point, my friend turned to me and said, ‘Are you looking for a job?’ I went, ‘Well, yeah.’ He said, ‘There’s

a big guy around the corner in a blue jacket. Go talk to him,” Harrison relays.

And so he did.

The “big guy” happened to be responsible for post-clerks on the floor of the TSX. Harrison began work with the TSX the following Monday.

It was just one of the times Harrison, president-elect of the Insurance Brokers Association of Canada (IBAC), proved to be in the right place at the right time over the course of his more than three decades in banking and insurance.

Harrison remained at TSX for about seven months before transferring to CIBC Wood Gundy, where he entered the futures area, and worked as a trader from 1980 to 1982. When Wood Gundy closed its futures area, he decided to complete his undergraduate’s degree.

After doing so, what was there to do but go skiing in Whistler?

And so he did.

Harrison wound up as a ski lift operator, and then got head-hunted. “Dominion Securities was looking for someone with some Canadian experience in the financial futures area and just happened to approach a person who happened to know my mother,” he says.

Harrison worked at RBC Dominion Securities as a trader from 1983 to 1986. That was followed by more

time at CIBC Wood Gundy, where his last position was deputy chief dealer, the Bank of America Canada and then, starting in 1989, a 10-year stint with the Bank of NT Butterfield & Son Ltd. in Bermuda (thanks to a small ad in the *Globe & Mail*) where he dealt with derivatives, balance sheet risk management and client risk management in his role as vice president, treasury.

After returning to Canada, Harrison ran into David

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**People want a broker to “put a wrap around” what their exposures are and delineate them, Harrison suggests.**

Browne, principal of Martin Merry & Reid. Browne suggested he “come down and kick some tires for a couple of days.”

And so he did.

Harrison started at the brokerage in 2003, and remains there to this day.

## GETTING EDUCATED

From the time Harrison first secured a professional position, he has been involved in industry associations — everything from the traders pit committee at the Toronto Futures Exchange to the Toronto Insurance Conference and IBAC,

serving at the latter as director, vice president and, after the annual general meeting this September, president.

His volunteer work has been fuelled not only by curiosity, but by the belief that it is important. “It’s important, I think, to be involved so that you can have an opinion and be able to share it,” he says.

“I’ve always been a writer of exams,” the long list of which includes those related to ethics, balance sheet management and risk management, says Harrison.

That may be “one area on the insurance side of things that I have not done as well as I would have liked, to write more of the exams and do more of the certifications.”

Education and certification are important “for the insurance industry, and particularly for the broker end of the insurance industry,” Harrison contends. Beyond demonstrating expertise and knowledge, it gives brokers — even those narrowly focused on specific markets — the breadth of knowledge necessary to handle customer queries.

“Even if all you are doing is automobile insurance, you’re going to have questions on home insurance, you’re going to be presented with questions on business insurance,” he says. “If you don’t know the answer, you should at least know where to go and get the



Photo: Peter Tym

answer. And education often gives you that opportunity.”

Also consider the public’s perspective. “Having the designations, having gone through the process demonstrates a certain amount of proficiency in the knowledge, but also commitment to the process, commitment to the industry, commitment to being a broker, commitment to being better,” he says.

That being the case, it is not surprising that education is high on the list of things Harrison hopes IBAC can further enhance over his time as president.

“I can’t suggest being a broker is quite in the same league in terms of educational requirements as law or medicine or accounting,” he

notes. “But we need to strive at least to approach that in order to gain the trust of the public, in order to maintain our position as the choice for Canadians that we currently have,” Harrison emphasizes.

People want a broker to “put a wrap around” what their exposures are and delineate them, he suggests. If the topic is, say, home insurance, brokers “should be asking, ‘What is your lifestyle? What is it that you do in the house? What are the other external risks? Have you children? Are they at school?’

With that, the broker will begin to understand what the client is all about,” he says.

“While the banks know what your credit score is,” Harrison says, they do not

necessarily know much about a customer’s life.

“Those extra, added pieces of information are what a broker in a conversation with a client can use to help place insurance, not cookie-cutter, but with an insurer that will look at those ancillary activities and fully understand and provide the right kind of coverage,” he maintains.

### LOOKING FORWARD

Clearly, though, brokers face challenges. These relate to technology, the regulatory environment, competition and ever-present cost constraints.

“We are more and more online people,” Harrison says, demanding that brokers create ways of capturing information in as efficient a

way as possible. “I think that every broker in the country should be taking a look at their IT systems and if they aren’t ready, willing and able to accept a paperless transaction system between them and the insurers they represent, then they’re going to be left behind,” he cautions.

With regard to the regulatory environment, regulators on a national basis are “looking at consumer protection on so many different levels that they’re driving, for example, broker skills,” he says.

The idea is to define what a broker is and what skills are necessary to be a broker. “IBAC, through our member associations, are working on a project to help delineate that, how to bring it forward,” reports Harrison.

“Fast forward a year,” Harrison’s hope is IBAC’s member associations are closer together in unity, moving forward as a group; regulators confidently regard IBAC as the first source for broker issues; and the needle on professional and ongoing education is moved incrementally so every broker understands its importance.

“There are 36,000 brokers out there,” he says, and “not everybody knows what everyone else is doing,” Harrison says. As such, IBAC’s continuing efforts with regard to informing and educating the membership remains key. ≡



# Flight Path



**Belinda Bryce**  
Partner and  
Executive Vice  
President,  
Aviation Division,  
The Magnes  
Group, Inc.

Airports bring with them some unique liability exposures. Although specialty insurance coverages offer solutions, navigating just how those solutions are structured is critically important to ensure potentially costly gaps are avoided.

Municipal airports across Canada, as well as the authorities and fixed-base operators (FBOs) that manage many of their activities, must navigate a wide range of potential liability exposures related to the safety and security of passengers, aircraft, materials and equipment on their premises.

While the country's more than 1,400 airports are widely diverse in terms of their operations, scale and type of aircraft using them, they all must address a number of unique exposures related to their respective business. Besides risks faced by most enterprises — including natural disasters, employment issues, crime, property, auto and business interruption — airports must assess exposures specific to their operations and find the best ways to address them.

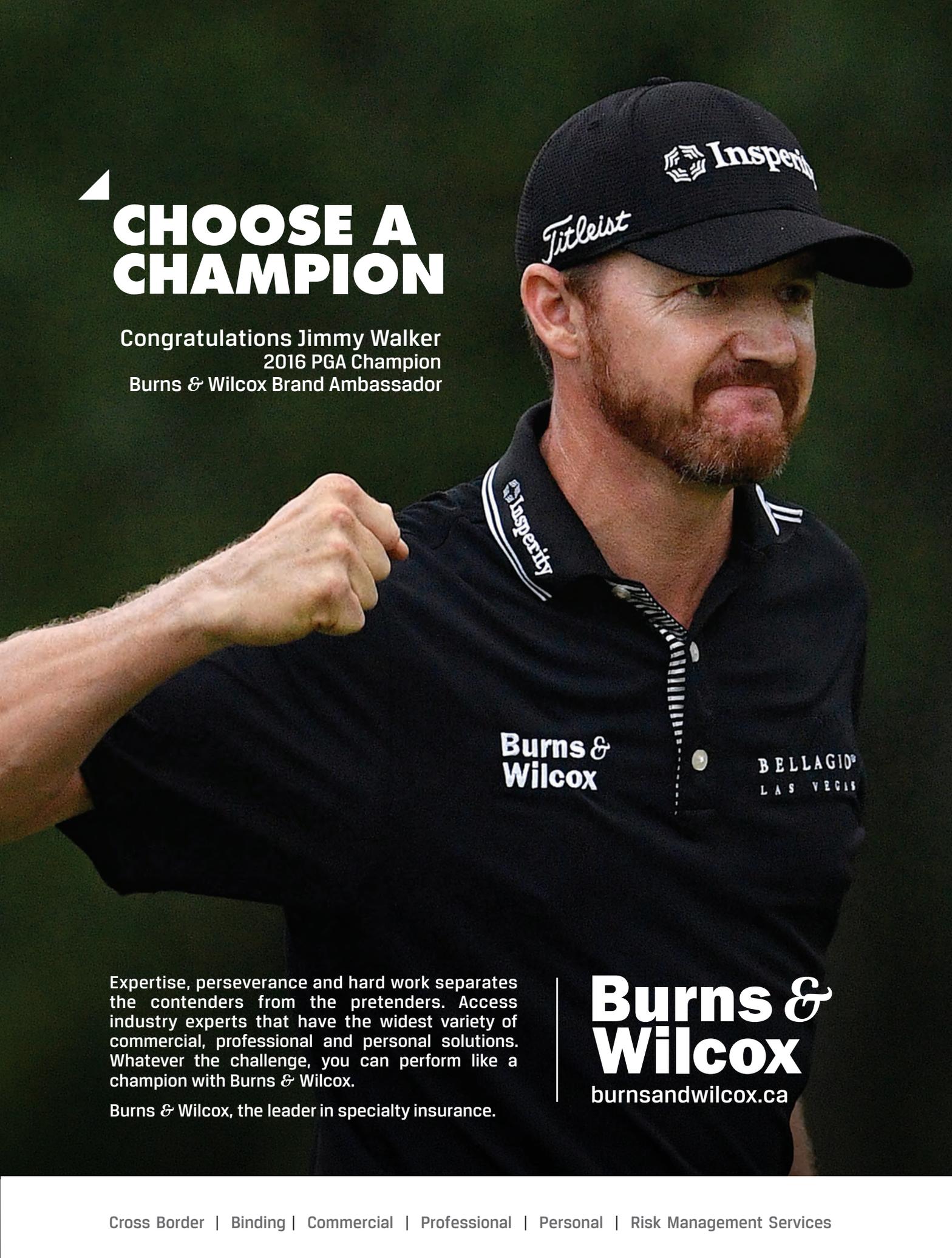
Many of these exposures need to be addressed by coverages available under specialized aviation general liability (AGL) insurance policies. The coverages include airport premises liability, hangarkeeper's liability (HKL), aviation products and completed operations liability, personal and advertising injury, and contractual liability.

Together, pricing for premises, hangarkeeper's and products liability comprises most of the premium for an AGL policy. The AGL policy can be structured with a combined limit for all coverages or separate limits for each. Opting for a single limit may save some costs, but can result in less protection.

## **LIABILITY BY LIABILITY** **Airport premises liability**

Whenever individuals are injured on airport property, the airport may be liable. Premises liability coverage — which forms the basis of an AGL policy — provides protection against the financial consequences of occurrences such as slips and falls, and third-party property damage claims that may come about in the regular operations of the airport.

In underwriting premises liability, insurers consider several factors, including the following: location of the airport (urban versus rural); volume of passenger and freight movements; type



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and number of aircraft using the airport; and volume of scheduled or unscheduled flights. Notably, scheduled airlines generally carry more passengers, which can increase the airport's exposure.

Some airports choose not to purchase hangarkeeper's or products liability coverage, opting instead for a standalone premises policy. The policy can cost anywhere from \$1,000 per \$1 million of coverage for smaller airports with minimal traffic to thousands of dollars for each \$1 million of coverage for busy airports with scheduled passengers.

Unfortunately, some airports mistakenly believe standalone premises liability policies offer all the protection they need. Although these policies cover many types of losses arising from third-party bodily injury and property damage, they will almost always exclude damage to aircraft under the airport's care, custody and control (CCC) language.

If airports charge aircraft owners for tie-down or hangar space, the aircraft are considered under the airport's CCC — and even more so, if the airport is involved in moving, towing, refuelling or preparing the aircraft for flight.

### Hangarkeeper's liability

Airports and FBOs may be liable for damage to any aircraft or equipment owned or leased by others and stored or maintained in airport hangars. HKL addresses these risks and is typically available as an option under an AGL policy.

Most HKL claims tend to occur during towing: hangar rash, collisions of two aircraft being towed or towing without releasing the brakes.

Such incidents can impact premium, but can be prevented with effective risk management. This may include having wing walkers and ensuring all aircraft display a "Go/Don't Go" sign in the window to let ramp workers know when brakes are on or off.

However, larger HKL claims, like those involving hangar fires and roof collapses, are more difficult to predict or prevent.

In structuring HKL coverage, limits can be applied on a per-aircraft and per-occurrence basis, or combined into a

single limit. For instance, an airport with a large hangar containing 40 small aircraft, each valued at roughly \$200,000, might opt for limits of \$200,000 per aircraft and \$8 million per occurrence instead of a single \$8 million limit to achieve some modest savings.



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**Some airports choose not to purchase hangarkeeper's or products liability coverage, opting instead for a standalone premises policy. The policy can cost anywhere from \$1,000 per \$1 million of coverage for smaller airports with minimal traffic to thousands of dollars for each \$1 million of coverage for busy airports with scheduled passengers.**

On the other hand, airports or FBOs with a hangar with 10 to 12 large aircraft valued from \$1 million to \$60 million each may choose a single limit, amounting to \$20 million to \$100 million or more, for example.

Significantly, HKL tends to be a location-based coverage. Even though an airport or FBO might have an entire airport of aircraft under its CCC, it can calculate its maximum exposures by individual hangars, assuming there is adequate distance between hangars to avoid the risk of fire spreading from one to another. Notably, HKL excludes coverage for any aircraft owned, leased or operated by the airport or FBO.

