Market Update

Fall 2022

McGriff

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Market Overview

Inflation has begun to take a toll on the insurance market; for many policyholders this likely means higher property and casualty premiums during renewals this winter. While the market remains hard for the most part, prices will, as per usual, depend on each insured's loss experience and mitigation efforts.

The inflation rate hit a record 9.1% in June, according to the Consumer Price Index.[1] This marks the highest level recorded since 1981. In September, prices had increased by 8.2% compared to September 2021.[1] To tamper inflation, the Federal Reserve increased interest rates to a range of 3.75% - 4.0%, but the economy remains surprisingly robust. In fact, the October 2022 employment report from the Department of Labor noted that the American economy added 261,000 jobs in October and the employment rate edged back down to a more than 50-year low of 3.5%.[2]

Then came Hurricane Ian, which pounded Florida's west coast in late September and is estimated to result in losses of $50 to $75 billion. The storm will drive up property deductibles/retentions in Florida and the Gulf, increase insurance premiums and reinsurance costs, potentially restrict the ability to obtain full capacity in CAT-driven areas, and have implications across the entire insurance spectrum, from personal lines to commercial insurance. The storm is also expected to have a severe effect on Jan. 1 renewals, especially within the Southeastern US.

All of the above creates a market of uncertainty — and one many policyholders have never experienced in their careers. Even with such uncertainty, McGriff is well positioned to help our clients succeed. In times like these, we recommend the following key approaches.

Identify, Prepare, and Engage

Identify key areas of concern in the program and develop a plan to address them with multiple options, and at least 120 but up to 150 days in advance. Prepare senior management for potential impacts to budget/premiums, coverages, and longer quoting timelines. Even the earliest renewal submissions may come down to the wire for finalization. Engage in effective and clear communication with both the insured and insurers.

Run the Numbers

Set realistic budgets based on current market conditions with multiple options. Conduct a loss analysis and consider multiple retentions and structures, including captives, if warranted. Many carriers now require 10+ years of losses, summarized.

Data is Key

Meet with carriers early to understand all issues and thoroughly examine potential options. Seek underwriter commitment to general renewal terms early in the process. Proactively provide renewal exposure updates, any supplementary applications, and all supporting documentation as early as possible in the renewal process, but by no later than 90 days pre-renewal. Ensure exposures are current and the submission is comprehensive and thorough. This will ensure you remain top of mind amidst increasing underwriting submissions.

How to Minimize the Effects of an Uncertain Market

In the property market specifically, accuracy of valuations will be a key driver of available capacity, rates, limits, retentions and potential implementation of margin clause/co-insurance provisions. Insurance-to-value (ITV) validity was already a market concern pre-Hurricane Ian due to inflation and access to goods and services. The impact of Hurricane Ian will only intensify the focus on data integrity and proper valuations for all markets.

We are still seeing the most drastic premium/rate changes from incumbent non-renewals in any layer/structure. Multiple carriers and MGAs have also indicated that they are increasing their percentage deductibles on CAT-related exposures, particularly in Florida and other Gulf states. This could result in insureds needing to renegotiate lender agreements regarding those deductibles and/or seeking out alternative solutions like deductible buy-down options or possibly parametric cover. If an underwriter or underwriting management expresses concern about loss ratio and references the potential for non-renewal due to losses, class of business, or particular risk characteristics, attempt to work through issues early via risk control, higher deductibles, and rates.

[1] https://www.bls.gov/opub/ted/2022/consumer-prices-up-9-1-percent-over-the-year-ended-june-2022-largest-increase-in-40-years.htm
[2] https://www.dol.gov/newsroom/releases/osec/osec20221007

Property & Casualty

According to The Council of Insurance Agents & Brokers' (CIAB) Q2 2022 report:

- P&C premiums increased for the 19th consecutive quarter in Q2 2022, with survey respondents reporting an average premium increase across all account sizes of 7.1%, compared to 6.6% in Q1.
- Nevertheless, respondents agreed that the market continued to stabilize in Q2 2022, mentioning some price moderation and that additional competition for desirable accounts made it a little easier on clients to find better terms and conditions.

Of course, this was from August 2022, before Hurricane Ian, which has the potential to drastically impact the "stabilization" referenced above, at least for property and specifically NAT CAT- exposed property.

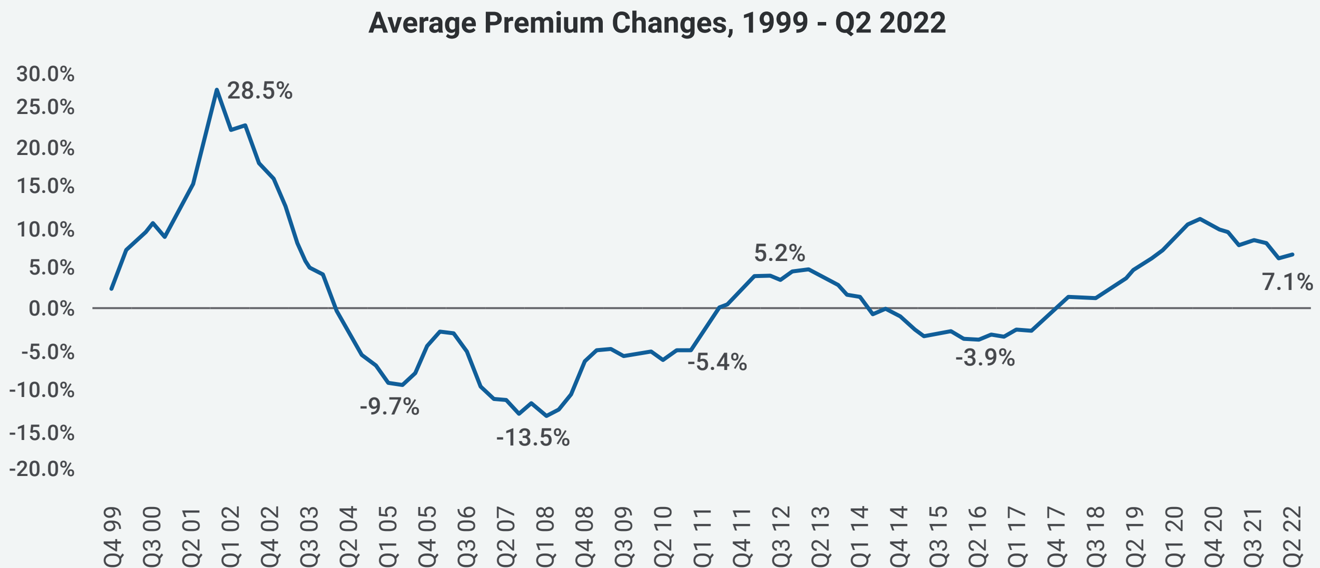
Middle Market

Workers' compensation (WC) markets are still very competitive. Insureds are seeking savings on WC to offset increases on their other package, Auto, and Umbrella lines. There is clearly some softening in the Excess casualty layers up top, and some of the larger towers are seeing renewal rate moderation, if not reductions depending on relativity. Other things to note are underwriters requesting more detailed underwriting information than in the past, and the increase in settlements awarded is much higher.

The Property market continues to be difficult, especially on the tougher classes of business, and on non-sprinklered buildings. Accounts that were previously insured with standard markets are now having to be moved to the E&S markets. Deductibles are increasing on the Property as well, and ITV continues to be an issue.

In general, while Casualty renewals are seeing rate moderation, Property increases will offset the average increase, with most accounts likely to see approximately 8% to 14% standard increases if they have performed well. Accounts with loss issues are seeing 20%+ increases. Across the board, there seems to be much more underwriting scrutiny and information required to obtain quotes.

Middle Market Rate Changes



Source: The Council of Insurance Agents & Brokers

Property

- Continuing to see increased premium, on average 4% to 6% for non-high hazard
- Frame construction is a challenge
- Strong focus on building values

General Liability

- Continue to see strict underwriting, particularly with tougher classes of business

Auto

- Continuing to see strict underwriting, particularly where losses are involved
- Diminished capacity on tougher classes of business and when losses are involved

Excess

- Pricing is increasing relative to GL and Auto increases

Property

The coastal property market has been heavily impacted since the first quarter of 2021, seeing rate increases of 25%+ even on clean accounts, restricted terms (roof-ACV, availability of Flood/EQ and DIC policies, higher percentage and per occurrence deductibles, distance from coast requirements). Most carriers will not put up much capacity, so even schedules with lower TIVs are having to be layered and/or shared and layered. Often, excess options are competitive, but the first layer is tough. Inflation and increased material costs are driving building ITV limits up and, as a result, premiums are up before rate increases are even contemplated. The $50 billion to $75 billion of losses expected from Hurricane Ian will only exacerbate the property market both in rates and capacity. The impact of non-coastal exposed properties remains TBD until most treaties renew after Jan. 1, 2023.

General Liability

We are seeing GL remain steady with increases typically under 10%, but occasionally more restrictive terms (i.e., total residential exclusions, Assault & Battery exclusions). Liquor liability remains tougher to place.

Auto

We are continually hearing that personal auto woes will be flowing over into commercial lines for the carriers that write both, but our Auto increases seem to have stabilized under 10% unless the account has losses as long as the carrier is offering in conjunction with other lines. Monoline policies are difficult to secure with limited availability.

Workers' Compensation

WC still seems to be rather soft, with markets all over the board and new players entering our region.

Lead Umbrella

This segment seems to have stabilized from a pricing standpoint, but our standard package markets are not as willing to put up limits over $5 million. Reduced limits apply, particularly to accounts with a large fleet, or heavy trucks/tractors, or high hazard product/premise exposures. We are also seeing Punitive Damages exclusions more often. Several carriers have tried to sublimit Liquor and Abuse/Molestation. Excess liquor and delivery/non-owned Auto has very limited carrier appetite below $5 million.

Intermediate Excess Liability ($5M to $25M)

Assuming the Umbrella/Excess carriers have already split up layers into smaller capacity chunks ($5 million to $15 million/layer), the main rate increases remain in the intermediate excess capacity layers as fewer carriers are writing within the "burn layers" and relativity drop off in premium/million of limit compared to immediate underlying remains low.

High Excess Liability (over $25M in limits)

We are beginning to see more competition up "higher" with Insureds purchasing larger limit towers, assuming losses remain reasonable. Some carriers are loosening minimum premiums per POLICY if not per million of limit provided. Most carriers continue to max out limit deployment at $25 million.

Cyber

Pricing for Cyber seems to be increasing 20%+ and coverage may not be available for those that do not have good protections in place. At this point, MFA is the starting point for coverage to be secured without cybercrime/ransom sublimits or exclusions.

COVID-19

The only noticeable affects from COVID-19 we are seeing in our area seem to be labor shortages and supply chain disruptions/delays. The hospitality industry in our region is not seeing any restrictions or real impediments besides the challenge of maintaining adequate staffing. Customer demand is there for hotels and restaurants. Our contractors all say they could be doing more work if they had more employees.

Inflation

From what we're seeing, inflation is mainly affecting the property market with increased ITV requirements. This is causing huge increases on some large apartment accounts on our books, along with the corresponding rate increases that have gone with it.

Current costs are making it difficult for contractors to bid accurately on work, not knowing what diesel, materials, etc., will be. Wage inflation insureds are having to pay more to retain good employees. They also have to show a little more empathy to keep employees as they will leave in an instant if pushed too hard. Sales exposures are increasing due to increased cost of materials and supply chain issues.

Looking ahead, driver guidelines will be tightening up, which has put another burden on employers with a limited labor pool to hire from. They can't generate revenue without drivers in many cases.

[1] https://www.ciab.com/download/35006/

Cyber

The cyber market is showing some signs of premium relief for policyholders as insurers position themselves to meet their new growth targets and as new capacity enters the market. This relief comes in the form of lower increases in primary and low excess layers, as well as strong competition in excess layers above $40 to $50 million attachment. Insurers are being more competitive with better pricing and coverage terms for favorable industry verticals—even for those companies that are still working to improve their cyber security controls. Challenging risk classes, such as card processors, data aggregators, complex technology, and those with high ransomware claims volume like manufacturing and healthcare, may still see some healthy increases, but nothing akin to the rate spikes of Q4 2021 or Q1 2022.

Cyber underwriters attribute this trend toward market stabilization to accelerated adoption of more stringent cyber security controls as a prerequisite to getting Cyber insurance and to senior management prioritizing network and information security best practices across their enterprises.

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Pricing

Overall, organizations with annual revenues below $1 billion can expect renewal pricing to be in the low double digits up to 40%, depending upon their prior renewal pricing, progress toward improved controls, and minimum per loss retention. Larger organizations will likely see full program pricing increases averaging from 20% to 50%, while most others should see terms hovering in the 20% to 30% range or better. As noted, there are circumstances that may cause some companies to have an outlier experience significantly better or worse than these averages, but the positive news is that the cyber market seems to be stabilizing and returning to growth mode.

Expanding Exclusions

War Exclusions: Beginning in 2020, Lloyd's of London required that all insurance policies written through Lloyd's are clear whether they are affirmatively covering Cyber or excluding it. In 2021, Lloyd's introduced four new versions of their War Exclusions, albeit at the time not yet required. Recently announced and effective 31 March 2023, Lloyd's has required that any cyber risk written in the Lloyd's market exclude state backed cyber attacks. As a result of this, Beazley has revised their War & Cyber War Exclusion to more broadly exclude those companies that are affected by cyber warfare, i.e., collateral damage cyber attacks.

Catastrophic or Widespread Event Exclusions: Chubb was the first market to introduce a Widespread Event endorsement. Effectively, this endorsement looks to sublimit or co-insure what Chubb defines as a cyber incident that causes far-reaching impact (as opposed to limited impact intended to harm only the company itself). We find these types of attacks similar to past attacks such as Not Petya, Log4j, or Solar Winds, to name a few. Beazley has also introduced a new Catastrophic First Party Loss Exclusion aimed at sub-limiting loss associated with a Cyber event at Amazon Web Services, Microsoft, Google, or IBM cloud service providers. Additionally, this Beazley endorsement looks to limit coverage where there is a large attack on a nation-state where "essential services" are disrupted and thus the Insured suffers a loss.

