

# Market Update

---

Spring 2023



# Contents

---

- 4** Market Overview
- 6** Property & Casualty
- 10** Cyber
- 16** Public Company Directors and Officers Liability
- 19** Construction
- 24** Energy
- 33** Environmental
- 37** Public Entity
- 43** Real Estate & Hospitality
- 47** Dealer Services
- 50** Transportation
- 54** Aviation
- 56** Senior Care
- 60** Restaurants
- 62** Employee Benefits



# Market Overview

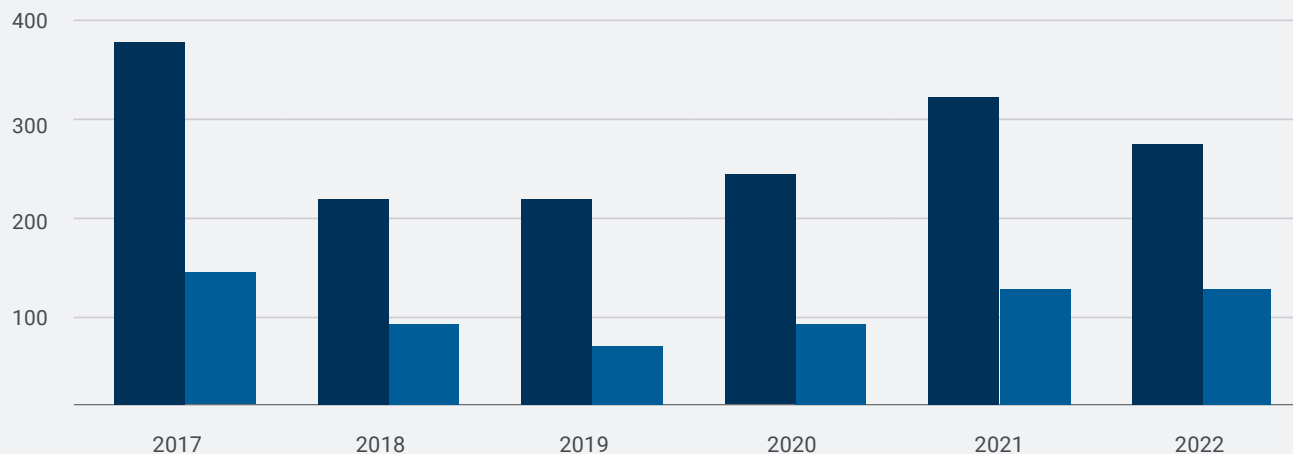
Reinsurance Property insurance rates jumped sharply during the January 2023 renewal season. Property insurance prices rose into the double-digit range and, in some instances, increased by 100% for accounts in catastrophe-prone areas and even higher for those with prior CAT losses. Self-insured retention levels including NAT CAT percentage deductibles also rose. In addition, reinsurers focused on policy language and conditions, moving from all-risk coverage to named perils.

Reinsurers were already facing headwinds last fall and anticipated the need to cut back on capacity and rebalance their portfolio away from catastrophe-prone areas while also obtaining rate adequacy moving forward. In 2022, there were 18 weather/climate disaster events with losses affecting the U.S. exceeding \$1 billion each, including 11 severe storm events, three tropical cyclones, and one wildfire event, drought event, flooding event, and winter storm event, according to the National Oceanic and Atmospheric Administration (NOAA). As of April 2023, there have already been seven \$1B+ events.

## Damages from Natural Catastrophes

Insured losses from natural catastrophes in 2022 were well above the average for the previous five years. Losses, in billions of U.S. dollars:

■ Total losses  
■ Insured losses



Note: The hurricane-ridden year of 2017 was a record for losses.

Source: Munich Re

It's not only natural catastrophe losses that have rattled the Property insurance market. Secondary peril events have become more impactful, generating an increasingly larger volume of insured losses. These events include severe convective storms, winter freezes, flooding, wildfires, mudslides, and man-made losses such as fire, civil commotion, and water damage.

Other contributing factors that have led to a hard Property market include inflation, valuation adjustments, and claims costs. In fact, accurate property valuation has become a big factor in underwriting accounts.