### Aviation products and completed operations liability

Airports and FBOs may be at risk for injuries or property damage resulting from the use, handling or consumption of a product or service they supply.

Products and completed operations liability coverage, available as part of an AGL policy, can protect the airport or FBO from these potentially significant exposures, such as if an aircraft crashes after refuelling at an airport-operated gas pump. Because these risks can be substantial, this coverage often is the biggest component of the AGL premium — especially for airports involved in de-icing, anti-icing and refuelling activities.

Airports and FBOs should work with their insurance advisors to avoid gaps in this coverage and make sure that their protection matches the products and services offered. Coverage wording varies by insurer, with some forms listing the actual products and services covered, while others use broader wording.

### Personal and advertising injury liability

Heightened security measures at all airports, along with increased reliance on technology and the Internet, elevates risks to airports of claims brought by individuals related to false arrest, malicious prosecution, wrongful eviction, libel, slander, privacy violations and copyright infringement.

Although coverage for personal and advertising injury liability can often be added to the AGL policy at no additional premium, it typically has a lower sub-limit than other coverages. For instance, if an airport or FBO has a \$100 million

limit on its HKL, premises and product liability, the sub-limit for the advertising injury liability may be \$20 million.

### Contractual liability

Airports and FBOs typically contract with numerous suppliers, providers, maintenance firms and tenants that, in turn, may seek to transfer some of their risk to the airport or FBO through indemnity, hold-harmless agreements or similar clauses.

Contractual liability coverage is designed to protect the airport when it assumes, in an oral or written contract, the financial consequences of another's negligence that results in bodily injury or property damage to a third party. This coverage may be limited to certain types of contracts, such as a hangar/airport lease, or require full review of the contract by the insurance company within a specific number of days after the contract is signed.

In addition to insurance, airports and

FBOs should take contractual precautions to protect themselves against potential losses and advise their insurance company of any pending contract on a timely basis.

### FULL VIEW OF RISK

From a tactical risk management standpoint, airports and FBOs should have leases with all their tenants that include both insurance and indemnity sections. The insurance section should specify the amount and type of coverages required; the indemnity section should include a hold-harmless agreement and waiver of subrogation.

Airports usually own the land they occupy, but many tenants own the buildings and lease them to third parties. These tenants should be required to attach the airport's master lease to their leases.

As a condition of the lease, as well as any contractor coming on to the property, airports and FBOs should require a certificate of insurance issued by each par-

ty's insurance broker documenting the insurance and indemnity requirements. It should be provided every 12 months.

AGL limits carried by airports and FBOs typically range from \$10 million for smaller general aviation airports to \$500 million or more for larger airports with domestic and international commercial flights.

Even though AGL insurance policies can help airports and FBOs address a number of their unique liability exposures, they comprise only one element of a comprehensive risk management program. Airports and FBOs should carefully assess all their risks and consider purchasing insurance for other significant or emerging exposures, such as war, pollution, cyber threats, garage-keepers (cars in hangars and lots) or non-owned aircraft.

Finally, they should review their risk management and insurance program with a knowledgeable risk professional experienced in the aviation sector. ☐☐☐

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# Resetting Limits



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A new decision out of Newfoundland and Labrador explores confirmation and resetting limitation periods. Of note for insurers, the ruling provides certainty regarding the impact of payment for certain documents in the course of a claim investigation.



**Giles Ayers**  
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Limitation periods serve a critical function in the civil justice system. They promote the timely resolution of litigation on the basis of reliable evidence, and permit litigants to assess their legal exposure and to plan accordingly.

If a plaintiff seeks to depart from the strict application of a limitation period, he or she faces an uphill battle. However, a plaintiff may rely on certain exceptions.

In Newfoundland and Labrador, one such exception is “confirmation” of a cause of action, by word or by deed. If a cause of action is confirmed, the applicable limitation period is reset

and begins to run again from the date of the confirmation.

While a number of provinces have similar provisions based on acknowledgment of specific causes of action (such as liquidated claims or recovery of property), “confirmation” of causes of action in general (including negligence claims) is currently found only in Newfoundland and Labrador.

In *Tuck v Supreme Holdings*, released August 4, the Supreme Court of Newfoundland and Labrador, Court of Appeal considered the requirements for confirmation by payment.

This decision is of particular note for insurers, and provides certainty regarding the impact of payment for certain documents in the course of a claim investigation.

## **CONFIRMATION**

In Newfoundland and Labrador, a cause of action may be “confirmed” and the applicable limitation period is reset where a person does the following:

- acknowledges that cause of action, right or title of another person (*Limitations Act*, Section 16(1)(a)); or
- makes a payment in respect of that cause of

action, right or title of another (Limitations Act, Section 16(1)(b)).

### Acknowledgment of a cause of action

The leading case interpreting Section 16(1)(a) is a 2005 decision of the Supreme Court of Canada (SCC), *Ryan v Moore*. The court held that “acknowledging” a cause of action under Section 16(1)(a) requires a written admission of liability related to a cause of action pleaded by the plaintiff.

The same section was considered again in 2007 by Newfoundland and Labrador’s Court of Appeal in *Meyers v Dunphy*. The appeal court held that confirmation does not create an exception to settlement privilege, absent special circumstances, such as blameworthy or meritorious conduct.

In other words, a party may not admit documents otherwise protected by settlement privilege in order to prove confirmation.

### Payment in respect of a cause of action

Prior to the decision of the SCC in *Ryan*, there was considerable disagreement about the proper application of Section 16(1)(b) in Newfoundland and Labrador.

In *Guinchar v. Bishop et al.*, released in 1997 by what is now the Supreme Court of Newfoundland and Labrador, Trial Division (NLSCTD), Justice Gerald Lang cited a line of British Columbia jurisprudence to hold that a payment to the plaintiff’s solicitor for a medical report from the plaintiff’s doctor constituted confirmation under Section 16(1)(b).

In the 1999 ruling by the NLSCTD, *Wheaton v. Palmer*, Justice David Orsborn took a different approach. In *Wheaton*, the defendant’s insurer paid \$300 for a copy of the plaintiff’s medical report.

Though neither party raised this payment as a Section 16(1)(b) confirmation, Justice Orsborn considered the question in *obiter*, stating that a payment is only

made “in respect of” a cause of action if it relates to the plaintiff’s entitlement to a remedy.

Justice Orsborn found that payment for a medical report did not “reflect or in any way endorse or accept the plaintiff’s entitlement to a remedy.” Rather, the court noted that often an insurer’s investigation leads to a claim denial. Therefore, it would be inconsistent with the principles underlying confirmation if a process that in many cases results in denying or refuting a claim, could actually “confirm” it.

However, Justice Orsborn’s decision was overturned on appeal, based on evidentiary issues. His interpretation was later singled out for criticism in the 2005 NLSCTD decision, *Terry v. Dalton et al.*

In that case, the court referred to Justice Orsborn’s interpretation of Section 16(1)(b) as “a strained interpretation of these words.”

The court stated that there were no policy reasons to adopt such an inter-

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RESUMÉ  
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pretation where there was no prejudice to the insurer.

Instead, the court followed *Guinhard* to find that payment for the medical report constituted confirmation under Section 16(1)(b).

The *Ryan* decision came down in the same year as *Terry*. In *Ryan*, the SCC offered some comments regarding Section 16(1)(b). In accord with Justice Orsborn in *Wheaton*, the SCC noted that under Section 16(1)(b), the purpose for which the payment is made to the plaintiff is crucial.

In *Ryan*, like in *Tuck* and *Wheaton*, the insurer had paid for a copy of the plaintiff's medical report. The SCC held that payment for medical reports was not indemnification, in whole or in part, for damages arising from the accident. Therefore, such payment was not made "in respect of" the cause of action.

In so deciding, the SCC specifically noted that Newfoundland and Labrador's Court of Appeal in *Wheaton* erred in concluding that payment to a physician for a medical report constituted confirmation.

### **TUCK V. SUPREME HOLDINGS**

The plaintiff, Tanya Tuck, was involved in a car accident on December 28, 2009. Though she retained counsel, she did not file her statement of claim until February 28, 2012 (two years and two months after the accident).

The applicable limitation period in Newfoundland and Labrador for damages in respect of injury to person or property is two years. The defendants refused to consider the claim on the basis of the expired limitation period, but did make a payment for a copy of Tuck's medical report.

Tuck applied to the NLSCTD for a preliminary determination of law that the respondents had confirmed the cause of action under Section 16(1)(b).

The provincial Court of Appeal first reviewed the lower court decision and the requirements of both sections 16(1)(a) and 16(1)(b).

The lower court judge had concluded that Section 16(1)(b) requires, in addition

to a payment, some admission of liability. The appeal court disagreed.

Relying upon the principles of statutory interpretation and the SCC decision in *Ryan*, the Court of Appeal held that reading in a requirement for an admission of liability into Section 16(1)(b) would render it redundant. In other words, if the defendant has made an admission of liability, Section 16(1)(a) is engaged and there would be no need to avail of Section 16(1)(b).

In accordance with the principles of statutory interpretation, the appeal court held that the different words used in the two confirmation provisions meant that admission of liability was not required to engage Section 16(1)(b).

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## **The Court of Appeal also followed the SCC in *Ryan*, and held that the purpose of paying for copies of medical reports is investigatory, and not connected to damages.**

The Court of Appeal then turned to the issues raised in *Guinhard*, *Wheaton*, *Terry* and touched on by the SCC in *Ryan*: What does it mean to make a payment "in respect of that cause of action"?

Tuck argued for a broad definition, suggesting that without the cause of action, there would have been no medical report and no payment for that report. The Court of Appeal equated Tuck's interpretation of "in respect of" as merely "in connection with."

The appeal court rejected that argument, pointing to the SCC's statement in *Ryan* that the purpose of the payment is crucial. Echoing Justice Orsborn in *Wheaton*, the Court of Appeal held that "in respect of" speaks to the "specifics of the cause of action in issue."

In *Tuck*, that meant Tuck's claim for damages arising from the accident.

The Court of Appeal also followed the SCC in *Ryan*, and held that the purpose of paying for copies of medical reports

is investigatory, and not connected to damages.

The Court of Appeal confirmed the lower court decision that the payment for Tuck's medical report did not constitute a payment "in respect of that cause of action" under Section 16(1)(b).

One further alternative argument raised by Tuck was whether or not payments for therapy treatments or lost wages engage Section 16(1)(b). Tuck raised this question in her arguments, but Newfoundland and Labrador's Court of Appeal declined to answer it.

The court did caution insurers in *obiter* about making such payments and to consider making them on a "without prejudice" basis.

### **CONSIDERATIONS FOR INSURERS**

*Tuck* clarifies the effect of the SCC decision in *Ryan* on the application of confirmation in Newfoundland and Labrador, and provides certainty regarding the proper interpretation of Section 16(1)(b) of the *Limitations Act*.

It will also be of assistance to insurers in jurisdictions with confirmation/acknowledgment exceptions in their respective limitations legislation.

However, one must keep in mind that there are a number of differences between such exceptions across the country that must be carefully reviewed.

Insurers will only be held to confirm a cause of action when they make a payment in respect of the cause of action itself (that is, the damages arising from the cause of action), and not merely a payment in connection with investigation or review of a claim.

However, insurers should exercise caution when making payments on account of expenses that can be directly linked to the cause of action (for example, payments for medical and therapeutic treatments, lost income or housekeeping).

Such payments may be characterized as "in respect of that cause of action" sufficient to reset the limitation clock. Any such payment should be made explicitly without prejudice in order to preserve settlement privilege. ≡

# RISKY BUSINESS

When you hear the words “high risk,” do you automatically think “lost cause”? You wouldn’t be alone — much of the insurance industry would agree. But Tom Mallozzi, Division Vice President of Perth Insurance, doesn’t. In fact, his first thought is “We can help.”



High-risk (or non-standard) car insurance is a \$450 million business, and for good reason. With increased road traffic and more distracted drivers than ever before, it’s little wonder that infractions and accidents are on the rise and a significant number of Canadian drivers now fall into the high-risk category for insurance. Perth Insurance, a member of Economical Insurance, is a major player on that pitch, offering a range of options that customers (and brokers) find hard to refuse.

Thanks to individualized rating, Perth offers some of the best rates in the business, in a field where a high-risk auto policy can cost \$3,000 per year on the low end to over \$10,000 on the high end. But it’s not just price that sets Perth apart. Two-driver families like the simplicity of having a second driver insured through Economical while the high-risk driver is covered by Perth. And making expensive policies affordable through a no-charge payment plan has made them an industry leader.

Brokers are happy to recommend a company with a 92% claims satisfaction rating, and full commission doesn’t hurt, either.

## The high-risk personal property opportunity

These days, Mallozzi has eyes on what he feels is an underrepresented segment of the market. He’s looking to make a splash in the high-risk property insurance game in Ontario and, eventually, across the country. The conditions certainly call for it — fierce weather and an increased number of natural disasters have resulted in multiple claims for many Canadians, while a volatile financial market, ever-rising housing prices, and shrinking national employment numbers have meant missed payments for a lot of policyholders.

Like the auto insurance sector, Mallozzi believes Perth can make a noticeable difference to people who need assistance.