Systemic Network Infrastructure Failure Exclusions: Within Cyber policies, there has historically been an exclusion for any failure of any utility, power, telecom, satellite, or any internet service provider, otherwise known as the "Infrastructure Exclusion." Beazley has expanded this exclusion to also include financial market infrastructure, digital and internet infrastructure, all defined terms.

Thorough Application Process Continues

Underwriters are still requiring a substantial level of detail into the applicant's security controls, vendor management practices, and privacy governance. Most submissions will need to include at least an application, a ransomware supplemental, an operational technology supplemental for classes where there is an OT exposure, such as manufacturing, oil & gas, mining, utilities, construction, building management, infrastructure, transportation, and telephony. Underwriters will also seek additional details about how a company is addressing its own exposure and that of its vendors to known critical vulnerabilities (i.e., Log4j).

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Underwriting Standards Remain High

While a few markets will offer terms for those organizations that have not fully implemented some of the baseline credentials across all systems and networks (especially if the company has an aggressive roadmap to adopt those measures within the policy period), the following are still considered essential to securing cyber coverage, avoiding sub-limits, and preserving incumbent breadth of coverage:

- Multi-Factor Authentication (MFA) for remote access into network, access to web email and for domain administrator accounts.
- Endpoint Protection Platform (EPP)/Endpoint Detection and Response (EDR)
- Email filtering solutions for malicious links or attachments, including the ability to automatically detonate and evaluate attachments in a sandbox
- Disabling administrative rights for ordinary users
- Prompt patching cadence for critical/emergency patches (ASAP or within 2 weeks)
- Backups maintained offline and regularly tested for integrity
- Employee phishing training and testing
- Robust practices for the management and protection of service accounts within domain admin groups
- Formalized Incident Response Plan/Business Continuity Plan

Having the following controls will signal to underwriters an even higher maturity in the insured's cybersecurity program:

- Security Operations Center (SOC) manned 24/7/365
- Immutable and encrypted backups
- Ransomware tabletop exercises or war gaming to address all stages of the ransomware kill chain
- Comprehensive vendor governance for network security and privacy risk

Pervasive Cyber Threats Persist

According to Beazley's latest trends report[1], Business Email Compromise remains a leading 2022 issue, with a substantial increase in attacks against professional services companies, like law firms. Beazley reported that BEC claims in this sector rose to 33% in Q1 2022. All companies should be aware of this rising trend and conduct training exercises and implement tighter controls to minimize likelihood and severity of BEC incidents.

Most carriers, including McGriff's own claims experience, have observed a notable increase in double and triple extortion methods from the cyber extortion threat actors. Although there was some tapering off in ransomware events from Russian and Eastern European origins, other ransomware gangs remained active, and many are using double and triple extortion to leverage a higher ransom payment. Double extortion occurs when the threat actor encrypts data and systems from access or functionality, but also exfiltrate sensitive files and data to a dark web forum where the data may be accessed or sold to unauthorized parties. Having viable back-ups will be useful in restoring operations compromised by the cyber attack, but that will not cure the regulatory and litigation risk around failure to secure and protect non-public, confidential information. Threat actors will not remove and delete these files without payment of their

extortion demand. Triple extortion is becoming another means to increase likelihood of payment if the hackers can successfully launch a denial-of-service attack that overwhelms the victim company's systems with high volumes of traffic until they are forced to meet the threat actor's demands. To further complicate matters, it is becoming more common for hackers to also try to recruit employees to assist in their nefarious campaigns, and on occasion they may communicate directly with customers and employees during the attack to apply another level of pressure for the crisis responders.

Even if the original threat actor has been paid for data destruction, it is almost impossible to ensure that the information is not accidentally or intentionally shared with other threat actors. This now happens in most extortion incidents, including 2 out of every 3 of the incidents Beazley's Cyber Services team saw in Q1 2022.

Looking Ahead

Cybersecurity best practices will continue to evolve, and organizations will need to constantly adapt to new exploits. Mimecast reported these emerging trends, which are expected to continue into 2023 and beyond:

- Phishing and spoofing scams have proved very profitable for the threat actor community. Companies should increase the frequency and complexity of their phishing awareness campaigns to prepare employees for more sophisticated schemes, which will be harder to detect as fraudulent.
- The number of attacks on US healthcare organizations has grown from around 18 to more than 700 per year. This could worsen if better prevention, detection, and response measures are not aggressively implemented at healthcare institutions.
- Increasing reliance on cloud storage for sensitive data: tight controls around your corporate data, especially non-public data on customers, employees, dependents, patients, and beneficiaries, should follow the data into the cloud—make sure access authentication is stringent, file stores are encrypted, and the cloud service provider is responsible for maintaining robust security and promptly notifying your organization of actual or suspected security breaches.
- Since two-thirds of the world's population use a smartphone, hackers are developing new attack methods to access user data, connect to corporate networks, and steal credentials through these devices. Uber was compromised in September 2022 from a novel nuisance attack against an employee's smartphone, wearing down the user by causing MFA fatigue, which caused the user to accept false authentication and allow the hackers full access.

The 471 Cyber Threats Report[2] warns US organizations to remain diligent on all fronts, given that the threat actors are developing new trade craft to bypass or work around the improved security and resiliency measures that companies have adopted. Well-funded and motivated cyber criminals will continue to find novel ways to access critical data and systems.

While cyber extortion continues to dominate the headlines, McGriff clients should also stay updated on consumer protections as more states pass and implement new privacy laws. The California privacy laws (CCPA/CPRA) as well as the European GDPR has established clear guidance for organizations to ensure proper security measures are in place regarding the collection, storage, transmittal and deletion of employee and consumer data.

Several developments will continue on the legislative front. The following is a quick round-up of the current privacy landscape:

- Connecticut latest to pass privacy legislation
- Like Colorado, Virginia, and Utah (and unlike California), Connecticut law does not include a private right of action
- Recent updates suggest there are specific obligations and rights enumerated in CPRA with respect to employee data under the California Privacy Rights Act – prior exemptions on B2B and employment collection may not extend to all collection/use situations, so employers should prepare to comply with strident restrictions
- As of June 2022, there have been 260 CCPA-related actions filed
- BIPA litigation continues to cause carriers to limit/delete “wrongful collection” coverage under privacy/regulatory insuring agreements (some carriers provide coverage for defense of BIPA matters)
- Proposed regulation remains in committee in Alaska, Louisiana, Massachusetts, Michigan, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont.

Four Key Cybersecurity Threats in 2023

As prominent ransomware groups such as LockBit continue to offer evolving products with targeted services, vulnerabilities have reduced in quantity whilst increasing in severity. In fact, last year, several vulnerabilities accounted for some of the biggest threats faced by organizations.

World events have further complicated the threat landscape, with Russia’s invasion of Ukraine acting as a catalyst for further polarization of the underground. The most prolific threat to date has been KillNet, a pro-Russian group that gained notoriety through orchestrating distributed denial of service (DDoS) attacks against pro-NATO countries and organizations.

Threat actors monetized criminal services to great success in 2022. MFA is a common security practice, and threat actors are turning to OTP bypass services to circumvent this layer of security. This area of the underground ecosystem will likely grow as demand increases for these services in the future.

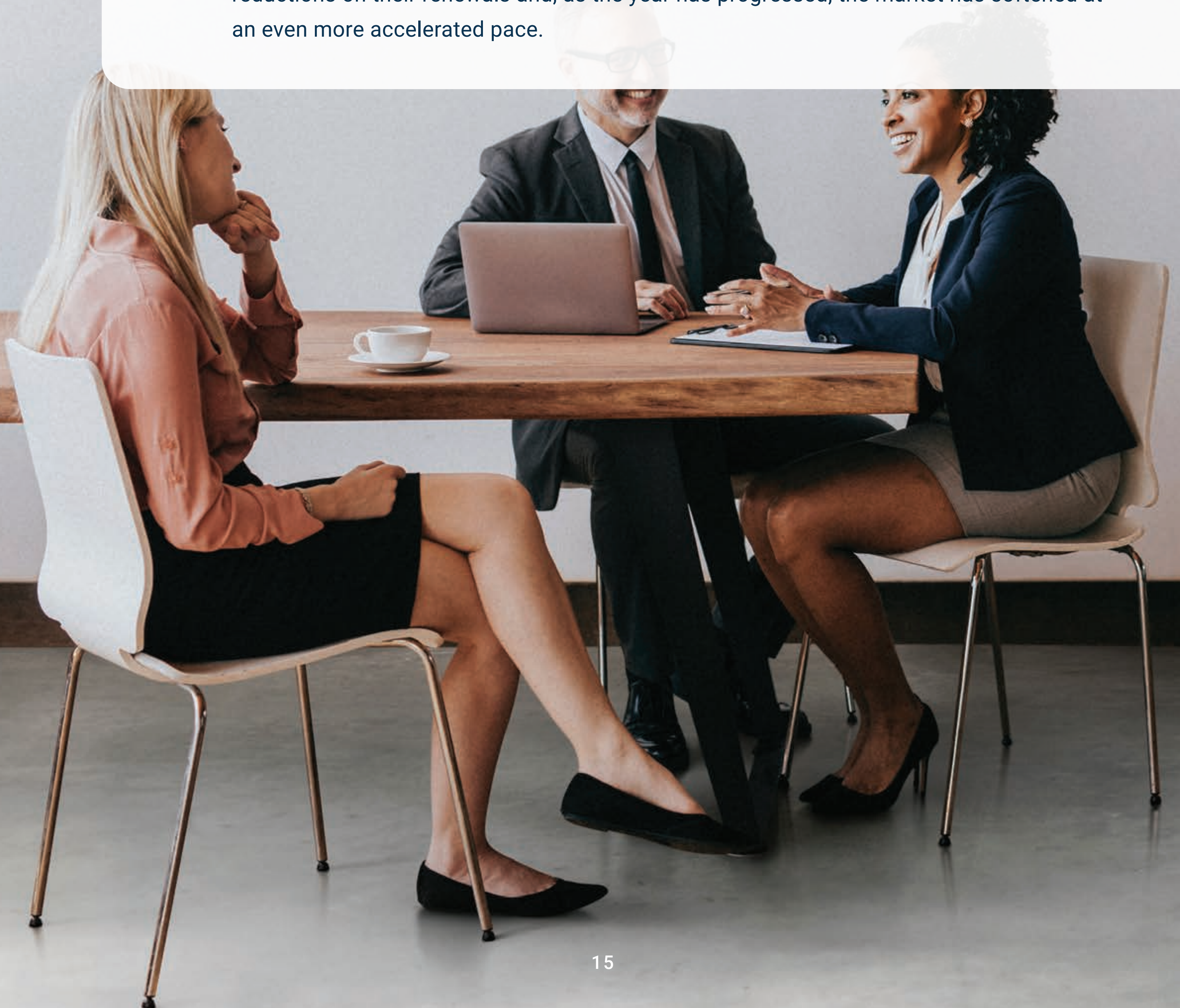
The use of information-stealers will continue into 2023. Since the beginning of 2022, there has been a substantial uptick in offering when compared to the same period of 2021.

Source: SecurityMagazine.com

[1] https://www.globenewswire.com/news-release/2022/09/01/2508752/0/en/Mimecast-5-Cybersecurity-Trends-to-Look-for-in-2023.html
[2] https://intel471.com/resources/whitepapers/the-471-cyber-threat-report

Public Company Directors and Officers Liability

As far back as our Spring 2021 *Market Outlook*, we presented an optimistic argument that the worst of the hard Directors and Officers (D&O) liability insurance market was already behind us and, indeed, over the past 18 months, we have clearly transitioned into a much more "client friendly" market cycle. By the beginning of 2022, we noted that — for the first time in three years — clients were starting to experience overall program premium reductions on their renewals and, as the year has progressed, the market has softened at an even more accelerated pace.



Most companies with D&O renewals in Q4 2022 are finding that there is once again healthy and genuine underwriting competition for their business, especially on Excess and Side A layer placements. Typically, many primary placements are only seeing modest single-digit premium reductions, but rate erosion is much more evident on Excess layers where underwriters are re-visiting their increased limit factors and minimum premiums. This improved trading environment means that most clients are securing renewal premium reductions of up to 15%. The market is even more competitive for those clients who completed an Initial Public Offering (IPO) or de-SPAC transaction in the past couple of years, where it's not uncommon to see 30%+ rate reductions from what were admittedly extremely elevated premium levels.

There is no shortage of underwriting capacity for most programs and clients have an abundance of choice in terms of selecting their insurer relationships. A significant amount of new capital came into the market in 2020 and 2021, leading to the formation of several new underwriting facilities. It remains unclear as to how many of these new insurers will thrive and develop relevant books of business. In the meantime, many legacy D&O carriers have fallen short on their own ambitious growth goals for 2022 due to a decrease in new business because of reduced IPO activity and SPAC formations, which means there is a more competitive focus on the current market inventory of public companies.

From a claims perspective, the general trend of Securities Class Action (SCA) filings is promising. According to litigation data from *Stanford Securities Class Action Clearinghouse*, only 158 public companies have been named as defendants in federal SCA actions in the first 10 months of 2022, compared to more than 400 companies facing SCA lawsuits every year from 2017 to 2019. According to Cornerstone Research in their 2022 Midyear Assessment report on securities litigation, the likelihood or susceptibility of a US domiciled company being a defendant in an SCA decreased to 3.3%, the lowest rate since 2012.

For now, the D&O market outlook for 2023 seems promising for clients. The D&O market capacity supply/demand imbalance will keep the market competitive for the foreseeable future, but we must question whether D&O market pricing today actually reflects the current risk landscape for corporate directors and officers. Macroeconomic and geopolitical concerns, including inflation, rising interest rates, stock market volatility, the strength of the US dollar, supply chain disruption, and heightened regulatory pressures will surely impact clients over the coming months, and it remains to be seen what that means in terms of future litigation trends against corporate executives.