In this challenging environment, McGriff recommends 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, particularly for larger shared and layered programs with CAT exposures. 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 prior to renewal. Ensure exposures are current and the submission is comprehensive and thorough. This will ensure you remain top of mind amidst increasing underwriting submissions.

In addition, differentiate yourself in the market. Let underwriters know about your risk management strategies to protect your assets.

## **How to Minimize the Effects of an Uncertain Market**

Over the last few years, underwriter scrutiny on the accuracy of valuations has increased. Insurance-to-value (ITV) validity was already a market concern prior to Hurricane Ian due to inflation and access to goods and services. The impact of Hurricane Ian only intensified the focus on data integrity and proper valuations for all markets. Underwriters want to know how clients are determining the value of buildings, contents, equipment, inventory, and business interruption and are requesting support for these valuations. The hyper focus on ITV has only increased as Reinsurers are requiring very detailed analysis of carrier ITV efforts which trickles down to individual insureds with more focus. ITV presents its own issues as increased values typically increase PMLs and require additional capacity from a capacity limited marketplace. Failure to insure to value will result in even higher rates, retentions and implementation of severe margin clauses and/or coinsurance.

We continue to see the most drastic premium/rate changes from incumbent non-renewals in any layer/structure. Often, the only option at that point will be a quota share program with each carrier having minimum premiums regardless of capacity provided. Multiple carriers and MGAs have also indicated that they are increasing their deductible percentages on catastrophe-related exposures, particularly in Florida and other Gulf states, and even more so for true barrier island exposures. This could result in insureds needing to renegotiate deductible buy-down options or possibly parametric cover. Available capacity could be an issue from carriers or the cost to purchase limits by insured may not be economically feasible. 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.

# Property & Casualty

- P&C premiums increased for the 22nd consecutive quarter in Q1 2023. According to The Council of Insurance Agents & Brokers (CIAB), survey respondents reported an average 8.8% premium increase across all account sizes. Large accounts saw the highest increase at 11.4%.
- Respondents agreed that, although the market continues to stabilize across most lines, the top client concern in Q1 2023 was a “future premium increase.”
- One specific line that experienced material rate increases was Commercial Property insurance. Premiums, according to the CIAB, rose sharply at an average of 20.4% (compared to 16% in Q4 and 11.2% in Q3) and, as you will see in other sections of our 2023 Spring Update, natural catastrophe areas and loss accounts have experienced high double-digit and even higher increases along with capacity challenges.

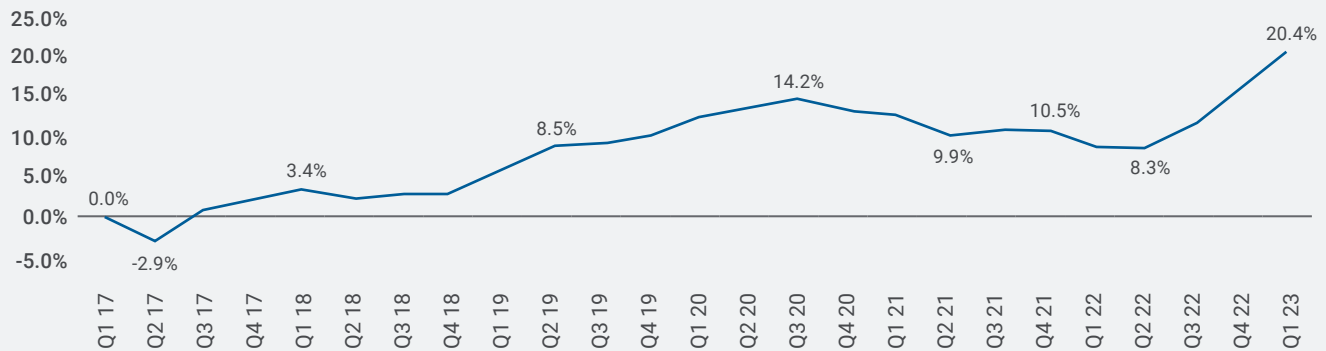
Multibillion-dollar insured losses from Hurricane Ian and severe convective storms, the cost of reinsurance, inflation, valuation adjustments, and rising claim costs have contributed to a hard Property market.