“Our appetite for high-risk personal property is broader than anyone else in the market. We cover those with multiple property claims, stand-alone seasonals and rentals with absentee landlords, vacant homes, people who have never been insured or have gaps in coverage, and properties where insurance has been cancelled due to claims or non-payment.”

He’s also proud of the type of coverage Perth can tender. “We offer the same coverage that low-risk customers can access. It’s real coverage that Canadians need and want for their homes — and in the non-standard property insurance market, that’s important,” he continues.

Quotes with comparative raters such as Applied Rating Services only take a few minutes to complete, and since brokers have some binding authority, most new business requires only a completed application — no waiting for a quote required. Other selling features include Guaranteed Replacement Cost, high sewer backup limits, and up to \$2 million in liability coverage. With no policy fee and the lowest payment plan available, Perth makes high-risk property insurance more affordable for customers.

Mallozzi believes this segment of the property insurance market holds untapped earning potential for brokers, especially since Perth provides 20% commission.

Perth’s close relationship with Economical means transferring policies to the high-risk market, when necessary, is seamless. “There’s certainly a need for this product in the marketplace, and we’re thrilled to be able to give brokers a quality product to sell to their customers. It feels good to offer an option to those in need, when others can’t.”

To learn more about offering high-risk auto and property insurance from Perth, talk to your Perth underwriter at 1-877-717-2233.



# Fleet's In



**Daniel Strigberger**  
Lawyer,  
Samis+Company

Ontario's new standard fleet auto policy gives the green light to ridesharing activities with a transportation network company and licensed insurers looking to cover these operations. Entry into the new space has not yet reached top speed, with only one insurer policy approved to date, but even early on, it appears as though there may be some potential risks for underlying vehicle insurers.

On July 6, the Financial Services Commission of Ontario approved a new standard fleet auto policy. To date, only one insurer is using the new policy.

The policy is meant to provide primary coverage for private passenger vehicles engaged in "ridesharing" activities with a "transportation network company" or TNC. As of mid-August, Uber was the only TNC insured under the new fleet policy, under a policy issued by the aforementioned Canadian insurer, Intact Insurance.

The new policy seeks to fill existing coverage

gaps under the standard Ontario Automobile Policy (OAP 1) when insureds are using their vehicles for ridesharing with a TNC. However, it also raises new coverage questions about how the new policy interplays with the vehicle's underlying policy.

## WHY IS A RIDESHARE POLICY NEEDED?

Uber asserts that the fleet policy provides coverage for its UberX drivers and their vehicles. UberX is a web-based service program whereby users who meet certain criteria can make money carrying and delivering Uber subscribers from one place to another.

However, Section 1.8.1 of the OAP 1 excludes coverage if the vehicle is being used to carry paying passengers. This means that every time an UberX driver is operating a vehicle and engaged in UberX activities, he or she is violating the OAP 1 and driving without full coverage.

Insurers who catch their insureds driving for UberX could likely invalidate claims arising from losses while driving for UberX. Insurers could also likely cancel their insureds' policies.

Even worse, UberX drivers involved in accidents



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could lose their cars (and possibly their houses) if they are involved in an accident without proper coverage.

## **DOES THE NEW POLICY FILL THE COVERAGE GAP?**

The policy is a fleet policy issued directly to a TNC. In the case of Ontario's only approved policy to date, the policy is issued to Uber Canada and a company named Rasier Operations B.V., which contracts with individual "rideshare drivers" who use their own automobiles for Uber. Rasier also allows passengers to obtain and pay for on-demand transportation using the Uber online-enabled application.

The policy purports to fill the coverage gap in the OAP 1 by eliminating the exclusion for "carrying paid passengers" noted in Section 1.8.1.

In addition, the policy becomes primary when the vehicle is engaged in UberX activities and contains all of the standard coverages in the OAP 1 (third-party liability, accident benefits, uninsured automobile and direct compensation).

It also provides collision and comprehensive coverage — but only if the underlying policy also contains those coverages. There are no optional accident benefits under the policy.

The terms of the ridesharing policy are contained in a new endorsement, while the entire policy contains a certificate of automobile insurance, a ridesharing endorsement, a family protection endorsement, blanket fleet coverage for Ontario ridesharing endorsement, the OAP 1 and new schedules for lessors and lienholders (where applicable).

The third-party liability and family protection limits under the policy are \$1 million if the loss occurs during the "pre-acceptance period," but changes to \$2 million if the loss occurs during the "post-acceptance period."

The former period begins when the driver logs into the UberX app and is ready to start receiving ride requests, and ends when the driver accepts a request from a passenger or logs out of the Uber App; the latter period starts when the driver accepts a request from



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**An issue may be that most claimants will not know where to submit applications for benefits, resulting in applications being submitted to the underlying vehicle insurer when they should be going to the UberX vehicle insurer.**

a passenger and ends when the last passenger departs from the automobile, a trip has ended or a trip is cancelled (whichever is later).

Together, these periods essentially provide coverage from the time a rideshare driver logs into the app until he or she logs out.

## **CAN THE RIDESHARE POLICY AND UNDERLYING POLICY PLAY NICE?**

Two interesting components of the new insurer policy impact the underlying vehicle's policy. First, any "rideshare driver" or "rideshare vehicle owner" (RVO) is a "named insured" under the fleet policy.

As such, any UberX driver operating a

vehicle in connection with UberX activities becomes a named insured under the new policy. In addition, the owner of the UberX vehicle, which includes the lessee of the vehicle, also becomes a named insured under the policy while it is being operated by a rideshare driver.

When the driver logs out of the app, he or she is no longer a named insured under the policy.

Second, the policy's ridesharing endorsement states it provides primary coverage for the automobile while it is being operated for UberX activities in the pre- and post-acceptance periods. For leased vehicles, the policy would respond first to any third-party liability claims, pursuant to Section 277(1.1) of Ontario's *Insurance Act*.

It further confirms the policy provides primary coverage in respect of claims made for statutory accident benefits by a rideshare driver.

These two components create potential coverage and procedural issues by adding the policy over an underlying policy, especially with respect to accident benefits.

For example, under the "priority rules" in Section 268(2) of the *Insurance Act*, any person involved in an accident has recourse first against his or her own insurer for accident benefits claims.

If the person does not have his or her own insurer, he or she next has recourse against the insurer of the vehicle in which he or she was riding or that struck them, followed by the insurer of any other vehicle involved in the accident, followed by the Motor Vehicle Accident Claims Fund.

However, when a policy such as the new insurer policy is triggered, the vehicle is insured under both that policy and the underlying policy.

With the new UberX policy purporting to be primary, it would mean, for example, that if an UberX vehicle strikes an uninsured pedestrian, the pedestrian would have recourse first against the insurer under the UberX policy, not the underlying vehicle policy.

Likewise, presumably an uninsured passenger in the UberX vehicle would

have recourse first against that policy's insurer, not the underlying insurer.

An issue may be that most claimants will not know where to submit applications for benefits, resulting in applications being submitted to the underlying vehicle insurer when they should be going to the UberX vehicle insurer.

That being the case, underlying insurers would need to respond to the claims and pay benefits pending the outcome of any priority dispute against the UberX insurer. This could result in unrecoverable expenses for the underlying insurers.

Another major concern for underlying vehicle insurers is that the new policy does not provide optional accident benefits. If a rideshare driver has purchased optional benefits on his or her underlying vehicle policy, he or she would be able to claim benefits first against the underlying insurer.

Consequently, the underlying insurer could end up paying benefits on a claim arising from an accident where its insured was contravening Section 1.8.1 of the OAP 1.

In addition, when a rideshare driver or RVO becomes a named insured under the UberX policy, spouses and dependants become "insured persons" under the same policy, pursuant to Section 3 of Ontario's Statutory Accident Benefits Schedule (SABS).

For example, suppose an RVO's adult son is using the family's only vehicle for UberX activities. While logged into the UberX app, the RVO and the rest of the family (spouse and dependants) are struck as pedestrians by a random vehicle in an incident unrelated to the UberX vehicle or its activities.

Pursuant to the priority dispute scheme in Section 268(2) of Ontario's Insurance Act and the definition of "insured person" under SABS, the RVO would likely be entitled to claim accident benefits from the UberX insurer, claiming recourse as a named insured.

Similarly, the spouse and any dependants would likely be able to claim recourse against the UberX policy.

Insurers investigating priority will have

to ask their insureds/claimants whether or not they were logged into the UberX app at the time of the accident.

If yes, the driver (and their spouse, dependants), any occupant of the vehicle, any pedestrian struck by the vehicle and, possibly, anyone else involved in an accident with the vehicle, could have recourse against the UberX insurer for accident benefits.

Although the new UberX policy seeks to fill existing coverage gaps under the standard OAP 1, it does not necessarily remove all of the risks that underlying vehicle insurers face when their insureds are using their vehicles to drive for Uber.

Insurers should consider whether or not they wish to be "underlying vehicle insurers." ≡



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# Testing the Waters



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University of Waterloo

The average cost of a basement flood claim in Canada in 2014 was a hefty \$20,537. With severe weather continuing, related flooding and the associated costs are sure to continue absent preventive measures being taken. Those measures will be put to the test as part of the first pilot project of the Home Adaptation Assessment Program.

In an effort to establish a nationally applicable tool to limit the frequency and magnitude of residential basement flooding, the Home Adaptation Assessment Program (HAAP) has been launched as a pilot in Burlington, Ontario. The pilot is supported by Ontario's Ministry of the Environment and Climate Change, the City of Burlington and the Intact Centre on Climate Adaptation.

The launch was two years to the day after Burlington experienced two months of rain — about 150 millimetres — in a matter of hours, which left 6,000 properties flooded, with 3,500 homeowners reporting significant basement damage.

Burlington's flood experience is far from unique. Homeowners from St. John's to Victoria are experiencing basement flooding with increasing frequency that makes the 1-in-100-year storm seem anachronistic, which, indeed, is the case.

With a world population of 7.4 billion that is growing at a net rate of 11,000 people per hour, greenhouse gas emissions will increase globally, at a minimum, for at least the next 20 years. As a direct consequence, extreme weather events will continue to escalate, thus making adaptation to a changing climate non-negotiable.

The HAAP offers a simple, practical and cost-effective means to engage homeowners to limit their risk of basement flooding, and in so doing, also serves the interests of Canada's property and casualty insurers.

## **APPLICATION**

The ultimate goal of the program is two-fold: limit the probability of occurrence of basement flooding; and limit damage in the event that basement flooding does occur.

In broad terms, execution consists of a trained assessor meeting with a homeowner and, over two hours, examining about 50 potential points where water might enter into a basement during an intense rainfall. The review identifies, for example, the need to disconnect downspouts from weeping tile systems and directing water to a safe recharge zone, covering window wells to limit

# CUSTOMIZING THE COMMERCIAL CLAIMS EXPERIENCE

Every large, commercial and multinational business is different and has unique, specialized requirements for claims management. As such, it's highly likely that these types of businesses will have claims to report, given their size and scope of operations. It is therefore a critical component of a risk manager's job to ensure that their insurance carrier can not only handle large and complex claims, but do so in a way that meets the specific needs of the business.

At RSA, we recognize that each specialty customer has unique requirements for handling any claims that might occur. Some manage a portion of their own claims, while others work with a Third Party Administrator (TPA). Some even work directly with their insurer to handle all claims-related matters. In all the above scenarios, the customer needs to be reassured by their insurer that if a claim does occur, it is being handled in a way that will minimize the impact to their business and their reputation.

## Building strength through collaboration

RSA's strong track record for flexibility in our client service framework gives us the ability to customize a claims program in collaboration with our broker partners, which addresses the needs of each individual client in the large commercial space. Our broker partners tell us time and again that commercial customers seek flexibility and adaptability from their insurer; this feedback continues to inform how we evolve our customer proposition.

At RSA, fostering a strong tripartite relationship between insurer, broker and client allows our claims experts to work collaboratively with you to develop effective solutions for your clients. Our specialist claims teams have extensive experience dealing with large and complex claims, which ensures we have the right technical expertise on every claim. We offer a simple, responsive and consistent customer service approach so that if a claim does occur, our highly skilled and sophisticated claims staff can help settle it fairly and quickly.

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The Claims Relationship Manager maintains a close relationship with the customer, provides claims reporting, prompt responses and shares insights and claims trends amongst all of the different stakeholders in the claims process – customer, broker and any claims experts involved in the handling.

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For each large account, RSA assembles a team consisting of people from the front line and senior leadership teams who have deep experience dealing with large and complex claims, in an effort to deliver the highest quality claims service driven by technical expertise. Customers can access and enlist the expertise of this team when it is needed through the Claims Relationship Manager, whether it is for advice on how to proceed in a situation that the customer hasn't seen before, or just the chance to have another person to gut check actions to be taken. Customers can benefit from using our network of claims partners – including legal resources, loss adjusters and contractors – to assist in claims handling for anything that they may not already have access to.

For more information on RSA's claims proposition, please contact Ryan Jones at [ryan.jones@rsagroup.ca](mailto:ryan.jones@rsagroup.ca).

tive, measures such as elevating valuables off of the basement floor and storing them in plastic containers.

Inside the house, the assessor will explain to the homeowner the merits of more complicated mitigation efforts, like the installation of a backwater valve that might limit sewer back-up flooding.