Construction

As we have made it through Q3 2022 and are well into Q4, we've seen significant inflation, a substantial rise in interest rates from the Federal Reserve, and the Russia Ukraine conflict. However, carriers (both domestically and in London/Bermuda) are optimistic about the future, with a keen focus on continued growth, but keeping a watchful eye on the market because of the world economy. The impact of inflation escalation and turmoil in the financial markets are certainly worrisome. However, new capacity entrants into the US Construction insurance marketplace have been able to shake up some business, but not to the extent of softening to the point we were five years or so ago. Contractors/owners are feeling the costs firsthand with increased prices of materials and labor so the need to drive down or maintain insurance costs is evermore present.

Market Rate Changes

Primary Casualty	
General Liability	5-10%
WC	0-5%
AL	10-15%

Professional/Pollution	
Professional	1-3%
Pollution	0-2%

Umbrella/Excess	
Lead Excess/Umbrella	7-10%
Excess Layers	5-7%

Property
+5 - +10%

Builders' Risk
+5 - +10%

Source: Based on McGriff client renewal data

General Liability

Markets remain committed to writing primary casualty business in the Construction class and some, in fact, have listed construction as among one of the top industries in which they would like to grow. Capacity remains consistent and present, average rate increase has ranged from 5% to 10% as the marketplace is juggling both increasing inflation and declining investment income, which further puts pressure on the quest to maintain profitable loss ratios. Although incumbent markets fight to maintain their renewal business, minor rate increase is a must even on very clean accounts. On a broad scale, we have not seen anything drastic regarding reduction in coverage/limits, etc. However, the tougher classes of Habitational, overhead power contractors, and of course New York contractors, continue to be tough placements and further the need to find carrier partners committed to the space.

Automobile Liability

The Automobile marketplace continues to be the primary line receiving the most scrutiny due to historic unprofitability. Increased cost of claims, inflation (both social and economic), and large verdicts are among the driving factors. Average increases coming from the underwriters are between 10% and15% and may be even higher given unfavorable loss history. In the past, insureds utilizing MVR monitoring software and telematics (cameras and sensors) were seen to be on the cutting edge. Now, this is becoming a must for some, particularly with large fleets. The good news is that insureds who have implemented sophisticated telematics in their vehicles are recognizing a sharp downturn in both frequency of accidents and the corresponding severity of auto liability losses.

Workers' Compensation

Workers' Compensation (WC) continues to be the one primary line that underwriters can truly rely on historical losses and operations to confidently underwrite on a profitable basis. Although losses can be underwritten, the line is still vulnerable to the current economic factors all businesses are facing. To maintain favorable ratios, average increases are between 0% and 5%. We have been successful with insureds seeking higher retentions to offset the specific rate needed. Although the credit for increasing the retention is not as some would like it to be, there is some relief that can be achieved. Florida is a state of concern for certain major construction underwriters.

Umbrella/Excess

2019 saw difficult times for the Umbrella/Excess market coming off historically soft years. Today, we believe we are through the worst of it, but we are now encountering uncertain economic times. Although we believe that the worst of the increases has played out over the past three years, that has just brought the pricing to a "new standard."

The Lead Excess/Umbrella space is averaging between 5% and 15% of rate and could be higher given certain account loss history. Capacity remains from companies continuing to write leads, but they are also ensuring they deploy their capacity on the best accounts as the lead can be viewed as a working layer, depending on the attachment point. Beyond the lead layer, the higher excess layers begin to taper off, however, the average rate increase is between 5% and 10%.

Contractors with large auto fleets, NY exposures, Habitational Risk, and any transmission/distribution line work continue to be highly scrutinized. Regarding terms and conditions, Per-Project Aggregates and Excess of Wrap-Up/DIC are no longer a throw in coverage extension as large, multi-million dollar claims have plagued carriers both domestically and abroad during the prior two years.

For those contractors who maintain high-capacity excess towers, we continue to be very successful in maintaining expiring limits and even adding capacity due to new entrants in the market. The key objective to accomplish this is a well-crafted plan between insured and broker to seek the best strategy to encompass the domestic (direct/wholesale) markets, along with markets in London/Bermuda.

Builder's Risk/Property Insurance

With Hurricane Ian devastating key metropolitan areas of Florida and other parts of the Southeastern US, the initial loss figures for both the insurance and reinsurance markets are very substantial. This will impact not only permanent Property, but Builder's Risk as both segments have incurred heavy losses from this catastrophic event. We expect this to affect the reinsurance renewals occurring at the beginning of the year, which will filter down to rate pressure on insurance placements in both the Property/Builder's Risk markets. Capacity remains consistent on almost all industries except for Habitational as that market remains the toughest due to carriers either pulling back deployment or altogether leaving the market. Water damage continues to plague the market, so we've seen increased pressure for increases in water damage deductibles.

Professional and Pollution Liability

Both lines of business have abundant capacity in the marketplace, which continues to drive competitive pricing. Although some increases have come on loss driven accounts, we are seeing between 0% and 5% on our major renewals. Design-Build remains a delivery method receiving far more underwriting scrutiny than others, but carriers still are eager to write the large projects.

The prevailing thoughts at the onset of COVID-19 were that losses would put pressure on the Contractors Pollution Liability markets, but claims have not developed as expected. After a strong 2021 and solid year through Q3 2022, this coverage line continues to see decrease-to-flat renewals on great risks and minor increases on loss-driven accounts.

Surety

The contract Surety market remains stable and profitable largely due to the construction industry's "essential" status during the pandemic. However, underwriting scrutiny does prevail as underwriters continue to focus on backlog when considering future work due to the lack of skilled labor in the workforce. Labor was an issue prior to the pandemic and continues to be so. These labor issues, coupled with supply chain issues and material costs, have underwriters focused on project completion times along with other damages contractors could face. Contractors should focus on contract terms that allow for price escalations and adequate time to complete projects. Access to liquidity and debt structure continue to be important in underwriting, as the Surety markets want to be confident that the balance sheet can absorb any problems. This is key in light of escalating contract values and exposure due to subcontractor issues.

Commercial Surety results also remain strong. At the outset of the pandemic, it seemed certain there would be significant losses stemming from the number of financial guarantee obligations in the travel, hospitality, retail, and energy sectors. However, the Surety markets so far have seen very few losses. We can attribute that to collateral requirements, or the resiliency of these companies related to debt service relief, overhead adjustments (including workforce-related), access to capital, or a combination of all three.

Although overall writings have decreased over the last two years, there has been growth in the renewable energy space, which has helped to fill the gap left by the other sectors. Like contract Surety cash flow, underwriters are primarily focused on access to capital and debt structure. The Surety market continues to contribute profits to many large portfolio companies. This is evidenced by a handful of new entrants in the market in early 2022.

The contract surety market remains strong largely due to the "essential" status of the construction industry, coupled with PPA funds and Employee Tax Credits offered to business owners who qualified. Underwriter scrutiny does prevail as underwriters continue to focus on backlog when considering future work due to the lack of skilled labor in the workforce. Labor was an issue prior to the pandemic and continues to be so. These labor issues, coupled with supply chain issues and material cost increases, have underwriters focused on project completion times along with other damages contractors could face. Contractors should focus on contract terms that allow for price escalations and adequate time to complete projects. Access to liquidity and debt structure continue to be important in underwriting, as the Surety markets want to be confident that the balance sheet can absorb any problems. This is key in view of escalating contract values, rising interest rates, and exposure due to subcontractor issues that could stem from the same.

Recommendations for Managing Better Underwriting Outcomes

Start the Renewal Process Early

The management of your renewal requires much planning, patience, and diligence. Plan ahead and start the renewal process up to four months before policies expire. Securing terms early from the incumbent market has proven successful as well.

Give Detailed Submissions

The underwriter's job is to price uncertainty, so the more quality information they have on your exposures, the more competitive the price will be. It is important in this environment to make sure the submission stands out from the others on the underwriter's desk. Be as granular as possible with information, from claims to project management.

Analyze Various Deductible Levels

Study your past claim history and create a loss stratification (this can be tasked to the broker). They will analyze what would have been paid out of pocket, and what would have been transferred to the carrier based on varying deductible levels. This will help select the best deductible option, as well as letters of credit demands from the underwriting community. Keep in mind that trading dollars with an insurance company rarely lowers your cost of risk.

Seek Your Primary Underwriter's Help on the Excess

This will significantly help manage your excess insurance cost. An underwriter receiving more premium from multiple casualty lines can be incentivized to reduce the lead Umbrella/Excess price. In the current environment, they view this as one way to remain competitive against other insurers. This isn't always possible with all underwriters, or effective due to type of operations, underwriting appetites, and venues for payroll. However, it should be an option to explore as you work through your renewal.

Review Contractual Risk Transfer Protocols

It is in the best interest of the contractor to manage the allocation of risk through contractual risk transfer, both upstream and downstream. Develop internal audit processes to manage this risk and share them with underwriters. Contractors who manage this well typically get more competitive responses from the insurance market.

Safety Management First

The best way to reduce insurance cost is to reduce claims. The goal is to have several underwriters competing to underwrite the operations. One of the most important contributors to a contractor's safety management program is the engagement of senior management. Without that, nothing else works. Additionally, ideas to consider for fleet safety include telematics, driver selection, education, and onboarding and training.

Explore Different Risk Financing Mechanisms

Several risk financing tools may benefit a construction firm depending on a company's appetite for risk. Single-parent captives, group captives, and segregated cells are available for consideration. Each of these financing tools has advantages and disadvantages, particularly when sharing risk with other contractors.

Don't Burn Bridges With the Underwriting Community

Relationships matter in the construction industry as well as the insurance industry. While marketing the program every year may feel like the logical thing to do, it often leads to only short-term gains that come with long-term consequences. And since turnover also affects the marketing process, be sure to cultivate multiple relationships with underwriters and strive for long-term relationships.

Energy & Utilities

While some rate deceleration was projected for 2022, several well-known, high severity losses have challenged underwriting results yet again. The power and energy markets were tested with significant shock losses in 2021 and while “technical rates” achieved last year were believed to be sufficient to provide stability going forward, the losses in 2022 have complicated that belief. Further destabilizing the landscape are the effects of Hurricane Ian. While actual losses from Ian in the energy space are believed to be relatively low, the broader impact on the overall Property book and reinsurance treaties will have effects on energy insureds. Markets are anticipating challenging reinsurance renewals, which could have an effect on both pricing and capacity available in 2023. While underwriters are as conservative in Q4 as they have been all year, we do not expect any significant changes before year-end. Accounts with poor loss history and/or significant NAT CAT exposure will continue to face pricing pressure (10%+).

Upstream

As we near 2022 year end, we are reminded that another renewal season is upon us. At this stage, we hear daily about less than stellar ongoing reinsurance negotiations with resultant market posturing regret over having to deliver significant rate increases for the year to come. That said, there is obviously a vested interest in maintaining market share and therefore, we will see select markets being relatively aggressive on certain lines when quoting new business.

Therefore, what we will find is that while most markets will be pushing rate, it could be less of a rise when looking at a new account, especially if a good claim record warrants it. For this reason, we predict larger than usual incidences of insureds looking for alternative carriers (where viable) which may be the most useful way of tempering rate increases.

On accounts with a frequency and/or severity of claims, rate rises will occur but often are unpredictable in level. We are hearing from the market a rate rise between 15% to 50%, possibly higher. The strategy here will be to demonstrate internal processes have been thoroughly and thoughtfully reviewed and vetted. This would include tighter contract maintenance, augmenting internal processes, strict adherence to internal policies, engineering surveys on property risks, etc.

Overall, we also predict a push from the markets regarding terms and conditions, exclusions, increased deductibles/ Self Insured Retentions and even warranties that certain risk management processes are followed, such as securing Marcel Endorsement Provisions from contractors for work that falls under the Louisiana Anti-Indemnity Act.

Regarding capacity in 2023, McGriff believes there is sufficient capacity to maintain coverage limit levels that insureds currently have on their placements. However, we are watching this space very closely due to the recent exit of Munich Re from the Upstream Energy space due to its stance on the Oil and Gas sector and ESG (Environmental, Social and Governance). It is possible other insurers/reinsurers may follow suit (particularly from European Insurers), however, at this time while it will have some impact on the insurance placements into London (for example change of lead underwriters on placements). We do not believe it will negatively impact the Oil and Gas Energy market for 2023. Further validating this sentiment, McGriff has had several meetings with various trading partners that are keen on picking up more of the risks and higher line sizes to counteract any potential issues that could arise following the exit of Munich Re, etc.

In summary, the 2023 renewal season will not just be about rate increases but also the overall internal procedures and practices of the insureds, the ability and/or willingness to take on larger retentions where applicable, acceptance of tighten or restricted coverage and willingness to consider alternative markets. McGriff remains committed to facilitating meetings with our internal loss control and analytics teams, as well as with our trading partners, to assist our insureds with internal procedures and practices that could positively impact renewal results for our insureds in 2023.

Property

Markets have a keen interest in reported values and believe that industry trends have lagged behind actual inflationary factors caused by pandemic-related supply chain disruption, labor shortages, and raw material issues. Underwriters are encouraging insureds to use third-party appraisals to help validate (or challenge) the reported values. Given the volatile nature of our current landscape, it can be prudent for insureds to periodically

review their values (between renewals) as commodity prices and global economic factors can have a material impact on values (especially BI) that may not have been captured in forecasts used at renewal. While insurers argue that most values are understated, the counteracting force is the reality that many assets have been overvalued for some time because they were not trended downwards appropriately in previous years, or that lender involvement required an overvaluation due to the outstanding balance of a loan.

The downstream energy market has seen two notable insurers exit the space this year: Munich Re and Chaucer. Between market contraction and significant shock losses, the downstream sector is facing headwinds this year that are likely only to increase in 2023. For power insureds with thermal generation, Environmental, Social, and Governance (ESG) policies are front of mind for markets and continue to tighten restrictions. While several insurers have exited coal entirely, most are willing to write incumbent coal business as part of a portfolio, given certain thresholds are met and an acceptable decarbonization plan is in place. Very limited capacity is available for non-incumbent coal business at this point. Underwriters and engineers are most focused on new, larger units (e.g., GE HA, Mitsubishi JAC, Siemens HL), historically poor performers (LM6000 Sprint, LMS100), and technology reaching the end of its lifecycle.

