

\$18B

New capital flowing into reinsurance since January 2014 through insurance-linked securities, sidecars, hedge fund backed reinsurers and collateralized vehicles.

(Guy Carpenter)

THE GOOD LIFE

IICF Launches Literacy Campaign

The Insurance Industry Charitable Foundation has a new campaign to raise funds and awareness for its Early Literacy Initiative—a Web and social media effort to boost the industry’s commitment to childhood literacy. To kick off the campaign, Sesame Street’s Elmo joined a panel at the Women in Insurance Global Conference to discuss the importance of reading and literacy.

Additionally, the Midwest Division has named Mary Cummins as executive director.

LEGAL > SCOTT SINDER AND EVA RIGAMONTI

Don’t Ignore That Noise Under the Hood

ACA focuses new attention on the full-time employee vs. contractor debate.

I have always loved those “you can pay me now or you can pay me later” AAMCO commercials that end with the familiar beep-beep, the company’s unofficial jingle. It resonates for me, especially in the compliance space, because a little bit of legal assistance today should save you a whole lot of legal heartache and expense down the road.

The example du jour is the “guidance” issued by the Department of Labor in July purporting to reiterate the test that must be satisfied for a worker to be treated as an “independent contractor.” The department notes most workers are misclassified as independent contractors when they are actually employees. Issued on the heels of DOL’s attempt to update overtime pay exemptions, the guidance appears to signal the agency’s

intent to ramp up independent-contractor enforcement efforts.

Although DOL’s jurisdiction is limited to the Fair Labor Standards Act, it historically has worked closely with the IRS to define the scope of who is treated as an independent contractor and to enforce the law. IRS penalties for misclassification have been limited to employment-related tax obligations and other related punishments.

But the employer-mandate obligations contained in the Affordable Care Act greatly expand the scope of potential misclassification penalties. Under the ACA’s employer-mandate provisions, an employer with more than 50 full-time workers (or full-time equivalents) must offer minimum essential coverage to 95% of those who work at least 30

hours on average each week. There is a lower threshold in 2015, and the transition rules are different, which may ease the burden during the first year an employer is subject to the mandate.

If an employer fails to do this, it is subject to the ACA “A” penalty—\$2,000 for each full-time employee. The penalty is based on the overall number of full-time employees regardless of whether any received coverage offers.

It’s critical your firm and clients audit your independent-contractor relationships to ensure they satisfy the Department of Labor’s guidance. This guidance delineates the following six factors that should be used to make any such assessment:

1. **Are the worker’s contributions an “integral part” of the employer’s business?** Generally, if they are, the worker likely should be treated as an employee regardless of the magnitude of his role or whether he works remotely.
2. **Is the worker’s opportunity for profit or loss based on or affected by his managerial skill?** This >>



BROWN & BROWN Wholesale brokerage division Hull & Company acquires certain assets of RF Ougheltree & Associates. Bob Ougheltree and members of the company’s team will continue to serve their clients and operate as part of Hull & Company in New Jersey. www.bbinsurance.com

COOPER GAY SWETT & CRAWFORD Hires Alejandro Padilla as general manager, head of broking for Mexico, Central America, Puerto Rico and the Dominican Republic. He joins from Swiss Re, where he was head of reinsurance for North Latin America, Swiss Brokers Mexico. >> Appoints Shaun Hooper, CEO of

CGSC International; Gordon Newman, CEO of CGNMB; and Thomas Ruggieri, CEO and president of CGSC North America, to the company’s board. www.cg-sc.com

DIGITAL INSURANCE Acquires Compass Consulting Group and its affiliate Prospective Risk Management. The companies will remain as separate entities and keep their current names. www.digitalinsurance.com

EARLY, CASSIDY & SCHILLING Sean Gormley becomes co-owner/principal. He currently serves as VP of operations for the company. www.ecinsure.com

GUY CARPENTER Hires Tim Gardner as CEO of U.S. operations. He joins from Marsh, where he was head of sales for international division. Succeeds Andrew Marcell who recently joined Aon Benfield. www.guycarp.com

THE HILB GROUP ABRY Partners acquires stake in The Hilb Group. Hilb management team and its employee shareholders will continue to be significant shareholders as well. >> Acquires Cornerstone Group and Gencorp Insurance Group. The companies will be consolidated and help Hilb expand into New England. Companies’

management and leadership teams will remain in their roles. <http://hilbgroup.com/>

HUB INTERNATIONAL Acquires the assets of Murphy Group Holdings and its subsidiaries. The Murphy team will continue to operate from their current locations, and CEO August Felker will continue to lead the team. >> Acquires the assets of Cooper, Simms, Nelson & Mosley. Steve Simms, Bobby Simms and Rick Havron, shareholders of Cooper Simms, will join the Hub Florida senior management team as EVPs and report to Chris Gardner, CEO, Hub Florida. >> Acquires Group Benefit Specialists. The GBS

LEGAL

» goes to the question of whether the independent contractor has a separate business he is managing, which is at the heart of any Labor Department inquiry. Ask yourself: Does the independent contractor truly have a separate and distinguishable business? The department's guidance emphasizes choosing to work more hours to earn more profit is not enough to classify anyone as an independent contractor.