Following the assessment, during which the inspector will have pointed out areas of flood vulnerability, the homeowner is presented with an online and/or hard copy report that, in user-friendly terms, profiles flood vulnerabilities and the means to correct them.

Items requiring attention are presented in non-technical language, with photographs and links to pre-screened contractors who may provide the expertise necessary to correct deficiencies beyond the skill set of the homeowner.

## **OUTREACH**

The first step in preparing homeowners to be receptive to the program is to

profile the program in the local media. Attracting a local authority figure to support the program helps legitimize the effort. This is followed by a representative knocking on doors to present related merits directly to homeowners.

Once engaged, success or failure of the program will flow from the assessment that highlights flood vulnerability points.

In the absence of homeowner engagement, efforts to de-risk homes relative to flood potential generally fail.

Such failures have been seen often — for example, many municipalities across Canada offer subsidized downspout disconnect and backwater valve installation programs. But uptake for such programs, in the absence of user-friendly and informed outreach, is generally less than 5%.

The Burlington pilot will be rolled out to 4,000 homeowners during the fall of 2016 and throughout 2017. The idea is to administer the program in a manner that helps maximize homeowner uptake, as well as their openness to acting upon

program findings, as influenced by such characteristics as home size, age and perceived flood vulnerability.

## **COSTS AND BENEFITS**

The cost to perform an assessment varies depending on a variety of conditions, but home size is the key factor. As a ballpark figure, for a home of about 3,000 square feet, the cost would typically be approximately \$275. This amount does not cover remediation measures, which can range widely.

Based on a small sample of a few hundred HAAP-style trials, of the 50 factors that are reviewed during a typical residential visit, six or so generally emerge that are material to flood remediation (of course, this number can vary considerably depending on home location, age and condition).

Of the flood remediation factors, most can be addressed by homeowners directly for little expense (for example, disconnecting downspouts or placing plastic cov-



# A catastrophic event

ers over window wells). Others, however, might require the assistance of a tradesperson (consider, for example, installation of a battery back-up on a sump pump).

Figures from Insurance Bureau of Canada note the average claim per basement flood in Canada in 2014 was \$20,537.

If 10% of homes that have paid \$275 for the assessment do not realize a flooded basement per 10-year period — which many municipal engineers consider to be a conservative estimate — the savings would be \$20,537 per home. That equates to a return on investment flood avoidance ratio of about 1:7, meaning that for every \$1 invested in the program, \$7 in flood damage avoidance would be realized per decade.

The calculation does not include costs to act upon program findings, which homeowners would bear, but also does not take into account the potential for HAAP-related, risk-adjusted insurance premiums, should these become available to homeowners.

The costs to deploy the program could be borne by a combination of the homeowner, municipality, the provincial and/or federal government and p&c insurance providers. One scenario would be that as the program experience grows, the allocation of related costs among the different stakeholders could be reviewed with the goal being to optimize uptake.

### TRANSFERABILITY OF FINDINGS

The Burlington pilot project is expected to provide insight regarding how best to maximize uptake of the program by homeowners. However, field testing in other communities is critically important to assess homeowner receptiveness across a range of geographies and conditions.

An example of a location-specific challenge can be seen in Vancouver, where, in some communities, tenants occupy many of the homes in and around the city. This may make it more difficult to engage homeowners since they may not

be readily accessible.

Broad-scale application of the program will be needed to identify geographically specific challenges.

That being the case, the HAAP will be applied to as-yet undetermined communities in eastern Canada, Quebec, Alberta and British Columbia over the 2017 to 2018 period.

Long term, the intention is to transfer program technology to the provinces, or federal government, for large-scale organization and dissemination. For example, the Standards Council of Canada might support the development of a national standard.

Recognizing that climate change and extreme flooding will continue unabated across Canada, it is in the best interests of residential homeowners, governments and p&c insurance providers to embrace prevention with haste, in an effort to avoid what will otherwise be inevitable and irreversible financial and social strife. ☰

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# Pay Day?

**Will spinning the ransomware wheel mean boom or bust for businesses and organizations? The malicious software is increasingly being used to test security preparedness. Absent well-conceived, committed and ongoing protection, though, this malware *du jour* is likely to continue its costly winning streak.**

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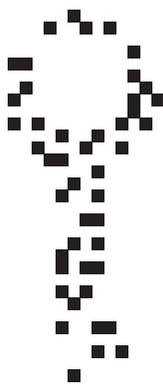
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ANGELA STELMAKOWICH

Your files are  
encrypted

Time left: 47:59:29

**PAY FOR KEY**



**R**ansomware. The nasty-sounding malware threat comes armed with an equally nasty array of sticks: sticks that can shut down a business for a time; sticks that can cost companies thousands of dollars (or more) to restore or rebuild what once was; sticks that can lead to loss of brand value and corporate embarrassment; and sticks that can batter down confidence, leaving in their wake nervousness that the threat will resurface yet again.

Unfortunately, this malware *du jour* shows few signs of relenting any time soon. To date, it has certainly proved successful enough to keep its run going.

Regardless of the specific motivation, regardless of whether the malicious perpetrator is working solo or as part of a well-oiled team, ransomware is proving a solid commercial venture with a shape-shifting approach and blistering speed bolstered by the move to automation.

Awareness of the potential impacts is growing, although one could argue perhaps not quickly enough to keep pace.

Tools, measures and strategies are available, but, again, these may not always be enough. Key to preventing or mitigating the potential losses associated with ransomware attacks, as is the case with any malware, is to understand that the best defence is a good offence.

The offence an organization adopts may not be guaranteed to cut down those big sticks into harmless twigs each and every time, but the threats can be trimmed sliver-by-sliver over time to deaden the impact when hits inevitably occur.

Preparedness, technology, training and continuing monitoring offer promise.

## CHANGEABLE THREAT

Ransomware is a family of malware that enters systems via email attachments or a link on the intranet, sources say. Once executed, it begins encrypting files on the computer, preventing them from being viewed, by using one of many different cryptographic algorithms available with a unique key. A message is then sent with an extortion demand.

“Incidents of ransomware and extortion-driven attacks are expected to increase in Canada, particularly within the public, legal and financial services sectors given the private and sensitive nature of the information these organizations hold,” KPMG LLP reported this past March.

“So far, 2016 saw a double-digit growth in incidents caused by ransomware and we anticipate a similar trend for the rest of year and beyond,” adds Ruchir Kumar of KPMG in Canada’s cyber security arm.

Reporting of high-profile ransomware incidents in the mainstream media has helped to raise awareness and vigilance, Ron Kirkland, manager of ICT security for Crawford & Company (Canada) Inc., suggests. But that same media attention may also be “attracting more criminals to the enterprise,” Kirkland points out.

These attacks have become so prevalent “we’ve actually seen... that when the ransom message comes up, they provide a toll-free customer support number” to help the target facilitate a bitcoin payment, says Eduard Goodman, chief privacy officer with IDT911. Ransomware is “something that organized crime rings and folks can use as a dependable way to make money,” Goodman says.

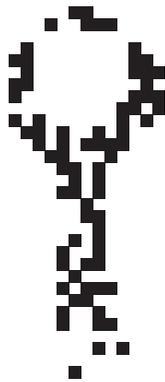
“With the growth of computing and the Internet of Things, ransomware is a risk trend that we expect to only increase,” say Rob Jones, global head of financial lines specialty claims for American International Group (AIG), and Garin Pace, AIG’s head of cyber liability underwriting excellence for the United States and Canada.

“One of the main challenges with ransomware is that it’s constantly changing. It operates and evolves at a rate that makes it impossible for security teams to keep up,”

says David Masson, Darktrace’s Canada country manager. “As a result, many Canadian institutions have already fallen victim to these attacks,” Masson says.

“We are seeing reports of more attackers using different encryption variants that are extremely difficult to decrypt,” Kirkland reports. To that, Kumar adds “ransomware has significantly evolved in the recent past as we see it not just encrypts, but deletes all or partial files.”

Karl Sigler, threat intelligence manager at Trustwave, says ransomware is also starting to use worms as a method of infecting victims. “Worms automatically use the current victim to search for and infect more victims,” Sigler explains.



**“We are seeing reports of more attackers using different encryption variants that are extremely difficult to decrypt,” suggests Ron Kirkland of Crawford Canada.**

Jérôme Segura, lead malware intelligence analyst for Malwarebytes, expects ransomware will get “more aggressive and sophisticated as a counter-action to the efforts of the security community.”

Masson says ransomware is at the beginning of a trend towards machine-based cyber attacks. “Based on the trends we have seen, ransomware will likely develop to become more advanced, fast-acting and machine-based,” he reports.

That hard turn into automation may be contributing — at least for now — to ransom demands staying fairly low.

“The attackers are not stupid,” says David Pick, managing partner of Brownlee LLP’s Calgary office. “They know that smaller sums will be paid as being economically feasible to the attackee as opposed to the cost of losing data,” Pick suggests.

Canadian-specific findings, part of a Malwarebytes survey — involving 540 chief information officers (CIOs), chief information security officers and IT directors from companies in Canada, the U.S., the United Kingdom and Germany — note companies here are most likely to pay ransom demands, 75%, compared to their counterparts elsewhere.

Conducted by Osterman Research, the survey found 82% of polled Canadian organizations also lost files if they did not pay, 43% expressed losing revenue and 25% revealed a stop in business because of a ransomware attack.

“One of the reasons that ransomware is so popular right now is because it is extremely profitable,” Sigler says. “We did a study last year that showed a non-technical criminal paying a simple \$5,900 investment in ransomware could earn a criminal \$90,000 in just a one-month campaign,” he notes. “That is calculated with only a 10% infection rate across targeted victims and only a 0.5% payout rate from infected victims,” he reports.

“The ransomware business model is very attractive to other criminals or even lone crooks that never really wrote malware before,” Segura says. “This explains why we have seen a huge increase in spam campaigns pushing ransomware as well as many web-based attacks via exploit kits,” he adds.

Payments, Sigler says, are typically via bitcoins or some other cryptocurrency.

Citing comments from a CIO, Richard Wilson, a partner in cyber security and privacy at PwC Canada, reports, “he said, ‘Not that we’ll ever get rid of bitcoin, but if we could, we would really disable an ability for these guys to have a currency that they can hide behind.’”

Kirkland says “most publicly released figures suggest the cost is between \$300



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## Pay Day?

to \$600 per attack if you decide to pay for a single computer breach.” But costs can be much higher for more significant institutional or enterprise breaches.

The Malwarebytes survey shows the most common amounts demanded in Canadian attacks are \$6,500 or less.

“While we have seen ransom demands that are generally in the \$10,000 to \$20,000 range, claims in this area are increasing,” note Jones and Pace. “The cost to evaluate the intrusion and the impact or interruption to an organization’s business can be much greater than the actual ransom demand,” they add.

In the case of a University of Calgary ransomware attack, the university paid the demanded \$20,000 earlier this year.

Jason Brvenik, principal engineer for Cisco’s security business, is not convinced ransom demands will remain low. “We expect to see further investment in ransomware by the attacker developing automation and targeting capabilities that allow ransomware to seek out and leverage high-value assets in order to demand higher ransoms,” Brvenik says.

While most attacks currently revolve around encrypting data or blocking access to systems, “what happens if they do that not to data, but to an operational system?” Wilson asks, such as a car maker’s assembly line, a production process at an oil and gas company or operations of a mining company.

“Those, to me, are significantly different situations where the likelihood that they’re going to get paid is higher,” he suggests. “When it comes to pure operations and we’ve now lost the ability to operate,” Wilson says, “that equation completely changes things.”

Fragile infrastructure, poor network hygiene and slow detection rates “are providing ample time and air cover for adversaries to operate,” Brvenik says. “The key is to reduce the time to operate.”

Looking at cyber security generally, analytics software company FICO, citing findings of a 2015 Ponemon Institute study, reports that the average time to detect an advanced threat was 98 days for retailers and 196.5 days for financial services institutions.

## THEFT WITH PURPOSE

Without a decryption key, Segura argues it is near impossible to recover files. “To make things more difficult, criminals also try to delete back-ups or restore points so that victims are forced to come to them and pay,” he says.



**“The attackers are not stupid,” says David Pick of Brownlee LLP. “They know that smaller sums will be paid as being economically feasible to the attackee.”**

“Ransomware is only a mechanism; it’s not necessarily a peril,” says Brian Rosenbaum, director of the legal and research practice at Aon Risk Solutions. “The consequences of ransomware can go in a bunch of different directions.”

An April bulletin from Borden Ladner Gervais LLP notes related financial loss and other harm include the following:

- temporary or permanent loss of use of IT resources and data;
- business disruption loss and liability to customers and business partners;
- costs to restore infected IT resources and data, if possible, and to otherwise respond to the ransomware attack; and
- harm to reputation and relations with customers and business partners.

“A big concern is that organizations will lose customer or market trust if they cannot demonstrate they are taking steps to protect their systems and invest

in a cyber security program that addresses this new era of threats,” Masson says.

Perpetrators are eyeing entities where data is time-sensitive to resume operations, says Kumar. “This puts additional pressure on the victim organization to panic and pay the ransom as back-ups sometimes might take longer to make data available to conduct business.”