Renewables

The Inflation Reduction Act of 2022 (IRA) is positioned to have a significant impact on renewable growth in 2023 and beyond. The IRA allows for longer time periods to claim renewable energy tax credits and more projects to qualify for tax credits. It also significantly increases the value of the renewable energy tax credits. Tax Insurance is a valuable tool to protect these credits and we expect significant growth in this market. It's important to note here that the McGriff Executive Risk Advisors' practice has established a new team that has specialization and experience with Tax Insurance placements.

The IRA also opens the door for non-traditional renewable developers and owners to participate in these projects. Developers with poor history or limited experience could see materially different pricing for builders' risk insurance. New owners with small portfolios could also face underwriting scrutiny based on limited spare part programs and having less pull with OEMs in the event of a loss.

Battery Energy Storage Systems (BESS) are the linchpin for an even bigger green energy revolution. The various energy storage technologies are steadily evolving, and the size of projects are growing, however, insurers are taking a conservative approach and are not adapting the underwriting appetite nearly as quickly. Many insurers are managing their risk through capping limits and line sizes. Adequate deductibles are necessary, but the larger emphasis on limits points to the real concern being catastrophic thermal runaway events. We believe there is

an overarching misalignment of BESS safety standards/guidelines and public perception. Many of the white papers that exist today are based on older technology in stress-tested settings that are outside of the industry-accepted norms. We are continuing to spearhead this educational exercise by hosting technical thought leadership discussions that include McGriff Loss Control Engineers and third-party experts. The end goal from a marketing perspective is geared towards sharpening the rates that underwriters are offering for BESS, particularly in the context of construction, where thermal runaway risk is limited to testing and commissioning.

Now more than ever, it is critical for insureds to be mindful of the insurance requirements being included within the “standard” LLCA/ECCA language. Several new provisions have crept their way into the financier and financier consultant templates that are in direct contrast to how the renewable insurance marketplace is operating, particularly in the context of NAT CAT limits and deductibles:

- As the size of renewable projects continues to grow, scheduling coverage based on Full Replacement Cost becomes increasingly challenging (or cost-prohibitive)
- Both IPP and utility clients are gravitating towards increasingly larger portfolios of renewable assets, and thus the contract language must allow for flexibility in the aggregation of NAT CATS across multiple assets (and particularly those that are under different financings)
- 12 months for DSU/BI indemnity periods may no longer be sufficient in a world of constrained supply chains, particularly for equipment with historically long lead times (transformers)

We encourage renewable insureds to take full advantage of engineering allowance when allowed by their policies. Coupling deterministic studies alongside the standard suite of probabilistic modeling paints a comprehensive picture of an asset’s NAT CAT risk profile, which likely has the most profound impact on pricing. Finally, there is a significant difference between “technical” and “available” capacity from markets. In an ESG-focused world, most insurers are releasing publications indicating that they can participate in a big way on clients’ renewable portfolios. However, NAT CAT (often including Soft CAT) aggregation continues to dictate line sizes in most cases, with the capacity deployed on a single risk often paling in comparison to the total available capacity.

Liability

The Excess Casualty market has been severely impacted by the frequency and severity of catastrophic losses over the last decade. This continues to be the headwind for the market as they reshape their book to achieve profitability. According to Chubb’s *Liability Limit Benchmark & Large Loss Profile by Industry Sector 2022*, loss costs have increased by 50% over the past decade.

Energy continues to be one of the most challenging sectors of the Casualty market and, in response, carriers continue to limit capacity and push for increased attachments and higher premium. The market has seen catastrophic losses across several sectors and energy is no different, with events such as the Southern California oil spill (2021), the Texas port pipeline explosion (2020), and numerous Western wildfires.

Markets are still pushing for rate increase in 2022, but the past demands of high double-digit — and even triple-digit — increases should be few and far between. Rate requirements vary by insurer and are intentionally vague as the market remains opportunistic and does not want to be “boxed-in” should renewal dynamics shift. On a positive note, following the sharp decline in capacity in recent years, the Excess Liability market has started to stabilize. Markets are more comfortable with their reduced capacity offerings, and further restrictions seem to be slowing.

In addition, there are several new entrants in the energy Casualty space, meaning we are now able to better mitigate lost capacity, if any. However, it must be noted that these new entrants are not looking to undercut their peers and their terms will be in line with other market offerings.

AEGIS began writing on their new policy form in 2022, which includes new Cyber Liability Exclusion, new Protected Information Exclusion, and new Subsidiary Definition, among other changes. Please contact your McGriff representative if you would like an analysis and commentary on the changes. To keep up with increasing loss trends, AEGIS has been raising rates in 2022 by about 10% to 15% (plus a wildfire load if applicable). AEGIS continues to provide meaningful wildfire capacity, but they will require adequate pricing to keep this in place.

Markets continue to be focused on coverage review and coverage restrictions, along with an ever-hardening ESG stance, which continues to gain momentum. Key topics for review include:

- Coal capacity/revenues
- Cyber
- Wildfire exposure and vegetation management
- Failure to supply
- Climate change
- PFAS ("forever chemicals")

EIM continues to offer meaningful, stable capacity with limits of up to $125 million available. Due to continued loss severity, their push for rate has not changed. While there is no stated target, based on our experience, we are advising clients to prepare for 15%+. insureds with exposures in wildfire-prone states will have a load applied to the premium.

Cedar Hamilton (NEIL) continues to support members as a capacity provider. Wildfire is being reviewed on all accounts and Cedar Hamilton typically will not provide more than $25 million for any new excess liability accounts. The average deployed capacity is somewhere in the mid-$30 million range, though $50 million is technically available.

London and Bermuda have continued to stabilize in 2022 as new capacity that emerged in 2021 has found its footing. London and Bermuda capacity excess of $150 million are still looking for some rate increases (high single digits to low double digits) but the health of the market seems to be improving. New entrants include Arcadian, Ark, Helix, Vantage, and MAP. Insureds with wildfire and pipeline exposure will get the most underwriting scrutiny as the two areas have consistently yielded massive losses for half a decade.

The newest area for concern is with PFAS. Insureds can expect questions on these as the market works to gain information to develop their underwriting positions. Like the renewables Property market, there is a massive delta (~50%) between "technical" capacity and "available" capacity in London and Bermuda for energy clients. Minimum pricing, preferred attachments, and challenging exposures can rapidly reduce a market's offering down from their advertised "technical capacity."

The General Liability market for power and energy has experienced tightening, although not as severe as the Umbrella/Excess market. With limits capped, the frequency of claims is the greater issue for the GL markets. Average rate increases for GL are in the mid-single digits with Auto Liability slightly higher. Workers Compensation has been the most profitable primary line for insurers and can be utilized to offset GL/AL increases when packaged together.

Environmental

For 2022, we estimate the US environmental insurance marketplace will account for some $2 billion in annual premiums and continue to grow at near double-digit rates. Overall, capacity continues to be strong with single monoline pollution policy towers exceeding $400 million.

Pollution insurance policies evolved to fill the coverage gaps arising from the Commercial General Liability (CGL) pollution exclusions of the 1970s. Two primary policy types are most frequently purchased: Environmental Site Liability (ESL), also known as Pollution Legal Liability, and Contractor's Pollution Liability (CPL), often combined with Professional Liability.

Other important coverages include Underground Storage Tank, Lender Liability, Closure Liability, and combinations thereof. Environmental casualty products are also popular and used to fill gaps in traditional property and casualty coverage. These often heavily manuscripted policies provide very comprehensive, legally vetted, and proven environmental coverage, which has been invaluable to insureds for more than 40 years.

Even still, carriers continue to look for ways to modify or create new products to address changing needs stemming from regulatory requirements and public demand. Environmental, Social, and Governance (ESG), climate change, increasing regulatory enforcement, clean water and air, extreme weather events, biodiversity threats, and natural disasters remain major drivers of environmental insurance.

Current Market Climate

The environmental insurance marketplace is mature. The wide variety of pollution insurance products are offered today by many insurance carriers, each with different risk appetites, products, capacity, qualifications, and financial strengths. In this very competitive marketplace, customized products are not uncommon.

Key observations of the current marketplace:

- Regulatory enforcement is growing under the Biden administration, resulting in an increase in violations, fines, penalties, claims, and legal actions.
- Social media and environmental activism are increasing awareness of pollution risks and leading to additional lawsuits.
- Carriers are very selective regarding the risk they will insure. For example, meaningful coverage for historic and operational coal mining or energy production is available from only a few carriers. The same is true for upstream and mid-stream oil and gas pipeline operations.
- More and more carriers are protecting themselves from complex risks by layering—offering lower primary policy limits requiring multiple excess layers through other markets to achieve higher overall limits.
- We've seen some hardening of the market depending upon product type, generally in the 5% range. However, the hardening is also reflected by shortening policy terms and broadening exclusions or restrictions, rather than increasing premium.

COVID-19 Impact

No data was available for COVID-19 pollution-related claims. Some carriers, while broadly excluding communicable diseases, may provide coverage for decontamination costs.

ESL and CPL—The Two Primary Environmental Policy Types

ESLs are claims-made policies that generally cover the environmental liabilities of an insured's active business operations and those stemming from historic operations. An ESL policy (proprietary versions are offered by more than 20 carriers) covers most types of regulated pollution releases or incidents. The ESL is location-specific and intended to cover liability for pollution at, on, under, and migrating from an insured's real property. Coverage is often extended to a portfolio of sites, both domestic and international. Highlights of the ESL product include:

- The best ESL policies are usually heavily manuscripted by endorsement to obtain broader coverages and fewer exclusions.

- While generally similar in intent, differences in policy wording, terms, conditions, and definitions vary from carrier to carrier.
- An ESL policy can cover liability to first and third parties for bodily injury and property damage, remediation (cleanup) costs, and associated legal defense expenses. In the current political climate, the very important Natural Resources Damages coverage is available through an ESL policy. Available for both on-site and off-site exposures, these coverages can be offered for new (occurring after policy inception) and historic (occurring before policy inception) pollution conditions.
- Several enhancing coverages are typical, including Non-criminal Fines and Penalties; Contingent Business Interruption; Illicit Abandonment; Property Diminution in Value; Underground Storage Tanks/Aboveground Storage Tanks; Mold and Fungi; Asbestos Containing Materials and Lead-Based Paint; First- and Third-party Transportation; and liability for wastes delivered to properly permitted, non-owned treatment, storage, and disposal facilities.
- A standalone ESL policy covering risk associated with pre-existing conditions may be available for up to 10 years. Active operations coverage is usually limited to three to five years. Limits can be up to $50 million (higher limits are available by purchasing excess policies). Deductibles or self-insured retentions can be negotiated, and limits (and terms and conditions) are not shared with other coverage lines, unless desired.
- ESL policies can also provide substantial excess coverage above pollution indemnifications. These modified ESLs are becoming very attractive to sellers in major liability transfer deals.
- Significant information regarding historic environmental and subsurface conditions at the location(s) to be covered is usually necessary for the intense underwriting required for a comprehensive policy.
- These policies cover both gradual and sudden, accidental releases. Some CGL, Energy, Property, Auto, and other product lines will offer sudden and accidental coverage for pollution, but these are often sub-limited with coverage restrictions. Sudden and accidental coverage can augment the ESL but is not an adequate substitute since many pollution incidents are complex in nature and gradual in occurrence.

CPL is a very popular insurance product often required by contract. It is designed to protect against third-party claims for damages caused by “pollution conditions” arising from an insured’s covered contracting operations, by or on behalf of the insured. The CPL marketplace has been growing rapidly to keep pace with construction sector growth. We expect continued growth as the Infrastructure Investment and Jobs Act kicks into high gear. While there are fundamental differences between the CPL and ESL products, coverage and definitions are often similar.

- These policies are available as claims-made (less expensive) or occurrence-based forms. Occurrence-based is recommended since completed operations coverage is generally unnecessary (a claim can be made for an incident that occurred during the policy period after the policy expires), assuming the CPL policy term is long enough to capture possible latent defect exposures.
- The coverage can be provided on a project-specific or blanket basis for the insured’s overall operations.
- CPL coverage is a vital component of the insurance program for any contractor involved in construction or excavation activities.
- CPL premiums are based on such factors as project cost or revenue from services, project type, duration, and quality and experience of the of the general contractor.

- Coverage limits are generally in the $5 to $10 million range, although limits of $100 million and higher are not unusual for larger projects and may require excess layers offered by other carriers.
- Limited coverage can be extended to the insured's owned and leased properties for their covered operations.
- Since consulting, contracting, design, and field work performed by architects, design firms, engineers, environmental consultants, and contractors can result in significant claims, CPLs are often paired with Professional Liability coverage.
- CPL coverage can respond to pollution conditions created by both current and completed operations. Long-term completed operations coverage (tail) can be added to the claims-made policy.
- A CPL can be structured within or outside of an owner-controlled insurance program or contractor-controlled insurance program. These programs provide coverage for subcontractors working under written contract on the insured's project(s).
- As with the ESL, while generally similar in intent, differences in policy wording, terms, conditions, and definitions vary from carrier to carrier.