## Average Commercial Pricing Increases

	By Account Size			Average
	Small	Medium	Large	
<b>First Quarter 2023</b>	6.2%	9.0%	11.4%	8.8%
<b>Fourth Quarter 2022</b>	6.5%	8.3%	9.1%	8.0%
<b>Third Quarter 2022</b>	6.5%	9.0%	8.8%	8.1%
<b>Second Quarter 2022</b>	6.4%	7.3%	7.5%	7.1%
<b>First Quarter 2022</b>	6.4%	7.3%	6.2%	6.6%
<b>Fourth Quarter 2021</b>	6.3%	10.6%	9.2%	8.7%
<b>High</b>	20.8%	31.7%	33.0%	28.5%
<i>High Date</i>	4Q01	4Q01	4Q01	
<b>Low</b>	-10.0%	-15.0%	-15.9%	-13.6%
<i>Low Date</i>	1Q08	3Q07	3Q07	

Source: The Council of Insurance Agents & Brokers

### Premium Change for Commercial Property, Q1 2017- Q1 2023



Source: CIAB

## Middle Market

Workers' Compensation premiums remain stable, decreasing in Q4, with rate changes averaging -1.1% according to CIAB.

Umbrella and Cyber insurance showed evidence of rate relief in Q4, with the average increase in Umbrella premiums dipping below 10% for the first time in 12 quarters. The average Cyber premium increase was 15%, which is lower than the 20% increase in Q3 2022 and 26.8% in Q2 2022.

The Property market remains hard and continues to harden severely for certain risks based on CAT, occupancy, and losses. It continues to experience the highest increase of all lines of business in Q4. Inflation is one of the main factors behind the sharp increase in premiums along with catastrophic weather events, capacity tightening at reinsurance renewals for January 1, 2023, and inaccurate ITV.

Casualty renewals continue to see moderation, with an average increase in rates of 4.9% for General Liability.

## Middle-Market Rate Changes

### By-Line Fourth Quarter 2022 Rate Changes Ranged From -1.1% To +16.0%

	Comm'l Auto	Workers' Comp	Comm'l Property	Gen'l Liability	Umbrella	Average
<b>Fourth Quarter 2022</b>	7.3%	-1.1%	16.0%	4.9%	9.6%	7.4%
<b>Third Quarter 2022</b>	7.6%	-0.7%	11.2%	5.7%	11.3%	7.0%
<b>Second Quarter 2022</b>	7.2%	-1.2%	8.3%	4.7%	11.3%	6.1%
<b>First Quarter 2022</b>	5.9%	-0.5%	8.6%	3.9%	10.5%	5.7%
<b>Fourth Quarter 2021</b>	8.0%	0.3%	10.5%	6.4%	15.0%	8.1%
<b>High</b>	28.6%	24.9%	45.4%	26.0%	51.9%	35.3%
<b>Low</b>	-11.6%	-12.3%	-15.0%	-13.6%	-13.5%	-13.2%

Source: The Council of Insurance Agents & Brokers

**Property**

- The highest rate increase in Q4 with an average of 16%
- Reports of both commercial property and flood claims rose in Q4, including Hurricane Ian and increased flooding in the Southeast
- Strong underwriting focus on property values

**General Liability**

- Accounts with favorable loss history are seeing moderated rate increases while those with losses and tougher classes of business are experiencing higher price changes

**Auto**

- Continued strict underwriting, particularly where losses are involved and risks with fleets
- Diminished capacity on tougher classes of business and when losses are involved

**Excess**

- Umbrella/Excess rates continue to see price lifts relative to concerns with underlying General Liability and Automobile Liability exposures
- Pricing has somewhat stabilized for accounts without tougher underlying exposures and price reductions can be obtained at higher excess levels for less complex risks

**Property**

The Property market is in unprecedented times with a push for rate adequacy and less capacity deployed in catastrophe-prone areas due to a combination of inflationary pressures, increased and more widely occurring weather losses, and reinsurance rate increases. Reinsurance treaty renewals between January 1 and April 1, 2023 experienced significant rate increases from 20-100% and retentions increased significantly, doubling in many cases. Inflation and material costs continue to drive up building ITV. Underwriters are requiring greater detail on methodology behind valuations, requiring insureds to provide appraisals to back up property values. Without supporting documentation to validate values, insurers are implementing more stringent terms and conditions, such as issuing policies with scheduled limits and a margin clause. Additional changes include excluding flood from the named-storm definition, roof valuation clauses, and deductible increases for convective wind in non-coastal areas. Some MGAs are no longer writing any property risks constructed before certain years (i.e. 1995 for coastal).