## PAY OR NOT?

Determining whether or not to pay may, in fact, be a million-dollar question. Some sources are adamant that payment should never be made, emphasizing the action contributes to more criminals using ransomware, provides no assurances the data will be restored and funds development and exploitation of others.

Others, however, say it all depends.

For example, organizations that have not properly backed up data, those that are extremely data-heavy or those operating in such dynamic environments that whatever restoration time is necessary is simply too long, might consider paying, Goodman says. “For some businesses, it becomes a balance sheet equation, a cost-benefit analysis. If we’ve got good backup, what’s going to take us out longer? What’s going to be easier to do?” he says.

“But you also have those companies that literally have no other choice,” he says. “It’s either pay it to get their data back or close the doors,” he suggests.

Wilson reports a client, a fairly large Canadian company, was infiltrated with ransomware. The attacker, who encrypted some data and extracted other data, was able to “lie in wait” for months, unbeknownst to the company, before coming forward with the demand.

Though the company went back and forth about whether or not to pay, it decided not to. “They felt that providing \$100,000 to \$150,000 to a criminal organization would further their capabilities and their cause and it would just happen to somebody else,” Wilson says.

“I think ransomware really targets small businesses a lot because they have weaker controls and are the kinds of companies that may be more prone to pay the ransom,” says Jeremiah Tonn, Zurich

2 0 0 3 B B B-  
2 0 0 4 B B B+  
2 0 0 5 A-  
2 0 0 9 A  
2 0 1 2 A+  
2 0 1 5 ...

AA-

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## Pay Day?

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Whether or not to pay "is an easy question to answer, unless you are attacked. Then it becomes exceedingly more challenging," says Kirkland. "There are publicly documented cases in Canada where enterprises have paid and successfully recovered their data, but few organizations would share details about situations where the outcome wasn't successful."

Pick's view is "it depends on the nature of the data that is being held hostage."

Citing the university incident, "I understand that years of research results/data would have been lost, making the \$20,000 ransom a reasonable bargain. That type of data cannot be replaced."

Compare that to another Calgary incident involving a retailer whose customer list was hacked, he says. That "could be regenerated with time and effort."

Because many ransoms are small, a lot of times these are below many insurers' retentions, Tonn says. As such, "we really haven't seen too many ransomware claims actually come through."

Jones and Pace, however, report that "we've seen an uptick in ransomware incidents reported to AIG, which matches reports we've seen from information security experts who say cyber criminals are shifting to ransomware for its ease and opportunity for income."

Goodman says most coverages he has seen have at least a US\$1,000 deductible. As such, paying is "cheaper than pulling in an IT guy to do data back-up."

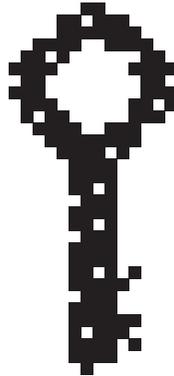
Another wrinkle, Kirkland adds, is that "it is becoming increasingly common for the criminal to demand subsequent payments from a victim once they have shown a willingness to pay." Segura may not agree. "It's a risk, indeed, although, globally, criminals have lived up to their word when victims paid because it ensures that 'business model' is viable."

Victims have no assurances of anything, Sigler says. Some criminals will do as promised, some will demand more once a payment has been made and others will abandon campaigns "and there's no one left to decrypt your data even though those bitcoins are already gone."

As a result of paying ransoms, suggests Borden Ladner Gervais, "the number and sophistication of ransomware attacks have increased over recent years and are predicted to continue to do so."

One thing on which all agree is decisions to pay can be avoided by having in place appropriate protective measures.

"These are criminals operating outside the law and holding your systems and data for ransom," Brvenik comments.



**“It is impossible to prevent all of today’s cyber threats. You have to assume that you’ve already been compromised,” Darktrace’s David Masson points out.**

“Your only true assurance is good security, operational hygiene — keeping your security systems up to date, and robust back-up and recovery systems.”

Before any payment is made, an assessment is in order. This may involve answering such questions as the following:

- What particular breed of ransomware was the company hit with?
- How many machines are affected?
- Are there any back-ups?
- What is the cost of recovery?
- How can an organization be sure that it will get its data back?
- How does an organization assure the integrity of the files held for ransom?

“We encourage our clients to isolate the infected segment of the network and

scan the entire environment to look for any traces of suspicious malware to ensure multiple machines on the network are not infected,” Kumar says.

Ensuring back-ups are done properly and regularly tested will provide “a point of recovery prior to the attack to allow you to recover data,” Kirkland says. “If at all possible, a complete re-image of the local computer compromised is advised to remove all traces of the threat.”

Even with a full forensics analysis, “there is always a small risk that malware may remain hidden and ready to come back to life,” Segura cautions. “Companies need to remember the most valuable thing is their data, while the hardware is expandable/replaceable,” he advises.

“It is impossible to prevent all of today’s cyber threats. You have to assume that you’ve already been compromised,” Masson advises. Protecting the perimeter alone simply is not enough. “You need to understand what’s happening on the inside of the network as well.”

So-called immune system technologies “automatically learn and understand what is normal for your environment and are extremely sensitive to any deviation from that ‘norm,’” Masson says. “The big breakthrough now is the ability for the machine to fight back against those attacks, not just detect them.”

### FOCUS ON PREVENTION

“Prevention is crucial to defeat ransomware,” Segura says. “Basically, ransomware is extortion for those that aren’t prepared. Regular off-site back-ups are your best option,” he maintains.

“When you don’t have a plan ready to deal with something, it, in general, can put people in a panic,” Tonn suggests.

Beyond obvious preventive steps, “the most effective prevention is employee/user education,” Pick contends.

Kirkland agrees the most vulnerable point of entry into the organization is at the user level. “Some system-wide tools, such as blocking the download of .exe and .zip files, removal of local administration access on user computers and not using mapped network drives, are key mitigation factors,” he advises.

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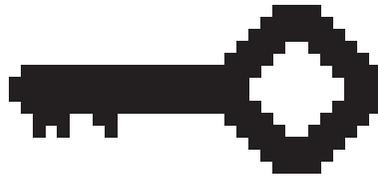
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## If not specially mentioned in the policy coverage, “insurance companies may decline to pay for the damage claims where the organizations paid the ransom,” notes KPMG’s Ruchir Kumar.

Keeping software patched and up to date is also vital, Sigler emphasizes. “Most malware gets installed either by exploiting vulnerabilities in your web browser or through tricking a user through social engineering into opening a malicious document,” he points out.

“Too often, we see organizations delay patching by up to years at a time,” Brvenik states. “Attackers are counting on those missteps for their own nefarious gains, so don’t put off those updates.”

An organization will want “good, reliable, iterative, non-network-connected back-up,” Goodman says. It also needs to institute ongoing monitoring and actually test the system to ensure it performs as expected when needed, he adds.

Malwarebytes notes business applications are a more common entry point for ransomware (18%) in Canadian organizations. Email links are a less likely source of ransomware entry “possibly because of Canada’s very strict anti-spam laws.”

### AFTER THE ATTACK

Tonn notes that general liability policies were not intended to pick up financial loss from a cyber attack. “In general, the industry is moving to clarify that point and to exclude those types of risks from general liability policies and other policies that are not cyber policies so the risk can be underwritten properly under a security and privacy policy,” he says.

In a ransomware situation, losses hit “more than just the extortion coverage in the typical cyber policy,” Rosenbaum says. In addition to cyber extortion coverage (available for full policy limits on a sub-limited basis and covering costs

to terminate the extortion and any extra expenses around that), the third-party liability insuring agreement, the first-party coverage for notification and forensic expenses and the business interruption coverage could all be triggered where there is a ransomware incident, he notes.

“When you talk about ransomware, ransomware crosses over a number of insuring agreements that one would buy,” says Rosenbaum. For example, if an organization’s system is shut down, resulting in business interruption and loss of business, “that’s another insuring agreement,” he explains.

“We encourage our clients to annually review cyber insurance according to the risk appetite, the dynamically evolving threat landscape and changes to the business operations,” Kumar says. If not specially mentioned in the policy coverage, “insurance companies may decline to pay for the damage claims where the organizations paid the ransom,” he says.

Rosenbaum says most cyber policies incept the day insurance is purchased, meaning there is no prior wrongful act coverage for third-party actions. So if a system contains malware or social engineering, not yet activated, and a business purchases insurance and then an attack occurs, “you would not have coverage for the compromise of personal information of your customers or employees because the policy wouldn’t give you wrongful act coverage backwards,” he says.

“My feeling is if insurers don’t want to give the coverage, they should deal with it at the underwriting level,” notes Rosenbaum. Review the company to see what controls are in place “and then de-

cide whether or not they’re a risk they want to take on.” If coverage is provided, “give retroactive coverage,” he says. “Don’t give me exclusionary wording in the policy that limits that exposure.”

A policyholder should not look at insurance coverage “as a cheap alternative to investing in data back-up, good testing, good IT infrastructure,” Goodman emphasizes. “Carriers aren’t going to let them get away with that, either.”

But it does seem ransomware awareness is increasing, says Tonn, adding that his company is receiving more submissions for companies seeking coverage.

When reviewed, “we respond with recommendations so that companies can have a sense of what we’re looking for and what we think are good controls to put in place to help mitigate exposures.”

Whether or not insurance is purchased, just going through the process offers value, Tonn believes. “You’re being asked questions that can potentially uncover vulnerabilities,” he says.

“One of the reasons that ransomware is so popular and profitable is because it is instantly monetizable,” Sigler says. “There is no additional step of selling data. You simply infect the victim and they are either going to pay or they won’t.”

Wilson says it is critically important to remember that what makes ransomware work does not relate to the data the attacker cares about; it is about data the company or organization cares about.

Ransomware is “without a doubt, the malware ‘du jour,’” Sigler says. And like all security threats, Kirkland adds, “it is a moving target with technology and techniques that are always evolving.”



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# Digital Expectations



Commercial lines carriers face intense competition. Investing in technology is expected to prove key to retaining and serving clients who are increasingly looking for a true digital experience. Just how are commercial lines insurers preparing to deliver that experience?



**Chuck Ruzicka**  
Vice President  
of Research and  
Consulting,  
Novarica

Commercial lines carriers are seeing new analytical and digital service capabilities emerge in the personal lines industry, as well as new entrants disrupting and innovating in the small commercial market. Large commercial insurers generally have more complex exposures, use a greater number of specialized coverages and require expert underwriting.

In spite of these factors, however, it is only a matter of time before they, too, will be expected to meet the new standard for digital interaction and service. What should larger commercial carriers be doing to prepare for new technologies and meet the emerging expectations for a truly digital insurance experience?

This can be broken down into data, digital and core system components.

## DATA

The Internet of Things (IoT) and interactions from websites and social networks create massive amounts of data. Consider, for example, recently revised guidelines from the Federal Aviation Ad-

ministration in the United States that have opened up the potential for use of drones in thermal imaging and real-time video feeds. This capability could be applied to inspections of rooftops or rail lines, better response to natural disasters and surveying commercial crop fields.

Sensors are also a key source of data, and use cases include monitoring buildings for structural damage and tracking livestock. In addition, telematics and autonomous vehicles are making their way into the commercial space, with many companies having debuted feedback data for fleet vehicles and self-driving trucks.

Though it may take decades to achieve, data feedback from autonomous vehicles can reduce the frequency and severity of claims. Current offerings such as on-board computers, accelerometers and in-vehicle and out-of-vehicle video also provide opportunities to analytically assess driver behaviour and safety, as well as to improve fuel usage and efficiency.

Insurers are now in an era of data superabundance and have access to a growing pool

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of information from a wider variety of sources. However, this data is outside the typical data models insurance carriers maintain; it also may be unstructured and require new tools to search, process and manage.

That being said, new analytics tools are emerging. Predictive analytics and complex data analysis models afford large commercial carriers the ability to leverage multi-dimensional and third-party data.

Predictive modelling tools, once applied primarily to risk data to improve pricing, are now being applied to identify potential fraud, predict loss severity and recommend net best product or service alternatives.

Predictive scoring can decrease the volatility of underwriting and the severity of claims, and though these capabilities are still nascent at many insurers, they are poised to grow in the future as insurers look to build out their data strategies.

Insurance carriers who want to improve and leverage new analytics capabilities are asking themselves the following questions:

- Are the right people on board? Should data scientists be hired or engaged to augment more traditional actuarial and product analyst roles?
- Are the right data governance processes in place to manage definition, absorption and ownership?
- Are the right tools in place to analyze these new data sources? Should partners with experience in other tools and analytical models be engaged to assist in the utilization of these new data sources?
- Is there capacity to deal with these new data sources and types of analysis? If not, is it possible to prioritize opportunities or expand analytic capabilities?

## DIGITAL

Consumers and agents expect an experience that recognizes them and remembers prior inquiries, actions and preferences. They expect data that can be captured by phone or GPS, provided by third-

party data sources, or IoT to be seamlessly integrated into insurance process and leveraged to streamline application, customer service and claims processes. They expect an omni-channel experience that allows them to use the communication medium from the location and form factor of their choice.



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**In the future, customer portals could be used to push educational material and risk prevention advice to policyholders. While large commercial carriers generally lag in this space, the increased availability of sensor and telematics data makes this a real possibility in the future.**

A digital, omni-channel experience is especially important for brokers and agents, as large commercial policies involve frequent back-and-forth with carriers, underwriters and policyholders.