Market Trends

We are currently seeing several marketplace trends or concerns, including:

- Interest is growing in ESG-related programs and "score-cards," and how pollution policies can interface. At this time, it is unclear if a robust ESG program can directly result in lower pollution insurance premiums; however, it can affect a carrier's decision to write the coverage. Also, having pollution insurance in place can raise a company's overall score and improve its position with clients and the public.
- Legionella and mold claims continue to rise significantly and are the highest frequency of reported claims. Mold claims have had major negative impacts on several markets. Claims most frequently arise from the hospitality, housing, and construction sectors.
- Utilities are divesting or repurposing their coal fired plant operations. Coal Combustion Residuals (CCRs), old coal mines, and associated operations are restricted or excluded. Also, during a liability transfer, some coal fired plants are kept operational until new energy sources become available as there is not enough electric grid capacity in that area. Flexibility in designing coverage and understanding the exclusions are key to an effective risk transfer program for these complicated risks.
- Major claims continue to arise from per- and polyfluoroalkyl and perfluorooctane sulfonates (PFOS), used as stain and fire repellants. According to the US Environmental Protection Agency, they can harm both humans and the environment.
- Bisphenol A, phthalates, and Glyphosate (Roundup) continue to be concerning, with several large class lawsuits pending or active.
- Claims are arising from 1,4-dioxane (a stabilizer in some chlorinated solvents) and ethylene oxide (a flammable gas used for sterilization, often in hospitals) primarily from air quality impacts.
- Microplastics and pharmaceuticals are garnering significant attention because of environmental impacts to marine and freshwater ecosystems and drinking water. It still is unclear how the carriers will address these materials.
- Litigation is resulting from misrepresentation of policies with language more often related to exclusions than coverage.

Public Entity

Public entities continue to see overall rate increases through most lines of coverage. D&O and Cyber continue to be challenging placements, although we are seeing the market adjust and flatten to some extent. Carriers continue to limit capacity while tightening underwriting guidelines with respect to policy terms and conditions.

The Risk Management Struggle

Emerging risk management issues within the public entity space include:

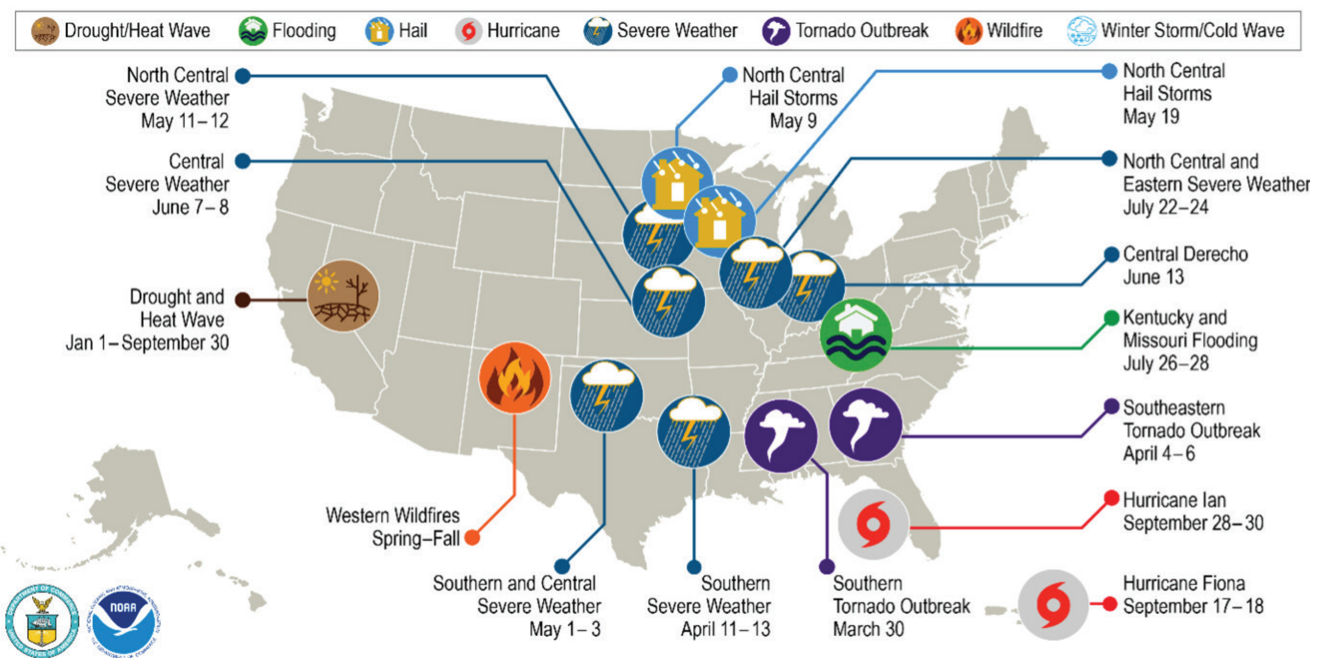
- Inflation (in excess of 8%), causing stock market volatility and fluctuations in interest rates
- Re-insurance rate increases
- Labor shortages
- Cyber risk
- Fleet management (increase in fuel, maintenance, and equipment costs)
- Supply chain issues and construction costs
- Russia/Ukraine conflict

Public entities continue to focus on resiliency planning and Environmental, Social, and Governance (ESG) concerns. In addition, McGriff is seeing more public entities agreeing to higher retentions/deductibles, self-insuring, and/or reducing limits to meet budget constraints. Generally, rates continue to rise, however, they are doing so at a decreasing rate, except for Cyber coverage.

Market Rate Changes

Property rates, particularly in areas prone to wind and hail, have continued to rise. With the cost of reinsurance increasing, carriers are reviewing their portfolio to make sure their geographical footprint is not concentrated, which can lead to reduced capacities. In addition, inflation has caused a significant increase in labor and material costs. Supply chain issues are also affecting the market due to the difficulty of obtaining raw materials, which increases the time to construct and has a direct impact on business interruption coverage.

U.S. 2022 Billion-Dollar Weather and Climate Disasters

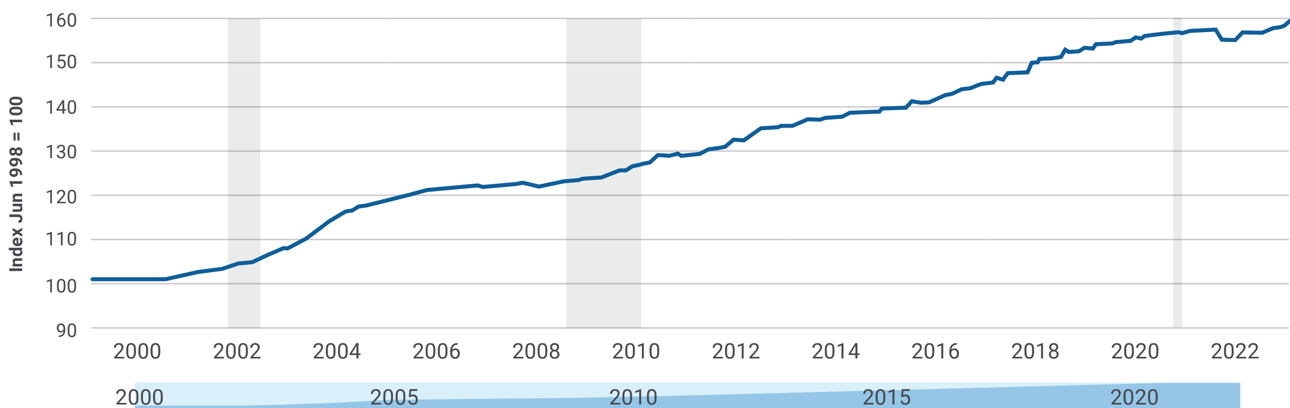


*This map denotes the approximate location for each of the **15 separate billion-dollar weather and climate disasters that impacted the United States January – September of 2022.***

Source: https://www.ncei.noaa.gov/access/billions

Policy language dealing with war exclusions, extreme temperature changes, and communicable disease continues to evolve. In addition, insurers want to make sure that, as much as possible, climate change is a factor in CAT modeling. Hurricane Ian losses are predicted to reach up to $75 billion and will change the Florida insurance market as well as create challenges for property placements.

Casualty rates continue to rise, as coverages are affected by events such as inflation, social movements, civil unrest, and high-profile court cases with nuclear verdicts.



Shaded areas indicate U.S. recessions.
Source: U.S. Bureau of Labor Statistics I https://fred.stlouisfed.org/series/PCU924126924126

Workers' Compensation

WC rates are on the rise due to continued presumption laws for first responders, front line workers, and school teachers, as well as the effects of inflation. Increased wages and increased medial costs are also driving factors of this rate increase.

Cyber

Cyber insurance prices are still on the rise for this sector due to the increased frequency and severity of ransomware attacks and data breaches. While $1 million in cyber coverage was considered to be generally sufficient for small government entities, most are now requesting at least $3 million in coverage as a starting point. Insurers continue to require better cyber security controls although many public entities struggle to budget for costly security upgrades to their current information technology.

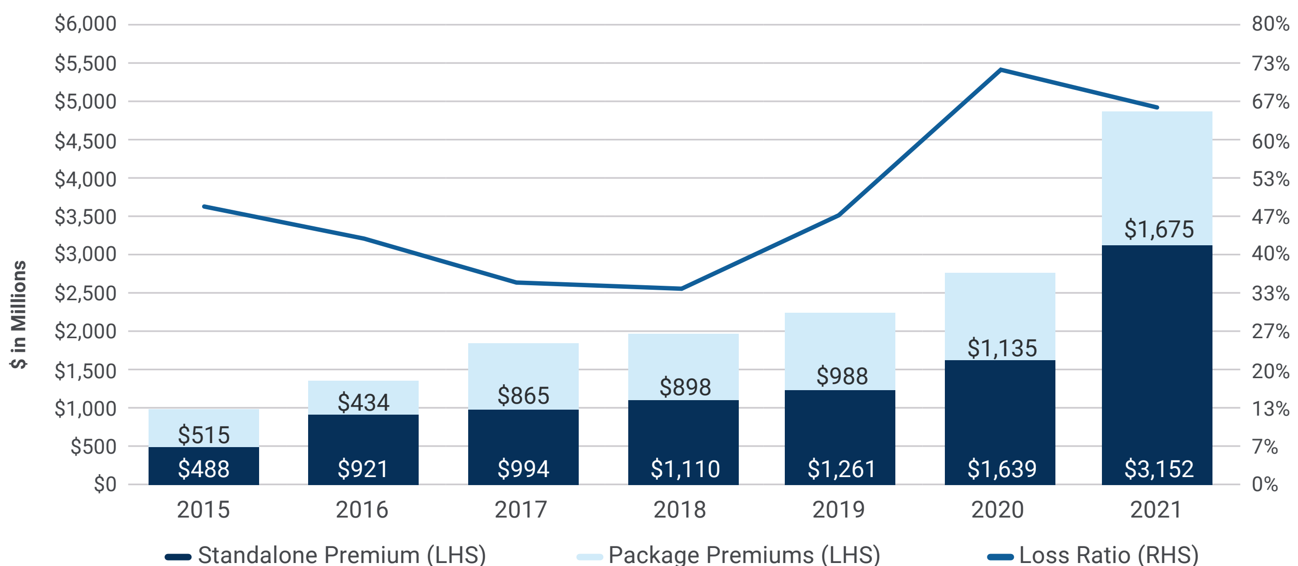
According to Scott Ferber, Partner at McDermott, Will & Emery LLP, Florida recently joined North Carolina as the second state to prohibit state and local government agencies from complying with or paying ransomware demands. Florida's law also imposes hair-trigger notification requirements on those agencies. While at first glance, the impact of the Florida and North Carolina laws appears limited to ransomware attacks on state and local government entities, these new laws create several new questions with potentially broader application, including for businesses who access and maintain data and systems belonging to the government agencies.

Florida and North Carolina may not be the end of the line in this area of law. Ransomware-related bills are also pending in Arizona, New York, Pennsylvania, and Texas, and federal bills have been introduced in Congress.

The new state legislation makes the ransomware threat significantly more complicated. Whether or not to pay a ransom is an extremely difficult decision for a business. Despite what many may believe, paying the ransom is not the most expensive part of a cyber incident and certainly is not the end of the ordeal for the organizations that have been attacked. As McGriff has stated in prior advisories, many of the expenses for recovery and remediation following a cyber incident could be covered under a cyber insurance policy. Please make sure to consult with your McGriff representative.

US Cyber Insurance Aggregate Direct Premium and Loss Ratios

Premium Increases Driven by Rising Claims Have Boosted Statutory Loss Ratios Above Historical Averages



Source: FITCH WIRE, US Cyber Insurance Sees Rapid Premium Growth, Declining Loss Ratios, April 2022

MFA is now a must for entities seeking Cyber coverage. Insurers also want proof that entities are conducting cyber training for their employees and have an incident response plan in place. Insurers are limiting capacity and reducing limits. Public entities continue to be a major target for cyber criminals.

Public Officials and Employment Practices coverages are also seeing rate increases and a tightening of policy terms and conditions. Underwriters are more likely to keep rate increases manageable for entities that are engaged and proactive with their risk management programs, which includes:

- Collecting and providing detailed COPE data
- Maintaining loss control programs
- MFA processes for computer logins
- Disaster response plans
- Business continuity plans
- Social media response plans

Lower limits and higher deductibles/retentions are becoming increasingly common as public entities struggle to keep premium increases within their budgets. We are also seeing more interest in creative and strategic risk financing methods, such as parametric and aggregate stop-loss programs.

Real Estate & Hospitality

The real estate industry has seen steady casualty rate increases through the first half of 2022, but we now expect certain higher-risk classes taking much larger increases in the remainder of the year, while other, more attractive risks will see a stabilizing marketplace. In general, we expect the Casualty market will remain firm for certain classes of real estate and hospitality. Capacity will continue to tighten, especially for Umbrella/Excess liability. Losses continue to plague the industry, especially in the habitational and hospitality sectors. Lawsuits, nuclear verdicts, and large settlements all show no signs of slowing, pressuring underwriters as they seek to increase profitability. We also expect to see a sharp increase in the Property marketplace for those risks with heavy CAT footprints or notable “non-CAT” CAT losses during the last few years. Insureds should expect reduced competition for these accounts, which will lead to higher rates and potentially higher retained deductibles. Recent large CAT losses (Hurricane Ian) have only intensified what was already a tightening marketplace.