Insurers are also using much more “layering” for property risks of any size. 100% single carrier property programs are becoming much rarer for highly CAT-exposed risks or occupancies with higher fire hazard potential.

**General Liability**

We continue to see General Liability rates remain steady but have been keeping a close eye on nuclear verdicts since the courts have reopened after COVID-19. We continue to see insurers excluding Sexual Abuse & Molestation coverage and Liquor Liability under GL for specific industries.



## Automobile

Those with fleets and losses are experiencing higher rates. In addition, nuclear verdicts continue to impact the Automobile Liability market. Inflation and an auto parts shortage has caused an increase in Auto Physical Damage premiums.

## Workers' Compensation

Workers' Compensation prices continue to remain flat or decrease, with some accounts experiencing slight increases.

## Lead Umbrella

Program rates have somewhat stabilized but those with riskier underlying Automobile Liability and General Liability risks can still experience substantive lifts in the lead Umbrella layer. Capacity for lead Umbrellas remains restrictive, with carriers typically not offering more than \$5M to \$10M primary layers. Umbrella attachment points over the primary GL remain a concern.

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

The Intermediate Excess market seems to be stabilizing in line with the lead Umbrella market, with capacity being provided in \$5M to \$10M layer tranches in general.

## High Excess Liability (over \$25M in limits)

Marketing higher Excess Liability layers can result in flat or even decreases in premium for those programs with strong risk control protocols and favorable loss history.

## Cyber Liability

Price increases for Cyber have moderated since the highs of 2020 and 2021, with an average increase of 15% in Q4. Cyber hygiene remains a requirement for insurance placement, with underwriters requesting detailed information about each client's cybersecurity.

Carriers may still require coinsurance provisions/ sublimits on Ransomware coverage for those insureds where there may be concerns with their cybersecurity protocols. Insureds who have improved their protocols may be able to obtain rescissions/ carve-backs for the coinsurance restrictions in effect with the previous policy term.

## COVID-19

A report from the New York State Insurance Fund in January 2023 showed that one-third of workers in New York's Workers' Compensation Program suffered from long COVID after being infected with the virus. Whether this will have an impact on Workers' Compensation remains unknown.

## Inflation

Inflation has materially impacted the Property insurance market. Industries such as construction continue to deal with rising material costs, exacerbated by high inflation. Property carriers are focusing on the validity and methodology insureds are utilizing to determine their building values. Those accounts where values do not appear to reflect the impact of inflation on cost of goods and services will experience greater underwriting scrutiny that could affect available capacity, terms, and/or conditions.



# Cyber

---

The Cyber insurance market has stabilized, with rate increases easing and new carriers and capital sources emerging. Many mid-market and large accounts are experiencing modest increases to flat renewal premiums over last year based on prior premiums paid and the extent and strength of their security controls. Markets are also beginning to make once-restricted coverages available. New entrants to the Cyber market are generating more capacity and additional competition and contributing to a more aggressive quoting environment for both primary and excess programs.

In addition, rapid adoption by policyholders in strengthening their cybersecurity controls to mitigate losses and comply with underwriting prerequisites for coverage has underwriters more confident that risks are much better protected today. Policyholders have implemented and increased multi-factor authorization (MFA) across the enterprise, disabled internet-facing RDP ports, and limited and managed the number of service accounts with domain administrator privileges that are in use as well as adopted other improved detection and response capabilities.

The significant rate adjustments of last year seemed to have helped insurers cover some of the sizable losses they incurred from the dramatic increase in frequency and severity of ransomware attacks in 2020 and 2021.