Email and offline communication dominate the space, as they allow the flex-

ibility and direct personal communication often required by the individualized nature of policies.

Email and offline communication are so widely used that it is not uncommon for brokers and agents to request that certain accessibility to policy detail be turned off in customer portals so that client inquiries come directly to them.

The large volume of emails has been a driver for insurers to seek out systems for email handling and internal workflow capability. Systems must recognize the receipt of requested data and trigger follow-up actions without human intervention.

In some places, broker and agent portals are also commonplace at commercial lines carriers as a medium for information upload and collaboration. Recent iterations of these portals tend to feature enhanced user interfaces, as well as the ability to collaborate with underwriters and individual policyholders.

The portals are also sources of marketing material and underwriting guidelines. Functions such as online policy document access and agency management systems connectivity will be key capabilities for insurers wishing to deliver a truly digitalized experience for brokers and agents.

New business submission, as well as file attachment and spreadsheet import, are also becoming necessary as more business is conducted electronically.

Consumer portals offered by carriers in the independent agent channel often offer less functionality than their agency portals and, more importantly, than the consumer portals offered by direct marketers.

While customer portals may not possess the same robust digital capabilities as broker and agent portals, they are, nonetheless, table stakes at most commercial insurers, including those in Canada. In the future, these customer portals could be used to push educational material and risk prevention advice to policyholders.

While large commercial carriers generally lag in this space, the increased availability of sensor and telematics data

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## As regulatory demands for information increase, and as huge dollars continue to become available through recoveries, investment in reinsurance management solutions are expected to increase.

makes this a real possibility in the future.

Carriers who wish to improve the customer experience and meet the emerging digital expectations of consumers may consider establishing customer journey maps to enable insurers to look at their services from a customer experience perspective and to identify data that is most relevant to decisions and the opportunities to make interactions more effective.

Carriers may consider measuring and improving usability of both externally facing and internally facing systems.

### CORE

Modern core systems are based on a service-oriented architecture to facilitate extending services to the web and to external customers or third parties. These systems enable the consumption of data from third parties and also provide business rules capabilities to enable straight-through processing with the appropriate controls.

More importantly, they provide the ability to add data fields and extend the system. Modern core systems allow easier access to data and improve data quality, offering a more complete view of both policies and customers. While some analytic capabilities can be added to legacy systems, it is much easier with modern systems.

Individual core applications can also provide competitive and operational value for commercial lines insurers.

Larger commercial insurers tend to want customized accounts, with the ability to split billing between locations and match billing dates with internal processes. Modern billing systems allow the flexibility to accommodate different requirements.

The wide variety of industries and coverages written also makes for claims that are often complex and highly variable. Modern claims systems can streamline



workflows, improve data and increase operational efficiency.

Predictive analytics is a key capability of many claims systems to identify potential areas of early intervention and reduce severity.

A core application of emerging importance is also reinsurance management. Reinsurance is heavily used in commercial lines, but is mostly managed through Microsoft Excel spreadsheets.

Employees, too, have changing expectations and will look for automation in these areas.

Large commercial carriers are beginning to develop reinsurance solutions in-house that have advanced capabilities in managing location data, modelling and reporting. As regulatory demands for information increase, and as huge dollars continue to become available through recoveries, investment in reinsurance management solutions are expected to increase.

Modern core systems and applications are not enough, however, to guarantee

success. In addition to modernizing core systems, carriers should anticipate change by the following:

- establishing an architecture that enables data exchange and facilitates adding or dropping services from the overall application portfolio;
- expanding testing automation to enable rapid regression testing and testing of bulk data from external services;
- developing agile development processes to accelerate the velocity of change;
- encouraging continuous builds and improving software upgrade and release processes;
- encouraging innovation and experimentation through funding and by establishing bi-modal organizations to remove some of the restrictions and constraints core systems require; and
- considering investing in start-ups that intend to disrupt the insurance market to learn from these experiments and hedge against business model disruption.

As commercial lines carriers continue to face intense competition, technology investments will be key in retaining and serving clients. This market segment is heavily specialized, and the legacy systems in place at many organizations will no longer allow insurers to keep up with an increasingly complex set of customer expectations and technological changes.

Carriers cannot afford to take the risk that these new expectations are just for personal lines or small commercial. They should expect disruption and innovation whenever there is a less than satisfactory customer experience and begin learning and applying these new approaches today.

As insurers continue to navigate a constantly evolving technological landscape, the right investments across data, digital, and core capabilities will surely be necessary. ≡



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# Fuelling Improved Reporting

New federal obligations associated with transportation of dangerous goods seek to provide Transport Canada with better information about related releases. As of December 1, carriers who have charge, management or control of dangerous goods that are released or are anticipated to be released must adhere to the new rules.



**Alan Harvie**  
Senior Partner,  
Norton Rose  
Fulbright Canada LLP

Recent amendments to Canada's federal *Transportation of Dangerous Goods Regulations* have introduced new reporting requirements for incidents involving dangerous goods.

## **NEW DEMANDS AIMED AT ENHANCING TDG INFORMATION**

### **Emergency reports**

First, a person who has charge, management or control of dangerous goods that are released must immediately file an emergency report with local authorities and the Canadian Transport Emergency Centre (CANUTEC), operated by Transport Canada.

The new emergency report must be submitted to any local authority responsible for responding to emergencies in the area. It must include the name and contact information of the person making the report, the date, time and location of the incident, the mode of transportation, the shipping name or United Nations (UN) number of the dangerous goods, the quantity of the dangerous goods being carried, the estimated quantity released and a description of the incident.

### **New reporting thresholds**

The thresholds for reporting have also changed. First, a report must now be made for the release of any quantity of the dangerous goods, except for flammable liquids or solids in Packing Group

III, where releases of less than 30 litres or 30 kilograms do not have to be reported. Previously, the reporting threshold was 200 litres for flammable liquids or solids in Packing Group III.

The released dangerous goods do not have to have caused any adverse effect to be reportable. A report must also be made if the integrity of a means of containment is compromised or if the centre sill or stub sill of a tank car is cracked by at least 15 centimetres.

Second, additional reporting is also now required and must be made to the consignor of the goods and to CANUTEC if anyone is injured, killed, evacuated or has to be sheltered in a place or in a building, or if a road, main railway line or main waterway is closed as a result of a release or anticipated release of dangerous goods in transit.

Third, if certain dangerous goods felt to have a potential security threat are lost, stolen, involved in a collision or unlawfully interfered with while in transit, a report must be made as soon as possible to CANUTEC.

For instance, the theft of a chlorine cylinder from a truck will have to be reported. If the dangerous goods are explosives, the incident must be reported to Natural Resources Canada, and if radioactive materials, to the Canadian Nuclear Safety Commission.

Finally, the person with charge, management or

control of dangerous goods being imported, offered for transport, handled or transported must report to CANUTEC any incidents involving unlawful interference (that is, tampering) with any dangerous goods being transported as soon as such interference is discovered.

### **Follow-up requirements**

A follow-up report must also be made to CANUTEC within 30 days of any incident if, as a result of the incident, anyone is killed, requires emergency medical treatment by a healthcare provider, is evacuated or has to be sheltered in a place or in a building, or if a road, main railway line or main waterway is closed.

The information to be included in the 30-day, follow-up report is set out in the amendments and includes the location of the incident, the type of incident, the type of goods, the exact quantity released, the type of container or packaging involved and how it was damaged or destroyed, an estimate of the cost of the goods lost and any financial loss incurred by anyone as a result of the incident and any response or related remediation costs.

These new reporting requirements are in addition to other federal and provincial reporting requirements in Canada.

The amendments are designed to improve the quality of information received by Transport Canada, increase harmonization with reporting practices in the United States and improve local emergency responses to incidents involving dangerous goods.

The amendments further expand the definition of a “release” to encompass more types of incidents, including voluntary releases and anticipated releases. Previously, only accidental releases were considered a release.

### **NEED FOR CHANGE**

Several factors drove the changes to the reporting requirements.

Previously, security issues were not addressed in the legislation and Transport Canada has now decided it needs to know about the theft, loss of or tampering with certain dangerous goods.

In 2010, a Transport Canada internal audit and the Transportation Safety Board of Canada both recommended the federal department improve its data collection processes to increase its risk analysis capacity and ability to establish more effective regulations in future.

The new reporting requirements are expected to provide Transport Canada with more and better information about incidents involving dangerous goods, especially with respect to the means of containment or packaging used to transport dangerous goods.

Historically, the only factor needed to determine if a report was required was the quantity of the dangerous goods released during transport.

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## **The released dangerous goods do not have to have caused any adverse effect to be reportable. A report must also be made if the integrity of a means of containment is compromised.**

As a result, some incidents that affected the public were not reported because the volumes released did not reach the reporting thresholds. Now, for most dangerous goods, the release of any amount of the dangerous goods is reportable.

Previously there was no standardized format for reporting, and reports differed in their level of detail. Transport Canada is reported to have had to commonly undertake time-consuming follow-up inquiries to obtain the information needed for its data analysis.

The new amendments prescribe the information that must be included in the report.

Finally, releases of dangerous goods during road transport did not need to be reported to CANUTEC. The amendments, however, now require reporting for road incidents.

## **INSURANCE IMPLICATIONS**

Although the new requirements do not introduce any new obligation for transporters of dangerous goods to report incidents to their respective insurance companies, the new requirements may be of interest to the insurance industry in two ways.

First, adjusters may be interested in the information in a 30-day, follow-up report made by the transporter to CANUTEC and local authorities with respect to the cause of the incident, the volume of goods lost or damaged and the economic and other impacts of the incident on people, property and the environment.

Although Transport Canada has advised that it will treat all 30-day, follow-up reports as confidential unless disclosure is required under the *Access to Information Act*, the *Privacy Act* or otherwise by law, presumably an adjuster could demand a copy of the report from the insured.

Under both the *Access to Information Act* and the *Privacy Act*, it should be possible to obtain much of the information in the report provided the person filing the report does not object to the disclosure.

Second, it may be possible for underwriters to access the information about dangerous goods incidents that will be collected by Transport Canada for conducting risk analysis on the transportation of dangerous goods.

Both the quality and quantity of the information that Transport Canada collects under the new requirements is expected to increase. This will potentially allow the insurance industry access to a larger and better set of statistical information in the future to assess risks associated with the transportation of dangerous goods.

A six-month transition period is in place to adapt to the new obligations. As such, until December 1, 2016, carriers can comply with either the old or new reporting requirements.

After December 1, persons required to report releases or anticipated releases of dangerous goods or otherwise make a report under the federal amendments will need to follow the new reporting obligations. ≡



# No Vacancy



**Glenn Minnis**  
Manager,  
Property,  
Market

When it comes to “vacant” properties, a number of potential risks and liabilities may come into play. It is critically important to take a wide view when assessing how best to manage and mitigate associated risks. It is also advisable to remember that the longer a property sits idle, the more difficult obtaining coverage may become.

Though a vacant structure is typically viewed as a materially different risk than an occupied structure, the term “vacant” is not specifically defined in the various provincial *Insurance Acts*.

An insurer is entitled to identify how the premises are being used. If a vacant building represents a materially different risk, as it increases the like-

lihood of loss, defining the term is imperative for applicants.

That said, pinning an exact definition on the word “vacant” can be elusive at times.

Simply put, there are multiple factors that might indicate whether a structure is rightly termed occupied, unoccupied or vacant. For instance, the difference between the terms “vacant” and “unoccupied” is often related to the occupant’s intention to return, notes the Insurance Institute of Canada publication, *C12 Insurance on Property*.

Therefore, to define a risk as vacant, both its unoccupied status and the intention of the property to permanently remain as such must be considered.

In the end, each situation is unique and all circumstances must factor into defining a building’s occupancy status. A few questions that might assist in this endeavour are as follows:

- Is the building deprived of contents and equipment?
- Is the building habitable in its current state?
- Are all utilities still connected and operational?
- Is the building being used (or is it able to be used) for its intended purpose or is it only visited for a transitory purpose?



Ultimately, the courts will decide an appropriate definition based on the specific nuances of each case. However, the aforementioned should serve as a reliable starting point.

### Underwriting

Unless specifically endorsed, a typical broad form commercial property policy will exclude loss or damage to property at locations which, to the knowledge of the insured, are vacant, unoccupied or shut down. The exclusion normally allows for a period of time, usually up to 30 consecutive days, where the premises can be in a vacant or unoccupied state without affecting coverage.

Indeed, some provincial regulations — such as British Columbia's *Insurance Regulation* — preclude an insurer from attaching an exclusion for fire prior to this 30-day threshold.

As a result of the increased likelihood of loss arising from a vacant building, insurance carriers are often limited with regard to the amount of capacity that can be placed on a risk that is considered vacant. Moreover, the terms and conditions that underwriters are required to impose are usually more restrictive. Coverage is often placed on a named-perils basis with higher rating, larger deductibles and a specific endorsement allowing the premises to be considered vacant and covered by the policy.

Insurers typically elect for a named-perils policy, as opposed to a broad form wording, as this removes coverage for key concerns such as water-related losses and theft with resulting damage.

In addition, vandalism is typically excluded by endorsement, as is illegal drug cultivation.