Property

While the CAT marketplace had begun to show signs of hardening during the first half of 2022, we now predict a significant reduction in capacity and overall tightening of terms for the remainder of the year. Carriers were already looking to reduce their capacity deployed to our more heavily CAT-exposed clients, which was driving price increases to historic levels. This is now going to move into an even more dire environment due largely in part to the $60+ billion projected loss from Hurricane Ian in September. We are now anticipating a true hard market for upcoming 2023 renewals as the Property CAT reinsurance sector continues to intensify. This hardening will be compounded by the trapped collateral because of the Ian losses, which will reduce the ability for some reinsurers to continue to support their level of CAT appetites.

For those accounts with limited CAT exposure, we still project the fallout from the overall tightening reinsurance marketplace as the "non-CAT" CAT losses continue to dilute carrier earnings this year. Most carriers will continue to push for higher All Other Perils (AOP) deductibles, specific water-damage deductibles, as well as convective storm deductibles. Overall rate changes are projected as follows for the remainder of the year:

Category	Q3 2022 Forecast
Non-CAT	+5% to +15%
PML Heavy/Tier 1&2/CAT/Poor Losses	+25% or higher

While COVID-19-related claims have now begun to diminish, the new hot topic in the Property marketplace is surrounding valuations. We expect carriers to continue to push for higher valuations as building and replacement costs continue to escalate due to historic inflation these last two years. It is worth noting that increased valuation levels will compound the Property renewal pricing as many carriers are looking at the above-mentioned rate increases on top of the higher premium generated on the adjusted valuation results.

Real estate and hospitality owners, investors, developers, and operators should be evaluating their insurance programs each year, searching for incremental advantages that help to set apart your risk in the insurance market and drive better value from your insurance program. In this challenging market, it is necessary to consider your options, from program deconstruction to creation of a master program based on geography, loss experience, and exposure to catastrophe. This deconstruction or separation should be actively monitored to determine if a master program should be put back into place.

Casualty

It is no surprise that we continue to report that habitational and hospitality risks are still seeing the highest overall increases in the real estate sector. We continue to see Umbrella/Excess carriers reduce their participation on the lead layer, but the good news is that most of those corrections appear to be in place now that we are two years into that tightening market. The pressure for the remainder of this term is to find ample capacity to fill out large excess towers. This is due to the breakdown of many previous Umbrella/Excess programs, as well as the individual carrier's significant reduction in deployed limits per account.

Category	Q1 2022 Forecast (Good to average loss history)
General Liability	+0% to +10%
Automobile	+5% to +15%
Workers' Compensation	-5% to 5%
Umbrella/Excess	+10% to +25%

Casualty Coverage Challenges

COVID-19: In response to COVID-19, communicable disease exclusions are being placed on most Casualty programs. COVID-19-related losses continue to wane, and the long-term financial impact related to these claims remains unknown for insurers. Some specialty "pandemic products" designed to provide coverage for losses related to any future pandemic (unrelated to COVID-19) have entered the marketplace. Overall, there has been little in the way of changes to this during the first half of the year.

Assault and Battery (A&B): A&B coverage has been one of the largest challenges facing the real estate and hospitality sector over the past two years, due to concerns related to social unrest and increased claims. This is especially true for habitational and hotel risks, where insureds are facing lawsuits involving an incident on their premises. A&B exclusions are becoming the norm for many carriers providing coverage for these risks, given the high cost (including "defense-only" coverage). In addition, we now are starting to see certain carriers looking to place a Sex Trafficking Exclusion on their General Liability programs. This is particularly common in the residential and extended-stay hotel sector of late.

Casualty Lines: General Liability (GL), Automobile, and Umbrella coverage lines continue to see rate increases, whereas Workers' Compensation (WC) insurance rates are starting to flatten and sometimes even come in slightly under expiring this year.

Workers' Compensation (WC): Overall, underwriters continue to remain aggressive on WC pricing for insureds with good to average loss experience. For carriers that write primary Casualty lines (GL, Auto, WC), many underwriters are writing WC coverage before they agree to offer a "competitive" quote for GL and Commercial Auto lines of coverage. The overall Casualty outlook for the real estate and hospitality sector as we continue in the second half of 2022 is cautiously optimistic on WC, but still skeptical on GL, Auto, and Umbrella.

Businesses in this sector must evaluate their risk management and insurance programs and engage with their loss control and claims experts (broker and carrier) to develop a safety strategy. And always communicate early and often throughout the renewal cycle to achieve the most favorable results.

Reinsurance

Inflation, CAT Risk and Geopolitical conflict driving reinsurance rates +15%

Capacity

Increased reinsurance needs causing decreased capacity

Inflation

Inflation continuing to impact rising construction costs and supply chain disruption

CAT Wind

Insurance companies are de-risking their portfolio by limiting their exposure to high-risk perils in locations such as FL and coastal Louisiana

Wildfire

Carriers are carefully monitoring aggregation due to limited and expensive capacity after 5 consecutive years of large losses

Valuations

- Increased scrutiny from carriers on adequate building valuations due to inflation, supply chain issues and rising costs
- Undervalued accounts are now more likely to receive scheduled limits with a margin clause, coinsurance and/or actual cash value (ACV) rather than blanket limits

Dealer Services

As it pertains to liability and the inventory insurance coverage, the Auto Dealer Insurance marketplace is no longer in a hard market. The auto dealers with excellent loss history should be seeing more insurance markets willing to quote their business at renewals and in return should be seeing rate reductions.

The same can't be said for dealers with poor loss history. These dealers will typically have very limited renewal options and can expect at least a 10% rate increase. For auto dealers that are in the middle, they should see or start seeing their renewal insurance rates be anywhere between flat to a 10% increase, which can also be referred to as a social inflation cost.

The difference between how much of a potential rate increase a dealer could receive will always come down to how a dealer handles the marketing of their insurance renewal and how their message is being told in the marketplace. Knowing how and when to shop your insurance is very important. Equally as important is making sure you identify and explain to the marketplace what internal loss control measures you have implemented to minimize those types of losses from happening again. It's important to note that a major factor will be how this year's hurricane season ends and whether or not there are any catastrophic losses as it pertains to the inventory and Property insurance marketplace.

The Cyber market remains relatively unchanged since this past Spring. However, from a dealership standpoint, there are some new procedures and specific actions that are being mandated by the FTC, such as:

- Each dealership must now designate (or hire/retain) a qualified individual to oversee and enforce their cybersecurity program. It may be a Chief Information Officer (CIO), a Chief Information Security Officer (CISO), or another qualified person.
- Periodic, written risk assessments must be conducted to determine specific security risks facing the dealership, how those risks can be mitigated, and whether existing controls are adequate to mitigate those risks.
- Basic cybersecurity defenses must be implemented, tested, and periodically reviewed, including access controls, data inventory and classification, data encryption, secure development practices, MFA, information disposal procedures, change management policies, controls to monitor and log activity, and a written incident response plan with specific provisions.
- Mechanisms must be in place related to training, testing, and oversight.
- If the dealership has a governing body or Board of Directors, they must receive periodic reports on risks and mitigation plans.

The Standards for Safeguarding Customer Information – more commonly known as the "Safeguards Rule" – is a federal rule outlining standards for securing customer data. Until this time, it has required dealerships to have and maintain a written information security program that the dealership deems appropriate for their digital environment. The FTC is strengthening the requirements of this rule, which dates to the Gramm-Leach-Bliley Act (GLBA) of 1999, to help dealerships deal with the recent increase in cybercrime directed at the industry.

The goal of the new safeguards rule is to better protect the American public from breaches and cyberattacks that lead to identity theft and other financial losses.[1]

Legal Judgments and Inflation

Just a few months ago, a very well-known multi-state auto dealer settled a $10 million lawsuit for Unfair/Deceptive Trade Practices, and they are not the only dealer having to pay multi-million-dollar judgments. Unfair/Deceptive Trade Practices are when a dealership charges a customer more based on a customer's age, race, or sex and can include unwanted add-ons[2 3 4]. It's important that the dealership's management team and employees are aware of this issue and are properly trained to ensure this is not happening at their location. At McGriff, we are working with a variety of insurance companies to develop and roll out training material on this matter.

Inflation is another current issue. Ford Motor Company said supplier costs in the current quarter could be $1 billion higher than expected due to inflationary pressures[5]. Inflation is impacting this segment in a variety of ways and one of which is due to the Russia/Ukraine conflict because both countries are suppliers of materials needed for production. This is causing the price of raw materials to increase significantly, especially to produce EVs[6].

COVID-19

Auto manufacturers are being seriously impacted with supply-chain issues, including a shortage in parts to be able to finalize production. In July, General Motors announced they had 95,000 autos in inventory, but they could not finalize production due to a lack of components[7]. In September 2022, Toyota announced they plan to suspend production for up to 12 days at seven of its domestic factories and Honda stated they would reduce car production by 40% at two of its Japanese plants in October[8] . In the same news article, Ford also announced that they believe the issue is far from being resolved.

Government Regulations and Tax Credits

President Biden recently signed into law the Inflation Reduction Act, which included a $7,500 tax credit for consumers who buy a new EV and $4,000 for those who purchase a used one. However, John Bozezella, president and CEO of Alliance for Automotive Innovation, believes that this new tax credit was really designed to reduce the industry's reliance on China for their raw materials and battery components by having the manufacturers create a new supply chain[9].

Looking Ahead

The auto dealer marketplace is continuing to evolve for the overall good of the industry. At the end of the day, auto dealers want to do right by their customers, and they will continue to overcome obstacles to make sure this happens. And it's important to remember that even though there are current geopolitical and economic challenges, having a trusted partner and advisor that understands the marketplace and your business should still be a top priority.

[1] How will updates to the Federal Trade Commission's (FTC) Safeguards Rule impact auto dealerships? - Cyber Defense Labs
[2] Napleton Auto Group - Unfair Trade Practices $10M Lawsuit
[3] Vroom - Deceptive Trade Practices Lawsuit
[4] Sage Auto Group - Deceptive Sales $3.6M Lawsuit
[5] Ford Warns of Inflation, Supply Cost Impact on Latest Quarter (stltoday.com)
[6] Ford Has Some Bad News for Car Buyers and the Economy - TheStreet
[7] Ford Has Some Bad News for Car Buyers and the Economy - TheStreet
[8] Toyota scales back October production output due to chip shortage (cbtnews.com)
[9] How the Inflation Reduction Act's new EV tax credit affects consumers and automakers - WDET 101.9 FM

Transportation

The Transportation and Logistics industry has seen a flattening to slightly improving rate environment in the first three quarters of 2022. This positive trend has been largely due to competition driven by increased capacity and an improving combined loss ratio environment for Commercial Auto. McGriff believes this positive trend will continue in the short term; however, there are several issues that should be monitored closely.

- Economic inflation will undoubtedly have an impact on the costs of claims.
- Social inflation will continue to be an issue that plays a part in claims and may be further fueled by economic inflation.
- Lastly, the court systems, which have been slowed by COVID-19-related issues, are beginning to open back up. Insurance carriers have endeavored to reserve claims at appropriate levels, however, if claims begin to come in at higher costs, then we could see the industry experience unexpected adverse development, which could hamper the improving rate environment.

Pure Loss Ratio

A Commercial Auto insurer's pure loss ratio is simply the ratio of loss costs to net written premium. The pure loss ratio for Commercial Auto saw improvement in 2021, decreasing from 73.6% in 2020 to 72.5%. Pure loss ratios were even higher from 2015 to 2019 with the 2021 number representing a more than 7% improvement over the past six years. Pure loss ratio improvement has been driven largely by rate increases, with the Commercial Auto market seeing consistent premium rate increases over this time period.

Expense Ratio

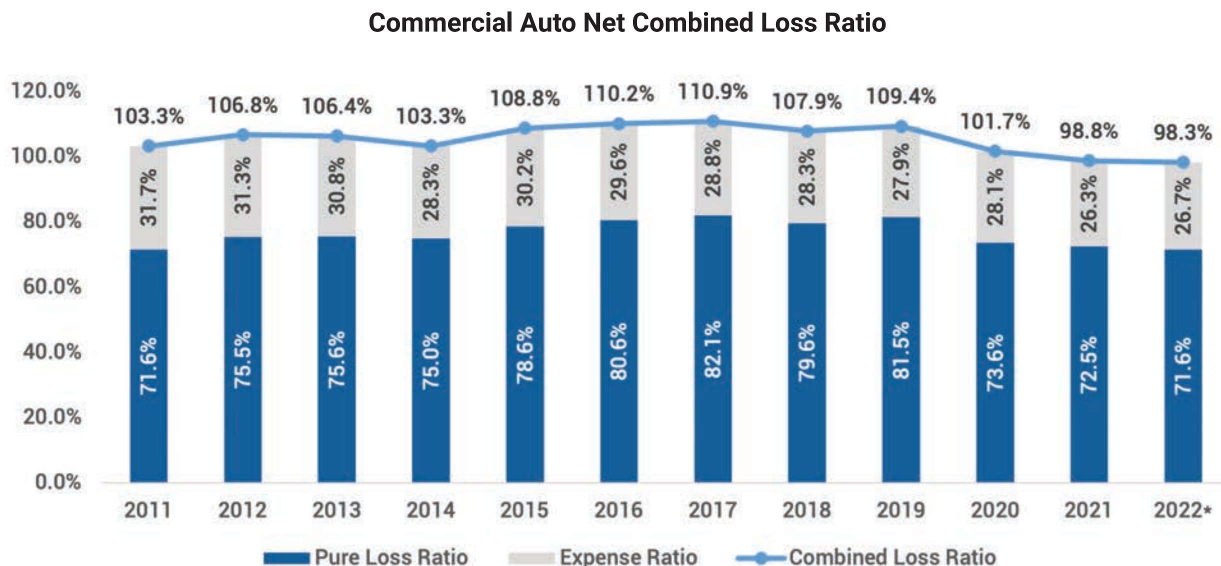
A Commercial Auto insurer's expense ratio is the ratio of expense costs to new written premium. Insurers have also seen improvement in expense ratios with the industry seeing an overall ratio of 26.3% in 2021 compared to 28.1% in 2020. The improvement in expense ratio is also due to premium rate increase and exposure growth, which have both led to increased premium volume.