The fact that ransomware attacks were down in 2022 also helped the Cyber market to rebalance. As more organizations focused on having encrypted and tested backups, they were able to restore their operations and refuse ransomware demands. In addition, the Russia-Ukraine war has diverted the attention of threat actors, which appears to have resulted in fewer ransomware attacks. According to data from Chainalysis, the total amount extorted from ransomware victims in 2022 fell to \$456.8 million from \$765.6 million the previous year.

However, it is important to note that the number of publicly disclosed ransomware incidents appears to be on the rise. January of 2023 saw 33 publicly disclosed ransomware attacks, according to cybersecurity company BlackFog.<sup>1</sup> In February, BlackFog reported a total of 40 publicly reported ransomware attacks, a 21% increase compared with January.

Social engineering and voice and wire transfer fraud spiked as the frequency and severity of ransomware attacks dropped last year. Many Cyber policies do not cover or will include a sublimit for these crime exposures. A Crime policy with dedicated limits for social engineering and wire fraud is an alternative or supplemental remedy for protecting against these risks. To mitigate financial fraud risks, organizations must adopt strong treasury management controls and follow-up procedures to verify the authenticity of parties requesting changes to invoices, wiring instructions, etc.

## Pricing

According to data from the Council of Insurance Agents & Brokers (CIAB), Cyber insurance prices dropped to an average of 15% in the fourth quarter of 2022 from a high of 34% in Q4 2021. Premiums during first quarter 2023 were flat or increased up to 20%, depending on the account, according to information analyzed by PropertyCasualty360.<sup>2</sup> Some favorable classes are seeing decreases in the 5% range.

Looking ahead to the second half of 2023, we expect the Cyber insurance market to remain stable, assuming no dramatic increase in loss impacts from cyberattacks or another resurgence in cyber extortion frequency or severity. This is based on increased competition from new entrants, improved underwriting performance, and increased adoption of cyber-resiliency programs.

## Exclusions

**War Exclusions:** In our Fall 2022 Market Update, we discussed Lloyd's of London's exclusion of state-backed cyberattacks from stand-alone Cyber insurance policies. Upon release of its London Market Association (LMA) exclusions, Lloyd's received tremendous pushback from brokers, insurers, and clients, with clarity over coverage their biggest concern. Consequently, Lloyd's released changes in January 2023 providing updated wording and some flexibility to syndicates, for fear of losing significant market share to the U.S.

The war exclusion in Cyber policies is front and center since war exclusions in traditional Property policies have been debated in the courts. One high-profile court case involves insurers and pharmaceutical giant Merck over its cyberattack in 2017. Merck suffered an estimated \$1.4 billion in losses after data-destroying malware NotPetya infiltrated its computer systems. In its first court case, the ruling favored Merck. In February 2023, lawyers for Merck's insurers asked the state appeals court to overturn the ruling, as the collateral damage Merck suffered was a result of a warlike act, which is not covered by insurance. The United States blamed Russia for the attack. The Merck trial has garnered a great deal of attention, as the appeals court's decision and reasoning could impact how other categorical exclusions are interpreted in the future.

### **Catastrophic, Widespread, Systematic Exclusions:**

Carriers are concerned about the potential for a single cyber event to cause a large-scale loss across many businesses. Widespread and systemic events such as what occurred to SolarWinds, Kaseya, Accellion, and the Microsoft Exchange Server vulnerabilities resulted in most insurers re-evaluating their risk portfolio and amending underwriting best practices around supply chain and single points of failure. Some insurers are requiring new endorsements and event exclusions to their policies to reduce their exposure to widespread or catastrophic losses that could result from a systemic cyber incident that compromises tens of thousands of companies' networks. Beazley, for example, has created a number of Cyber endorsements that may

be required for some policyholders, including one endorsement which limits coverage for a company's cloud services provider outages that extend beyond a specific time period. Additionally, Beazley has secured a \$45 million catastrophe bond for cyber losses in excess of \$300 million.

Chubb created a separate endorsement to absorb "widespread events" such as an outage at a large cloud services provider that affects "the operations of thousands or even millions of companies." Policyholders may incur additional premiums or have policy sublimits apply depending upon the company's risk controls, industry class, and other underwriting criteria.