The building valuation is often restricted and amended to an actual cash-value basis and some insurers elect not to cover equipment.

As described by the International Risk Management Institute, the vacancy permit endorsement — worded as a warranty by some carriers — “suspends some or all of the coverage restrictions that apply to buildings that have been vacant for more than a specified time period.”



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**Moreover, as the length of the vacancy is extended, carriers often become more concerned with the moral hazards presented, a concern that is justifiably heightened with the “innocent co-insured” provisions in provincial regulations.**

These conditions, commonly found in a vacancy permit endorsement, are designed to ensure the property is still adequately maintained in order to reduce the chance of loss.

For example, a vacancy permit might require the insured to securely lock all windows and doors, remove all rubbish, maintain heating and electrical utilities, and consistently visit the property within a specified time period (anywhere from every 48 hours to every seven days).

Some insurers will limit the policy

period to three or six months, with many not agreeing to extend these policies for risks that have been vacant for two or more years.

Depending on the situation, it is not uncommon for carriers to bend their internal rules. There is also no shortage of companies, including managing general agents, willing and able to provide some form of coverage.

However, the longer a property sits idle, the more difficult obtaining coverage is likely to be. This is an especially pressing concern where an insured may have a mortgage on the property, since the mortgagee will likely require proof of insurance to maintain the financing.

Moreover, as the length of the vacancy is extended, carriers often become more concerned with the moral hazards presented, a concern that is justifiably heightened with the “innocent co-insured” provisions in provincial regulations.

These provisions allow recovery by an innocent insured on the policy even where another insured on the same policy is found to have acted criminally, for example, by committing arson.

### Claims

The main concern for carriers when it comes to insuring vacant risks is the severity exposure stemming from fire-related losses.

In the United States, the National Fire Protection Association (NFPA) reports that 43% of vacant building fires were intentionally set. Moreover, in unsecured properties, 57% of the fires were intentional compared to 31% in secured properties, notes the 2009 article by NFPA, *Vacant Building Fires*.

Fire protection systems, even when they are still connected and active, are often ineffective where a fire is caused by the rehabilitation to the outside of the building since most automatic systems are designed to suppress fires originating within the structure.

A fire can certainly result in a total building loss. Fires are often caused by unannounced renovations to the structure, homeless persons seeking shelter, vandalism or arson.

The same concern arises where vandalism, discarded cigarettes and dumpster fires could ignite the outside of the structure.

The more common and less expensive losses typically stem from petty vandalism, break-ins and water damage.

A higher frequency of losses arises from water damage. Water damage can easily exceed \$100,000 and so mitigating water-related losses requires specific attention by the insured.

This peril is not covered under named-perils policies; however, water damage that results from leakage of the fire protection equipment can be covered, depending on the specific policy.

This has led to significant losses where suppression systems or tanks have frozen and leaked over a period of time, resulting in extensive water damage. For this reason, some underwriters insist on a building's heat remaining at an appropriate level during winter vacancy.

## RISK MANAGEMENT

To reduce the likelihood of loss, stakeholders should consider the following practical measures:

- Consider draining unnecessary water pipes while maintaining fire suppression pressure where possible.
- If fire suppression is active, consider leaving the heat at appropriate levels to avoid freezing of the system.
- Investigate any signs of vermin.
- Consider keeping monitored alarm or security systems active, or installing a simple local alarm system.
- Securely protect all windows, doors and openings.
- Remove flammables and other combustible materials, including dumpsters from the sides of the building.
- Advise the municipality, local fire department and police of the vacant structure.
- Check the premises regularly and keep a written log, practising extra vigilance on, for example, Halloween and New Year's Day.
- Patrolled security, fencing, CCTV and appropriate lighting can also be considered as good measures.

- In addition to contents, thieves often target metals, such as copper, that can make downspouts, wiring or piping more attractive to them.
- Last, ensure that the structure's insurance value is adequate as a co-insurance penalty could apply following a loss.

Beyond the potential for damage to the insured's property, there are many

other liability concerns that property owners need to consider. Among these, a duty of care is owed to visitors and trespassers, especially youth, who may be drawn to the premises.

As well, a fire or water loss has the potential to migrate onto a third party's property. Depending on the circumstances, the latter can be considered as a result of negligence. ≡



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# Looking Ahead

With property and casualty reinsurance prices showing few signs that downward pressure is ending any time soon, traditional reinsurance looks to be a real bargain for carriers hoping to protect their balance sheets and prepare themselves for future catastrophes. Forward-looking carriers are also recognizing that cost-effective reinsurance can help secure their future profitability.

**Greg Meckbach**  
Associate Editor

Amid falling reinsurance prices and rising concern that cedents have released much of the redundant reserves they built up a decade ago, some industry observers say that by buying more traditional reinsurance, carriers can help protect their balance sheets in the event of a major catastrophe.

“In Canada, as elsewhere, reinsurance helps in managing the volatility of the portfolio, while helping the insurer to grow their business,” says Joseph El-Sayegh, president and chief executive officer of SCOR Canada.

Increasing reinsurance spending “can minimize volatility and protect cedents’ balance sheets in the event of major natural catastrophe losses, large man-made disasters, sudden macroeconomic changes and adverse reserve development issues, or a combination of all four,” Mike Reynolds, global chief executive officer for JLT Re, explains in a statement announcing the late-July release of the report, *Reinsurance: The Price is Right*.

“Overall, demand for property catastrophe reinsurance has increased slightly throughout the private market as insurers continued to benefit from accretive reinsurance capital in many regions,” Aon Benfield notes in its own report, *Reinsurance Market Outlook: June and July 2016 Update*.

“In addition, continued evaluation of rating

agency changes has resulted in increased demand from some insurers,” Aon Benfield adds.

## **PRICES: STILL FALLING**

As all this unfolds, reinsurance prices continue to drop, with JLT Re reporting “four years of falling reinsurance rates across most lines of business.”

However, A.M. Best Company Inc. suggested in June the “January renewal season seemed to indicate that market pricing for global property and casualty reinsurance had not yet hit rock-bottom.”

In *Global Reinsurers Continue To Withstand Challenging Market Dynamics*, A.M. Best points out that both January 1 and April 1 renewals “do not appear to have spawned any significant hope that price stabilization is on the horizon any time soon.”

Canada, of course, “has been a big story this year, with the Fort McMurray wildfires,” comments El-Sayegh. “Insurers and reinsurers need to work through the lessons from the loss and the impact on pricing, structures and terms and conditions,” he says.

Catastrophe losses — adjusted for inflation to 2016 — were US\$133 billion worldwide in 2011, but have been lower in each of the four subsequent years, notes the report from JLT Re, the reinsurance broking arm of Jardine Lloyd Thompson Group plc.

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Aug 3 - by ServiceMaster of Canada Limited

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**Cunningham Lindsey Names Albert Poon as President of Canada Region**

Aug 2 - by Cunningham Lindsey

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**Donna Barclay Joins The Guarantee as Chief Underwriting Officer, Property and Casualty**

Aug 2 - by The Guarantee Company of North America

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## Events and Seminars Calendar

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### CIP Society Seminars

Ottawa – PROedge: Managing Workplace Conflict.....September 27	Edmonton – 3P Downtime Claims.....October 5
Toronto – The Art of Persuasive Negotiation .....September 27	Cornwall – Underwriting for Brokers.....October 12
Toronto – Cyber Coverage Sales: Winning Approaches to Get Results.....September 29	Kitchener – Cyber Liability: Exposures, Coverages and Emerging Trends .....October 12
Edmonton – Additional Insureds: All You Need to Know .....October 3	ADVANTAGE Live Webinar – Lessons learned from the Fort McMurray wildfires (P.1): Social Media .....October 13
Edmonton – Managing the Madness: Certificates of Insurance and Other Interim Documents.....October 3	Calgary – Not for the Faint of Heart: Hoarding, Trauma, Grow-Op and Meth Lab Clean-up.....October 18
Ottawa – Insurance Fun on the Farm.....October 4	Calgary – The Inside Information of a Fire Investigation: Origin and Cause.....October 18
Victoria – Autonomous Vehicles and Drones.....October 5	
Kitchener – Understanding Property Claims Investigation.....October 5	

### CIP Society Events

Nanaimo – CIP Society Mid Island Cocktail Event.....September 22	Victoria – CIP Society 12 <sup>th</sup> Annual Cocktail Event .....October 20
Stanley Bridge – 15 <sup>th</sup> Annual CIP Golf Tournament.....September 22	Toronto – CIP Society Indoor Beach Volleyball Tournament.....October 26
Toronto – Axe Throwing Tournament .....October 13	

Looking for information and research on the latest trends in the p&c industry? Go to [insuranceinstitute.ca](http://insuranceinstitute.ca) and visit the CIP Society's **INFORMATION SERVICES** section for a free online library of Trends Papers, with topics like Uber, Airbnb, and Drones.

“The Fort McMurray wildfire in Canada and other global weather-related catastrophe activity in the first and second quarters of 2016, generating more than US\$10 billion in insured losses globally, has already begun reversing the favourable recent catastrophe loss trend, although the reinsured portion of these losses is still well within annual catastrophe budgets,” A.M. Best states.

In 2016 H1, Aon Benfield reports that there were five catastrophe events with more than US\$1 billion each in insurance losses. Beyond the Fort McMurray wildfire, those events included earthquakes in Japan and flooding in Europe.

“Carriers with the foresight to exploit today’s cost-effective reinsurance can help secure future profitability by preparing for the next unforeseen event(s), which could precipitate or accompany a turn in the market,” Reynolds suggests in the JLT Re report.

El-Sayegh suggests primary insurers can also work with their reinsurers to develop new products, such as flood and water-related coverage for homeowners.

“Well-priced reinsurance can be found when buyers, reinsurers and general managers jointly develop a product offering and provide proof of its profitability,” he says. With flood coverage in Canada, for example, “models have improved greatly and the coverage is taking shape.”

## RETENTION: UP OR DOWN?

For a cedent, the decision to increase or decrease retention “is usually driven by a company’s appetite for risk and its surplus position — whether they can afford to keep more,” explains Cam MacDonald, senior vice president and chief agent in Canada for Transatlantic Reinsurance Company (TransRe). “That’s a decision that (cedents) have to make, but it does boil down to each company’s risk appetite and what they are willing to retain, so it will vary by company and by size of company,” MacDonald says.

In the past five years, JLT Re points out, the p&c market “has been dominated by net reserve releases and a significant influx of third-party capital.”

Insurers “are now likely to have re-

leased most of the redundant reserves they built up between 2003 and 2007, and there is, therefore, growing concern that releases may start to dry up,” the JLT Re report suggests.

“Around the world, we have seen insurers centralize purchasing and retain more, particularly multi-national insurers,” El-Sayegh reports. “Centralized purchasing can have price benefits, but at the cost of increased volatility and higher capital requirements. Further, managers of Canadian insurers are interested in maintaining access to reinsurers’ local market expertise in centralized purchasing structures,” he maintains.

As of June 30, there was US\$22.3 billion in issuances outstanding in the insurance-linked securities (ILS) market, notes Swiss Re Capital Markets’ *Insurance*

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## For a cedent, the decision of whether to increase or decrease retention “is usually driven by a company’s appetite for risk and its surplus position.”

*Linked Securities Market Update*, which was released August 5. ILS issuance “came to a screeching halt” after April 30, the report states, adding that there were more maturities than issuances during the first half of 2016.

In Canada, activity in the ILS market “has been mild,” MacDonald suggests. “I think that most clients prefer the usual methods of transferring risk and that’s the traditional reinsurance market,” he says.

“Reinsurance is now potentially the best-priced source of capital for most carriers,” states JLT Re. “Reinsurance buyers can secure competitive advantages by anticipating cyclical change,” it adds.

## REINSURANCE: OPTIMIZATION TOOL

The reinsurance market “is about to undergo further change,” JLT Re predicts. “There is opportunity now for carriers to seize the moment and utilize highly competitive reinsurance as a capital op-

timization tool. Indeed, analysis carried out by JLT Re shows that reinsurance, at current pricing levels, is increasingly a more efficient form of contingent capital than debt, equity and carriers’ own capital,” the report states.

As a reinsurer, TransRe “can discuss ideas with (insurers) to ensure every angle is considered,” MacDonald notes. “We can create the right risk-sharing structure to support new ventures.”

Still, many primary insurers are “looking for opportunistic buying,” Claudette Cantin, senior vice president, chief actuary and chief risk officer of Munich Re Canada, said during a panel discussion earlier this year. Cedents generally “have much more capital than they used to have,” Cantin told those attending Insurance Bureau of Canada’s Financial Affairs Symposium.

“They are more sophisticated, they can model and look at the impact of the reinsurance on their capital position,” she explained. “Given their strong capital position and their level of analytics they can do, they have greater capability and they are certainly more willing to keep more of the volatility and that we can see through higher retention, for example,” she added.

Worldwide, the non-life insurance sector “remains well-capitalized with solvency at a record high of 130% in 2015, up from 124% in 2014,” Swiss Re states in a recently released sigma report, *World Insurance in 2015: Steady Growth Amid Regional Disparities*.

“Although capitalization is expected to remain strong,” Swiss Re notes in the report, the support from higher unrealized gains due to ultra-low interest rates will disappear once rates begin to rise (in the United States and the United Kingdom mainly.)