Net Combined Loss Ratio

A Commercial Auto insurer's net combined loss ratio is the sum of both the pure loss ratio and the expense ratio. The combined loss ratio represents the complete picture for Commercial Auto insurers, demonstrating their ratio of loss and expense costs to premium dollars taken in.

The net combined loss ratio for Commercial Auto has been in excess of 100% since 2010, meaning that since 2010 Commercial Auto insurers have paid out more in loss and expense costs than premium dollars that have been taken in. However, in 2021 the Commercial Auto industry saw the net combined loss ratio drop to 98.5%, indicating that this segment of the insurance industry made an underwriting profit for the first time in more than 10 years. Commercial Auto is expected to remain at a less than 100% net combined loss ratio for 2022.

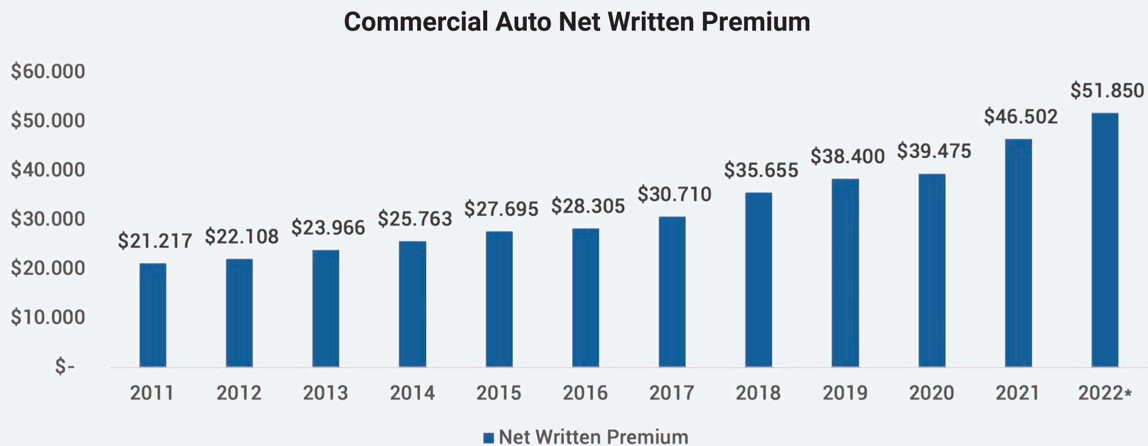
Commercial Auto Net Combined Loss Ratio



Source: Data from Conning Insurance Segment Series, Commercial Automobile, 2022 Summer Edition. Graph created by McGriff

Net Written Premium—Changes and the Players

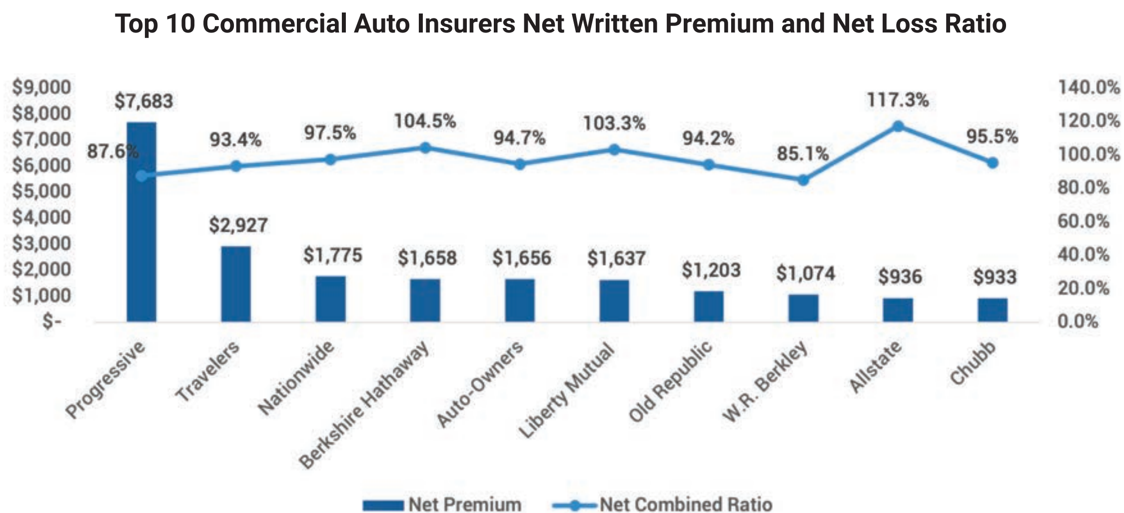
Net Written Premium (NWP) for the Commercial Auto market has consistently grown over the past 10 years. This consistent growth is due to the compounding effect of rate increases and increased exposure bases in mileage and vehicle count. Below is a summary of the evolution of Net Written Premium in the Commercial Auto market.



Source: Data from Conning Insurance Segment Series, Commercial Automobile, 2022 Summer Edition. Graph created by McGriff

Growth in Net Written Premium, along with an improving combined loss ratio environment, have attracted several new players to the primary auto marketplace. Much of this new capacity is backed by new capital to the market looking to acquire market share based upon historical rate increases taken by the market and the recent improvement in claims activity.

With that said, the top 10 Commercial Auto insurers insure roughly 46% of the Net Written Premium in the Commercial Auto market. These insurers, on a collective basis, have outperformed the overall Commercial Auto market, generating a net combined net loss ratio of 94.1% collectively.

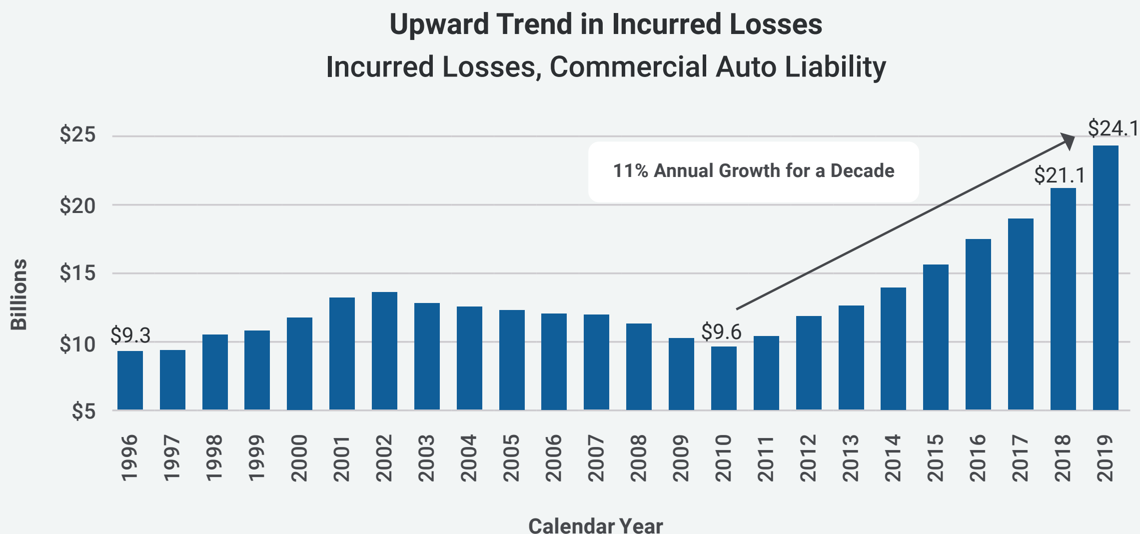


Source: Data from Conning Insurance Segment Series, Commercial Automobile, 2022 Summer Edition. Graph created by McGriff

Looking Ahead

Continued loss trends and pressure on premium by reduced exposure bases will put pressure on rates. Some of this may be offset with increased investment income because of higher interest rates.

As noted in the chart below, incurred auto liability losses have grown at an 11% compound rate since 2010. We do not see this slowing down in 2022.



Source: Insurance Information Institute

Across our book of business, we are seeing a change in the exposure base, which is driven by several factors:

- The continued driver shortage. Trucking companies—particularly truckload carriers—have had to make the decision to turn away freight because they cannot find qualified drivers.
- The supply chain continues to be backlogged but is returning to pre-COVID-19 norms as people redirect their disposable income to vacations, etc., and less on consumer goods delivered to their house.
- Fuel costs, regulation, driver shortages, and softening “spot market” rates are forcing small trucking companies and independent contractors out of the business.

The current interest rate environment will positively impact insurer results if they are maintained over several years, which should provide some stabilization to auto rates. However, the current inflationary environment will more likely offset any benefit that might be derived from the interest rates. Insurers will be under pressure with increasing expenses, such as payroll, claims administration, and cost of the claims themselves. This has already manifested itself in the Auto Physical Damage market wherein insurers are finding it difficult to keep up with the increased cost to repair, including parts, labor, and availability. All the above leads us to believe that the market will continue to remain stable for the immediate future.

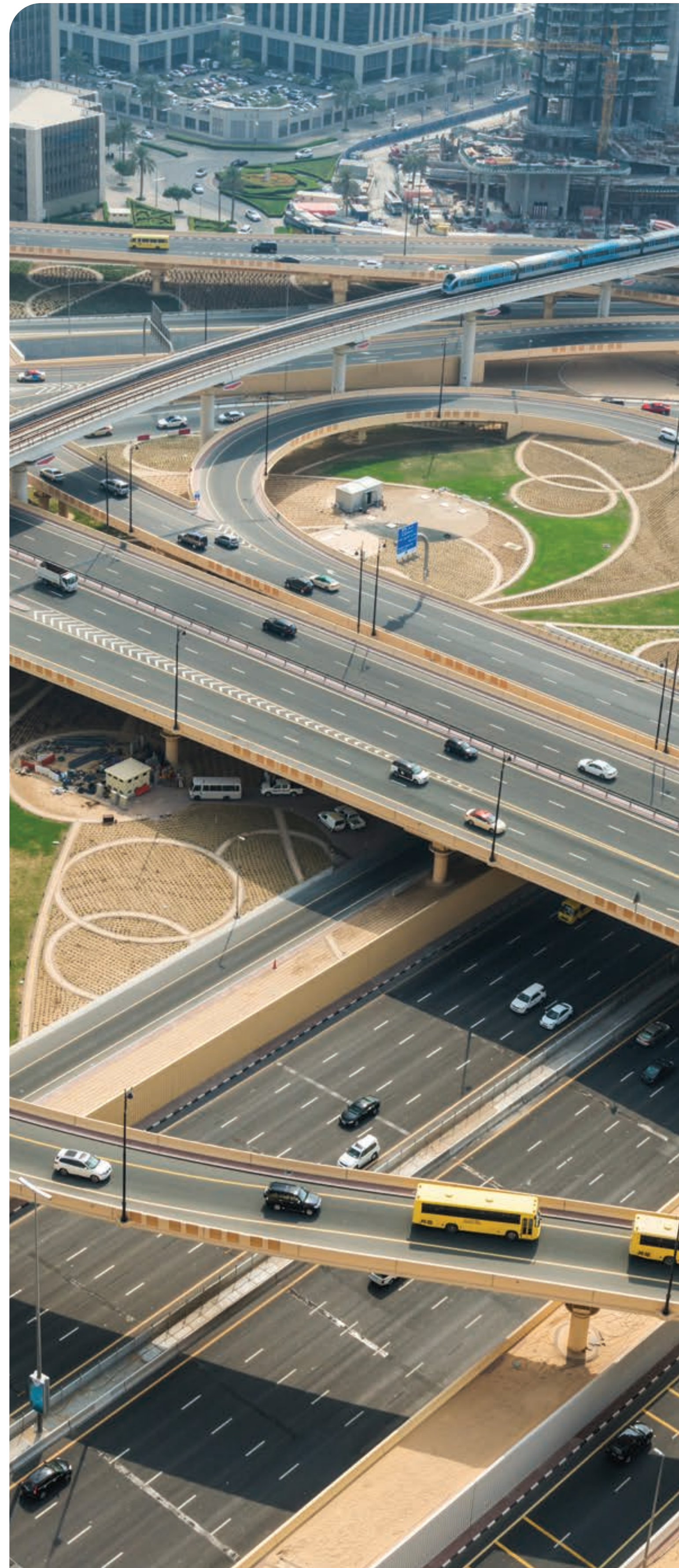
Workers' Compensation

The Workers' Compensation (WC) market for transportation risks remained stable through the first three quarters of 2022. Rate changes have been in the flat to +3% range on average. Insureds have generally been able to maintain retention levels, although some insureds have chosen to increase deductibles. Insurers are seeking out WC placements, with many insurers preferring to couple the WC with the Commercial Auto Liability due to the better performance of the Workers' Compensation.