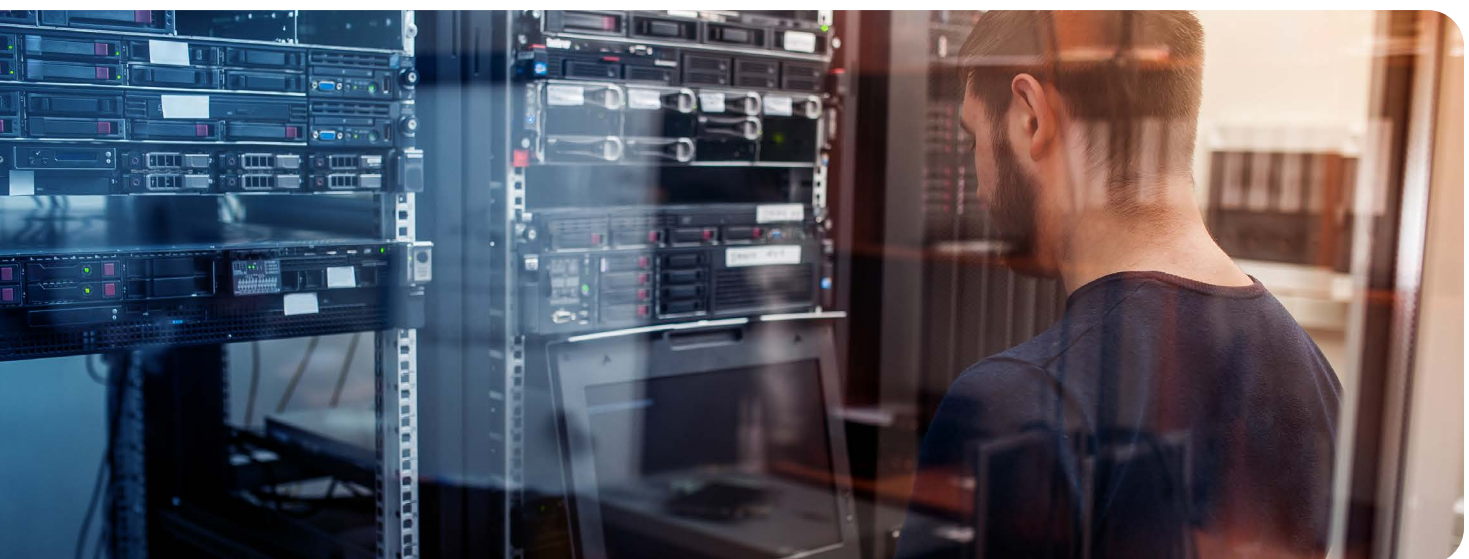
We are, however, seeing a willingness for underwriters to negotiate on some of the exclusions, especially if a company can demonstrate it has a multi-layered cyber defense and risk control strategy in place.

### Expanding Federal Regulations and Oversight

There is increased interest in private/public sharing of incident information in order to help strengthen the resiliency of American companies against cyberattacks, particularly regarding infrastructure. The Biden administration in its National Cybersecurity Strategy is calling for expanded use of minimum cybersecurity requirements in critical sectors to ensure national security and public safety.

Following similar measures announced in October 2022 for passenger and freight railroad carriers, the Transportation Security Administration (TSA) issued an emergency cybersecurity amendment to security programs of certain TSA-regulated airport and aircraft operators. This is part of the Department of Homeland Security's efforts to improve the cybersecurity resilience of critical infrastructure in the U.S. and it comes after extensive collaboration with aviation partners.

We are also likely to see more government oversight and tighter regulatory controls for certain industry classes. For example, the administration recently announced it would seek legislation to hold software companies accountable for selling technology that lacks cybersecurity safeguards.



## Cyber Insurance Backstop Program for Catastrophic Losses

The Federal Insurance Office (FIO), in coordination with the Cybersecurity Infrastructure Security Agency (CISA), held a commentary period for insurers, reinsurers, trade associations, risk-modeling analytics organizations, cybersecurity consultants, and other stakeholders to provide feedback on the creation of a federal backstop for large-scale catastrophic cyber incidents. Similar to the Terrorism Risk Insurance Program (TRIP), which was created in the aftermath of the 9/11 attacks, the cyber federal backstop program would step in after a certain threshold of losses is reached.