For cedents, El-Sayegh cautions there are some consequences to retaining more risk. “Increased retention increases the capital needed to maintain the same solvency ratio,” he points out.

“What’s better: more capital, more volatility and, possibly, more profitability, or less capital and more stable profitability?” El-Sayegh asks. ≡

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## MOVES & VIEWS

UPCOMING EVENTS: FOR A COMPLETE LIST VISIT

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**1** Patrick Bieleny [1a] has been appointed president and chief executive officer of Western Financial Group, effective August 22, replacing Paul Taylor [1b], who retired July 4. Bieleny was previously chief executive officer and managing director of private equity and investment firm, XALTA Capital Partners Ltd. A former chief executive officer of Insurance Corporation of British Columbia, Taylor took over as chief executive officer of Western Financial in July 2015 from Scott Tannas [1c], who founded the company. Tannas is now vice chairman of Western Financial, owned by Desjardins Group, which has 160-plus brokerage locations in Western Canada.



1a



1b



1c



5b



6



7

**2** Albert Poon [2] took on his new role as president of Cunningham Lindsey Canada Claims Services Ltd. on August 1. Poon, who has worked for Cunningham Lindsey Canada for nine years, most recently served as chief operating officer. Poon, a former president of the Canadian Independent Adjusters' Association, began his career in 1990 as a telephone adjuster with Home Insurance and has also worked for Crawford & Company (Canada) Inc.

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**3** Colin Simpson [3a] is now chief executive officer of the Insurance Brokers Association of Ontario (IBAO). Simpson served in the role on an interim basis from December 2014 through June 2015. Simpson previously held chief executive officer roles at IBAO subsidiary Independent Broker Resources Inc., Intrinsic Insurance Solutions Inc. and Kingsway Financial Services. Jim Murphy [3b] was named IBAO's chief executive officer in July 2015 and served until this June. Murphy came to IBAO from the Canadian Association of Accredited Mortgage Professionals, where he had been president and chief executive officer.

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**4** Lackner McLennan Insurance Ltd. of Waterloo, Ontario, which has placed personal and commercial insurance for more than 70 years, has acquired nearby Erb and Erb Insurance Brokers Ltd. Erb and Erb — with 65 staff and offering personal, commercial and life insurance, as well as financial services products — did not entertain any offers from insurance companies, brokers or other entities outside of the Waterloo Region, reports company president James Chmiel. Going forward, the business will be operated by six partners and a staff of insurance specialists and support personnel.

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**5** Rob Strain [5a], president of Sudbury-based Canadian Resources Insurance Solutions Inc. (CRIS), is joining Totten Insurance Group, which recently acquired CRIS. Strain will report to Totten Insurance president Susan Murphy [5b]. CRIS offers wholesale insurance solutions specializing in natural resources and specialty niches.

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**6** Insurance Claims Collaborative (ICC) has named Mark Tucker [6] as its new president, effective July 1. With the insurance flooring, roofing and siding evaluation service since 2004, Tucker previously served as vice president of



sales. He has also “held a series of senior management roles with SCM Insurance Services,” ICC reports.

**7** Lynn Kelly [7] has been named Insurance Woman of the Year by the Canadian Association of Insurance Women (CAIW). The award recognizes insurance professionals who have contributed to both CAIW and the insurance community. A senior adjuster at claims services firm Crawford & Company (Canada) Inc. and a former first vice president of CAIW, Kelly has more than 33 years of experience as an insurance adjuster. Among other areas, her expertise includes liability and malpractice claim investigations.

**8** Donna Barclay [8] has been appointed chief underwriting officer, property and casualty for The Guarantee Company of North America. Barclay “brings 30 years of property and casualty insurance experience, most recently providing senior leadership to casualty insurance teams at several major global insurers,” The Guarantee reports. Barclay has an economics degree from the University of Western Ontario.

**9** Travelers Canada has announced former Ontario cabinet minister Dwight Duncan is now on its Board of Directors. Currently a senior strategic

advisor at law firm McMillan LLP, Duncan is a former Liberal MPP whose cabinet portfolios have included finance, energy and revenue.

**10** Chadwick Westlake [10] will take on duties as RSA Canada’s new senior vice president of finance and chief financial officer on September 12. Westlake was previously at Scotiabank as vice president and chief financial officer of Canadian banking, RSA Canada notes. While there, “Chadwick built a reputation for driving transformational change across a diverse range of priorities, including customer strategy, data analytics and mergers and acquisitions.”

**11** Jeff Sutton [11] is ClaimsPro’s new senior vice president, business development. Sutton most recently was senior vice president of sales with Opta Information Intelligence, which is also owned by SCM.

**12** Dennis Squibb has joined e-djuster Inc. as director of strategy and operations. “Squibb will lead the expansion of the company’s industry partners and clients in the United States, with a secondary focus on supporting e-djuster’s Performance Excellence Guarantee program.” He will also help shape e-djuster’s approach to long-term technology and business strategy, overseeing corporate development activities and the firm’s leading strategic alliances and client roster.”

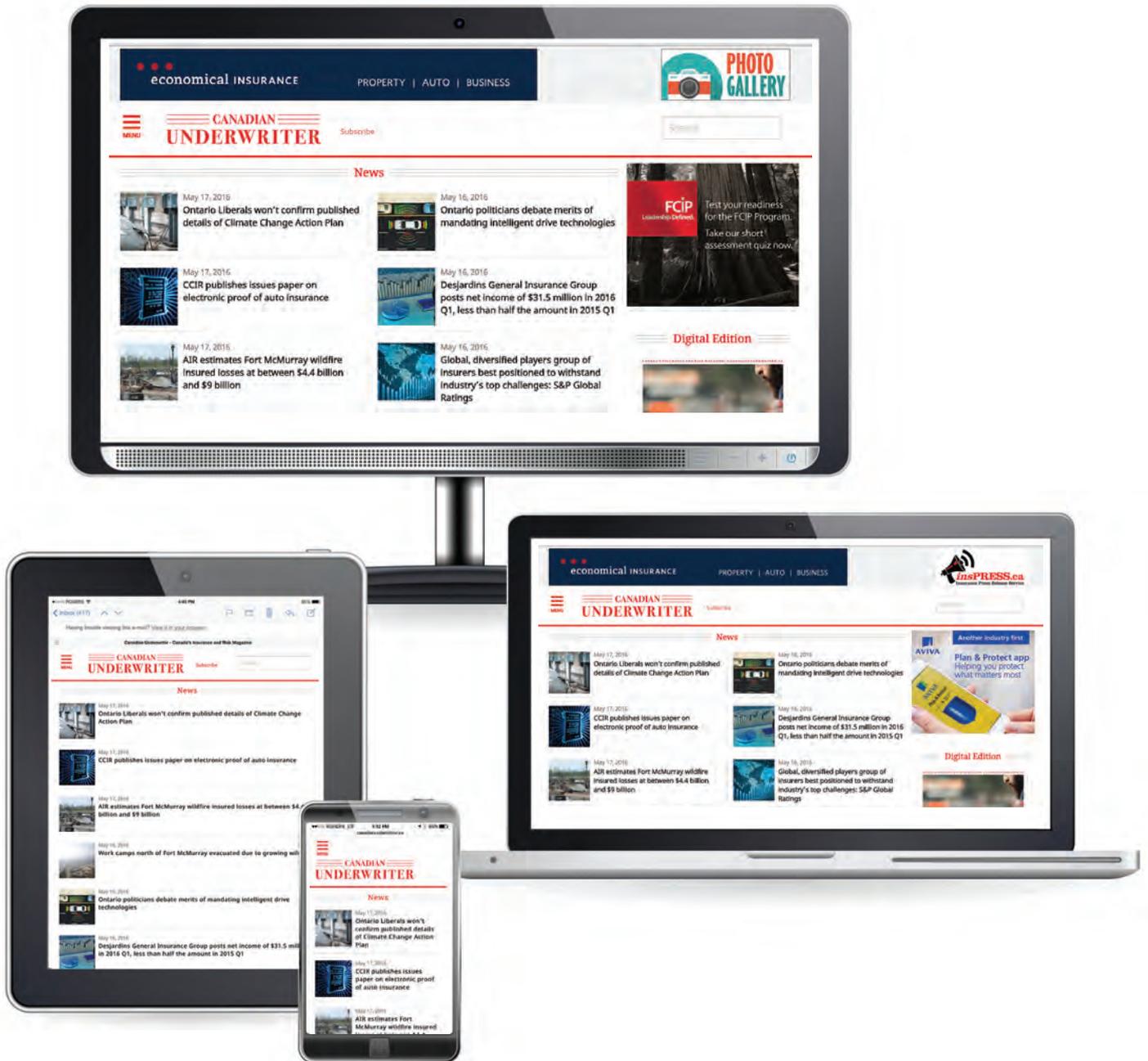


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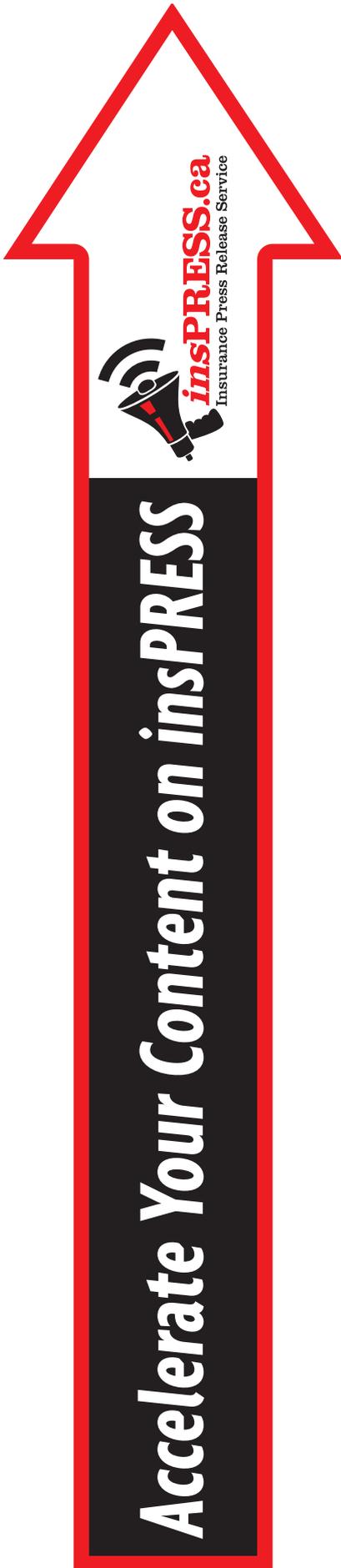
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# GALLERY

See all photos from this event at [www.canadianunderwriter.ca/gallery](http://www.canadianunderwriter.ca/gallery)

**Giffin Koerth** held its annual **golf tournament**, the “BIG DIVOT” on July 22 at Wyndance Golf Club in Uxbridge, Ontario. Players were treated to a beautiful day on the first course in Canada designed by the legendary Greg Norman.





## GALLERY

The **2016 Insurance-Canada.ca Executive Forum** was held on August 30 at the Sheraton Centre Toronto Hotel. Close to 200 delegates attended the one-day event, which included a wide-spectrum of presenters and panellists who offered their insights on numerous trends most likely to have an impact on the property and casualty industry both now and over the next few years.



## GALLERY

See all photos from this event at [www.canadianunderwriter.ca/gallery](http://www.canadianunderwriter.ca/gallery)



## APPOINTMENT



**Donna Barclay**

### **Donna Barclay Joins The Guarantee as Chief Underwriting Officer, Property and Casualty**

Alister Campbell, President and CEO, The Guarantee Company of North America (The Guarantee) is pleased to announce that Donna Barclay has been appointed as Chief Underwriting Officer, Property and Casualty – effective July 25, 2016. Donna will be responsible for ensuring the company has compelling underwriting solutions to meet the complex and evolving needs of The Guarantee's property and casualty clients across all our target customer segments.

Working closely with the Vice Presidents of each P&C line of business, she will ensure the development and implementation of operational standards in collaboration with the Chief Risk Officer. She will also provide technical underwriting leadership, support and authority to The Guarantee's P&C underwriting teams, ensuring the successful achievement of key corporate strategies for profitable growth.

Donna brings to The Guarantee 30 years of property and casualty insurance experience, most recently providing senior leadership to casualty insurance teams at several major global insurers. She holds a Bachelor of Arts in Economics from the University of Western Ontario, a Diplôme D'Études Collégiales from Marianopolis College, Montreal and an A.I.I.C. designation from the Insurance Institute of Canada.

*The Guarantee Company of North America is a leader in specialty insurance and surety within the North American marketplace. We offer in-depth knowledge and expertise in niche segments, including the surety industry, corporate insurance, transportation industry, credit, and customized personal insurance. For more information, visit [theguarantee.com](http://theguarantee.com).*



# GALLERY

See all photos from this event at [www.canadianunderwriter.ca/gallery](http://www.canadianunderwriter.ca/gallery)



The **Canadian Boiler & Machinery Underwriters' Association (CB&MUA)** held its **17th Annual Golf Tournament** on August 18 at Hidden Lake Golf Club in Burlington, Ontario. Association members and guests enjoyed a pristine day on the course, especially Jimmy Tran with XL Catlin (Vancouver), who had a hole-in-one!





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