Umbrella and Excess Liability

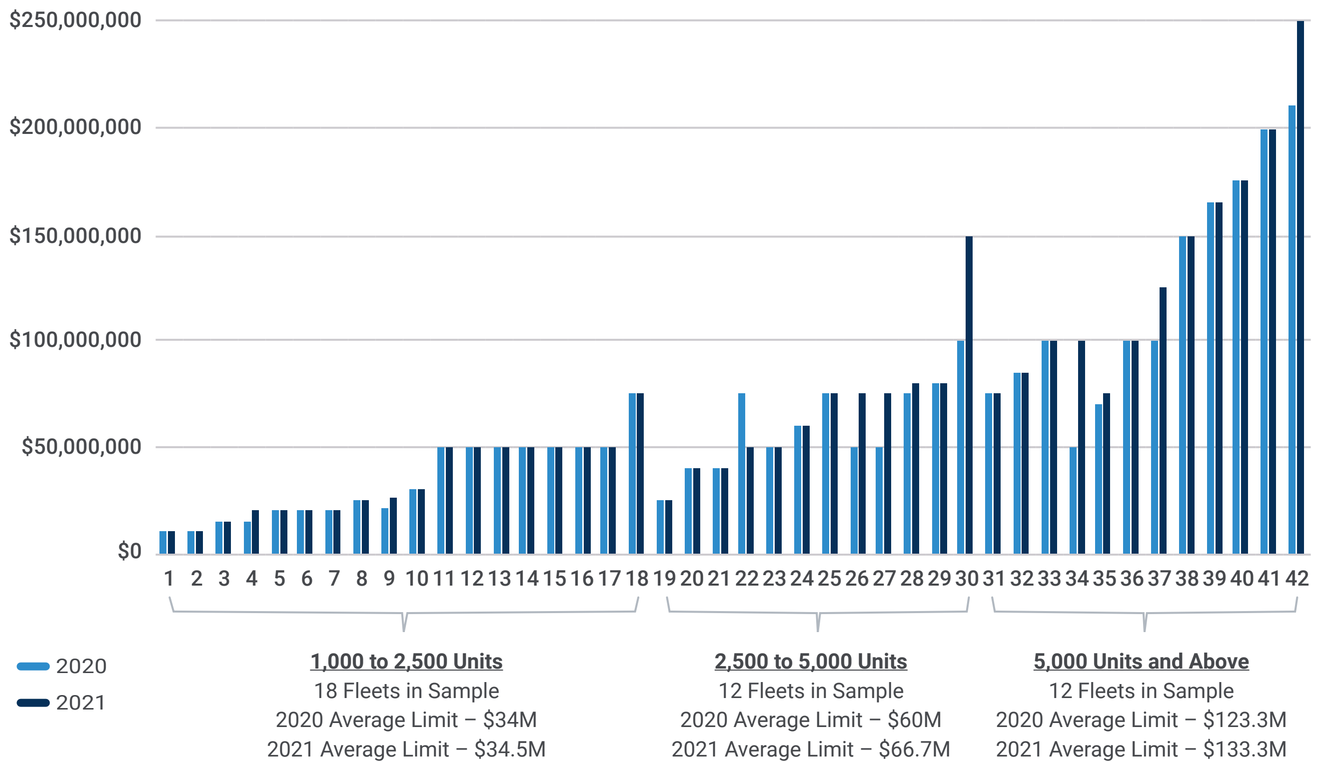
The Umbrella and Excess Liability marketplace saw moderation through the first three quarters of 2022. New domestic capacity—as well as London and Bermuda capacity—has helped create a more favorable rate environment. The Umbrella market continues to want a $10 million attachment for commercial auto. This has continued the trend of "taller" primary commercial auto limits or purchasing "buffer layer" excess auto policies to get to a $10 million attachment. The buffer layer market has improved, making buffer layers an attractive solution for some insureds. Many of these buffer markets are also deploying capacity higher up in the tower, thereby releasing some of the capacity scarcity.

As for pricing, the Umbrella market has seen stability brought about through competition. The dominant market for Umbrella capacity continues to be Chubb, however, several markets have entered the space and are driving competition, which has moderated rates. The rate environment on Umbrella placements has been in the -5% to +5% range on average with excess limits seeing a -10% to +5% rate change environment depending on layer and capacity.



Limits Purchased

Limits purchased by motor carriers with more than 1,000 units increased in 2021 as compared to 2020. We have seen this buying behavior continue into 2022. This heightened level of limit buying has been driven by price stability and, in some cases, reductions over prior years. This more favorable price environment has been driven by increased capacity. McGriff expects the average overall limits purchased to increase between 5% and 10% in 2022.



Source: Amwins

Healthcare

Though the Medical Professional Liability Insurance (MPLI) market saw an improvement in financial performance in 2021, its combined ratio remained an unprofitable 108 and a return to profitability is unlikely, according to Fitch Ratings.[1]

Across the board for healthcare, the insurance product problem areas continue to be Cyber Liability, Catastrophic Exposed or Dated Property, Excess Liability, and Auto Liability. Current common insurance exclusions we see evolving are correctional, cyber, opioids, and communicable disease exclusions. Difficult industry subsegments for healthcare are large for-profit skilled nursing, senior living, correctional healthcare, and medical transport companies.

[1] https://www.fitchratings.com/research/insurance/mpli-insurance-results-improve-return-to-u-w-profit-still-unlikely-13-06-2022

Hospital (and related)

Generally, hospitals and other facility-based operations are continuing to see rates rising, though largely at a reduced pace from prior years. Underwriters are focusing on controls and loss prevention processes in place and are pushing to understand exposures and concerns related to areas such as:

- Sexual Abuse and Molestation
- Potential impact of Dobbs Ruling and the overturn of Roe v. Wade
- Vaught/Vanderbilt nurse criminal case
- Opioids

In some cases, particularly for Sexual Abuse, we are seeing carriers seeking sub-limits or exclusions. In most cases, with good loss history and controls, these limitations can be negotiated out, but the trend is concerning.

COVID-19 seems to have largely passed without a meaningful impact on the medical malpractice marketplace for most acute care or other facility-based operations, other than long-term care. Accordingly, premiums are not being impacted by and large, but carriers are still seeking to understand controls and procedures to prevent the spread of this or other communicable diseases.

Senior Living

There are numerous challenges within the senior living market, including:

- Increasing operational costs and inflation
- Staffing and employee retention
- New construction costs and capital
- Cyber, including MFA and Ransomware
- Budgeting of insurance in a fluctuating marketplace
- Catastrophic property deductibles
- Because of COVID-19, home health has emerged as preferred treatment
- Many of the above challenges viewed as short term have dragged on creating further issues, having an impact on census (occupancy) and profitability.

Property

Anything Florida or coastal property will have a very difficult renewal. We are seeing significant capacity decreases from the carrier standpoint. All CAT-exposed property will be problematic, but not as problematic as Florida. Renewals are not problematic, except for claims, CAT-exposed, ITV, and older construction/deferred maintenance.

- We are seeing higher wind/named storm deductibles. Insurance buyers are going to have to weigh their risk appetite and willingness to buy insurance as costs will rise.
- We expect buyers to have to take on more risk vs. purchasing more insurance due to affordability concerns.
- Advice has been to move CAT-exposed renewals outside of wind season to avoid major market volatility.
- ITV: Construction Cost Replacement vs. Replacement Cost Values on the policy
  - We've seen estimates as high as 75% of in-force policies being underinsured by 40%+ based on current projected replacement costs
  - Renewal negotiations will include increasing values as part of an overall renewal strategy.
  - Carriers are looking for an overall increase, but we can often trade value increases for pure rate increases.
  - Updated appraisal for older buildings requested as part of the underwriting process.

PL/GL

We have seen a leveling of the market after these past two volatile renewal seasons.

- Communicable Disease/Pandemic/COVID-19 exclusions are becoming more standardized
  - Coverage can be found on PL in some cases for COVID-19/Pandemic on some claims-made policies with a new retro date – "future pandemic" preparedness
- Occurrence-based coverage is now rare to find, Claims-Made is more standard as a result of COVID-19 and market pressure over the past few years
  - Cost difference between OCC/CM is often 10% to 20% difference if offered

Workers' Compensation

Staffing shortages and a lean workforce are issues for this segment and will probably continue to be. We advise clients to leverage broker consultant resources to support your operations and take control of your exposure. It's also important to generate a safety culture that drives better results — take control of your insurance program by leveraging training. WC is viewed as a generally soft market for this industry segment. Dividend programs, large deductibles and retro programs are creative ways for reducing total cost of risk.

Cyber

MFA is a requirement to obtain ransomware coverage, and in many cases, insurers may sub-limit losses from these incidents if the applicant does not have all the necessary security controls in place. Percentage-wise, the cyber component of overall insurance purchasing is impacting program renewals, but may not be the most significant part of the overall premium picture – this does vary by client, as operation size, number of records at risk, and other factors will influence pricing. Cyber exposures remain complex and the extent to which a cyber extortion event can prove disruptive is often not fully understood or prepared for.

Healthcare organizations are finding that a single employee clicking on a phishing email can result in catastrophic impact on cash flow and can cause extensive reputational harm to the business. Even when coverage is difficult to obtain, we strongly advise against self-insurance for cyber risks. The market is beginning to stabilize somewhat and as more insureds enhance their cyber security postures, loss ratios are improving. It is still too early to predict that rates will return to pre-pandemic levels as threat actors continue to innovate and seemingly stay ahead of the advancements in cyber security controls. All organizations should extend their risk assessment process to include their critical vendors and suppliers – in many cases, vendor access to healthcare data and systems can create a less protected pathway and ultimately lead to sizeable loss at the healthcare institution. Evaluate business associate agreements with the same rigor you would apply to your most sensitive data and systems.

Auto

If an employee has an accident texting while driving, a business should expect harsh legal ramifications. It is always important to remember your fleet and hired and non-owned auto exposure. Address this by checking MVRs, utilizing smart driving tech “dash cams,” and disabling mobile devices. Telematics also play a role.

Environmental

Mold and Legionella claims continue to be the primary source of environmental claims. Water management programs are a must for placing environmental coverage.

Excess

We are seeing capacity limited in the excess market, particularly on occurrence forms. Excess pricing is more challenging than Primary PL/GL.

D&O/EPLI

We are seeing steady increases in this area.

Contractual Risk Transfer

Contractual agreements with third parties continue to be an area of risk that needs additional attention. We are navigating the landscape of contracts between owners/managers. Mold/Legionella and cyber breaches can — and maybe should — be included, and these contracts should be updated.

Employee Benefits

One of the biggest issues on the horizon, exacerbated by the economic situation associated with the pandemic and inflation, is the impact medical debt is having on people's lives. More and more often, individuals are having to make the decision to go without other services, run up credit card debt, take on extra work, or avoid medical care altogether. The reason for this is the continued increase in the cost of care relative to the average increase in wages.

Medical Debt

Citizens are putting off retirement or re-evaluating their life choices and goals based on medical debts that range from relatively small to near catastrophic. In many cases, individuals are declaring bankruptcy or doing things like cashing out life insurance policies just to pay a portion of the debts being incurred. Part of the issue is the aging of the country and the overall ill health status of too many citizens driven by unmanaged chronic conditions.

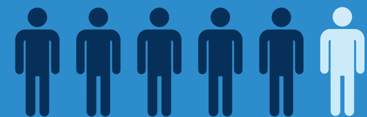
As of last year, 58% of debts recorded in collections were for a medical bill[1]. That's nearly four times as many debts attributable to telecom bills, the next most common form of debt on credit records. But the medical debt on credit reports represents only a fraction of the money that Americans owe for health care, according to a recent KHN-NPR investigation[2]. The same research shows:

50 Million

About 50 million adults — roughly 1 in 5 — are paying off bills for their own care or a family member's through an installment plan with a hospital or other provider, the KFF poll found. Such debt arrangements don't appear on credit reports unless a patient stops paying.

1 in 10

One in 10 owe money to a friend or family member who covered their medical or dental bills, another form of borrowing not customarily measured.



Still more debt ends up on credit cards, as patients charge their bills and run up balances, piling high interest rates on top of what they owe for care. About 1 in 6 adults are paying off a medical or dental bill they put on a credit card.

Market Rate Changes

Rate changes are expected to be higher than usual for two primary reasons: inflation and a reluctance by employers to cut benefits (to not put more of a cost sharing burden on their employees). Employers are also looking to not increase the amount or percentage that employees pay for the cost of coverage, to keep more money in the employee's paycheck and pocket.

COVID-19 and Inflation Impact Health Care Costs

COVID-19 continues to have an impact. In the fall and winter, we will be monitoring for additional outbreaks. In addition, we will soon have data that will start demonstrating the impact of long COVID.

Inflation continues to have an impact (see Spring Market Update). The lag in salary/compensation adjustments relative to inflation is larger than it has been in a while. This makes it more difficult for members to afford their benefits, out-of-pocket costs, medications, etc., which could possibly lead to situations where members delay care until a condition becomes more serious and more costly.

Recent statistics say that the average costs US employers pay for their employees' health care will increase 6.5% to more than $13,800 per employee in 2023, up from $13,020 per employee in 2022[3]. The same research says that, in terms of 2022 health plans, employer costs increased 3.7%, while employee premiums from paychecks were slated to rise a more modest 0.6% from 2021.

Regulations

The Inflation Reduction Act of 2022 will have a significant impact on the cost of prescriptions for Medicare as well as extending ACA subsidies. In addition, there will be tremendous scrutiny of the stance of candidates in local, state, and federal elections regarding the future of abortion benefits as a result of the Dobbs v. Jackson decision.

Specifically, the Inflation Reduction Act for the first time requires the HHS Secretary to negotiate prices for some top-selling drugs covered in Medicare. It also requires drug companies to pay rebates if prices rise faster than inflation for drugs used by Medicare beneficiaries and it caps out-of-pocket drug spending for beneficiaries in Medicare Part D at $2,000 annually.[4]

The bill also extends for three years the enhanced Affordable Care Act subsidies that Congress passed last year as part of the American Rescue Plan. That temporary boost increased the amount of financial help available to people already eligible to buy subsidized health plans in the ACA Marketplaces, and expanded subsidies to more middle-income people, many of whom were previously priced out of coverage.

Looking Ahead

Employers are keenly aware of the cost of care and are taking steps to try and address it or at least reduce the increase. Citizens would benefit from working hard to take care of themselves, as exercise and eating healthier could lead to avoiding many expensive health conditions. Cost of care continues to rise at unsustainable rates, but hopefully transparency and continued reforms of the health care system will help mitigate that.

In the short-term, the problems within this market segment will likely get worse. It will take some time for inflation to abate, and likely much longer for the country to get healthier. Hopefully, some of the transparency aspects of the Consolidated Appropriations Act will help consumers make better decisions about where to shop for the most cost-effective medical care. But the disparity between costs and income continues to grow.

As always, working closely with your employee benefits consultant is the best course of action to navigate these unprecedented times. Your consultant is the expert, acting as an extension of your own team, who can help you map out all the alternatives to managing costs and maximizing the value of your plan.

[1] https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf
[2] https://khn.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt/
[3] https://aon.mediaroom.com/2022-08-18-Aon-U-S-Employer-Health-Care-Costs-Projected-to-Increase-6-5-Percent-Next-Year
[4] https://www.kff.org/medicare/understanding-the-health-provisions-in-the-senate-reconciliation-legislation/

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