3. How do the relative investments of the employer and the worker in the worker's business compare? The Labor Department cautions that, to assess a worker's investment, it must be compared to that of the employer to determine if it would be enough to designate someone as an independent contractor.

4. Do the worker's job duties require special skills and initiative? While a worker's professional and managerial skills, judgment and assertiveness can indicate

he is an independent contractor, those skills generally must be asserted in an independent fashion to do so. Even complex technical skills, such as information-technology skills, are not sufficient to indicate someone is an independent contractor. That's because many times those skills can be taught.

5. What is the degree of permanency in the work relationship? The more permanent/indefinite the length of the relationship, the more likely the worker is not an independent contractor. The Labor Department warns, however, that not having a permanent or indefinite work relationship does not make an individual an independent contractor. Short-term or seasonal employment may be characteristic of a particular industry, in which case the person still likely is an employee.

6. What is the nature and degree of control exercised and retained by the employer? Generally, when the worker, rather than the employer, actually controls important and meaningful

aspects of his job duties, there is greater likelihood he is an independent contractor. Nevertheless, Labor cautions employers should not over-emphasize

the "degree of control" in their analysis since there are lots of other important indicators involved.

Each of these factors is discussed in detail in the guidance. What will frustrate you is that no factor is dispositive and there really are no clear rules other than the Labor Department's

admonition that most individuals who are treated as independent contractors are inappropriately classified.

One thing is clear: You can blow your own horn and deal with this right now on your terms. Or you can deal with this later on the Labor Department's terms when they startle you with their bleating horn after they discover you've steered in the wrong direction.

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There are no clear rules other than DOL's admonition that most treated as independent contractors are inappropriately classified.

THE GOOD LIFE

All Risks Makes a Bang in Shootout for Soldiers Event

Maybe it's not what you think! All Risks raised more than \$50,000 to support National Specialty Programs SVP Chris McGovern in the Shootout for Soldiers—a June fundraising event to support the Wounded Warrior Project and other veterans charities. The 24-hour lacrosse tournament was started in 2012 by a group of high school students from The Boys' Latin School of Maryland and has raised more than \$500,000 since its inception. This year, the event raised \$201,300 and had 1,600 participants. McGovern played in all 24 games.

"If I can give up 24 hours of my life, it's an easy decision. In my mind, there's no better cause than supporting people who defend our freedoms. I just have a tremendous amount of respect for the people who keep our country safe. These guys are out there on the front lines putting their lives at risk so we can do what we want to do. I don't think there's any more worthy a cause."



INDUSTRY NEWS TICKER

team will continue to operate from current office. Mark Isley, GBS president, will join Hub in same role. » Acquires Pittsburgh-based HDH Group, which will establish a new regional operation for Hub to help future expansion. HDH chairman Bryan Hondru, CEO Frank Mikan and EVP Anthony Kocis will join Hub. Kocis will become president of the new operations. HDH is a p-c, employee benefits and personal lines brokerage with locations in Pittsburgh, Erie and Harrisburg, with a specialty in transportation, municipalities, healthcare, energy, construction and alternative risk services. www.hubinternational.com

HYPERION Hires Oliver Corbett as CFO. He succeeds Eric Fady who is leaving the company. Corbett joins from Towergate where he was interim CFO. » Howden U.K. CEO Adrian Colosso retired at the end of July. He came out of retirement in 2013 to join Howden and has spent 40 years in the industry. www.howdengroup.co.uk

INTEGRO Agrees to be acquired by Odyssey Investment Partners. Deal expected to be completed in Q4. Integro management will stay put, and some management and employees will remain shareholders. Pricing and other terms

not announced. » Integro Re hires Tara Ryan as SVP in Chicago. She joins from JLT Re, where she was VP for programs and treaty reinsurance. » Acquires Lemme Insurance Group. Lemme's team will lead Integro's national practice for professional service firms. The team will continue to operate from the Chicago area office. www.integrogroup.com

JARDINE LLOYD THOMPSON JLT Specialty hires Joe Taccetta as EVP. He will be part of the aerospace practice management team. He joins from Global Aerospace, where he was SVP and practice leader for airlines

claims department. » Hires Tom Phelan as SVP, North America. He joins from Willis Re, where he was SVP. » Hires Joe Addison as EVP and member of U.S. executive committee, based in Atlanta. He joins from Aon, where he was CEO of entertainment practice. » Hires Robert Benvenuto as EVP and member of U.S. executive committee. He joins from Aon Risk Solutions, where he was most recently EVP. www.jlt.com

LOCKTON Hires Jay Chappell as COO for p-c operations in Dallas/Ft. Worth. Most recently he was at Willis of Texas as regional partner. www.lockton.com