The comments are now being reviewed and evaluated by FIO and CISA in coordination with the White House Office of the National Cyber Director.

## Privacy Issues: What We're Tracking

### Wrongful Collection of Biometric Data

We have seen a rise in lawsuits over the last few years for wrongful data collection as states enact robust privacy laws. One of the largest lawsuits involved BNSF Railway Company, which was found in violation of the Illinois Biometric Information Act (BIPA). A class-action suit on behalf of 45,000 truck drivers was filed by a driver who dropped off and picked up loads at BNSF-operated railways. The company required the driver to register with an automated gate system (AGS) and to provide his fingerprints each time he entered the railyard. The driver claimed he did not provide written consent for the collection of his fingerprints and was not informed of the length of time his fingerprint data would be stored, as required by BIPA. A jury determined that BNSF violated BIPA 45,600 times (once per class member), resulting in a \$228 million judgment.

Meta Platforms Inc.'s Facebook in 2020 agreed to pay \$650 million to settle a BIPA class action involving its use of facial recognition software.

Nearly 2,000 lawsuits alleging violations of BIPA have been filed since 2017, yielding a series of massive settlements and judgments, according to Reuters.

In the first quarter of 2022 alone, at least seven states – California, Kentucky, Maine, Maryland, Massachusetts, Missouri, and New York – introduced biometric laws generally based on Illinois' BIPA, according to Bloomberg Law. Texas and Washington have biometric laws but without a private right of action.

As a result of these and other lawsuits, the underwriting community is keeping a close watch on claims and the impact they will have on the Cyber market. In addition, insurers are adding biometric exclusions to General Liability and Cyber policies as privacy lawsuits pile up. For example, Hiscox included a cyber incident exclusion to bar BIPA coverage in its General Liability policies. Clients may be eligible for some coverage such as limits for defense costs, but carriers will want to know the controls in place to obtain consent and secure data.

### Meta Pixel Litigation

Class-action suits against healthcare organizations and others are being filed against companies for using a tracking code on websites and sharing sensitive patient information with Facebook and Instagram for advertising purposes. Two of Louisiana's biggest hospitals, for example, have been sued for the use of the Meta pixel website code, which potentially analyzed, gathered, and shared the protected medical data of hundreds of thousands of patients with Facebook and Instagram, which, according to the suit, is in violation of the HIPAA privacy law.

According to Bloomberg Law, consumers are also suing news outlets, streaming services, and sports organizations for sharing tracking data on what videos they watch. In 2022, between February and September, 47 proposed class actions were filed claiming that the Meta pixel tracking tool sent the plaintiffs' personal video consumption data from online platforms to Facebook without their consent, violating the federal Video Privacy Protection Act.

### **Session Replay**

The use of session replay software is also being challenged in court for allegedly violating privacy laws. Session replay software can be used on a website to record a user's behavior, including every click and mouse movement. While the idea behind the software is to improve a user's digital experience and target products more effectively, its use has been the subject of lawsuits in states that require all-party consent for recording or capturing communications. All-party consent wiretapping laws typically require explicit permission from all parties before beginning a recording.

Privacy violations and resulting lawsuits create a minefield for underwriters who are employing greater scrutiny with new applicants and renewals about their privacy practices. It is critical for companies to pay attention to these issues and have their chief privacy officer or outside counsel review a firm's exposure and privacy management strategy. Coverage for these types of exposures is being increasingly restricted and/or limited.

### **TikTok**

In early March 2023, the U.S. gave government agencies 30 days to delete TikTok from federal devices and systems. Now lawmakers are demanding that ByteDance, the Chinese owners of the popular TikTok platform, sell its stake in the app or face an outright ban. U.S. security leaders have expressed concern that the Chinese government could infiltrate the app in order to spy on American users or gain access to user data.

### **How does TikTok impact businesses?**

While the platform can generate positive ROI for businesses, particularly for those targeting young people, security-minded firms should be mindful that the app's usage creates an objective risk to data, including company data. Keystroke patterns and file names are collected on employee-owned and personal devices that install the app. Although incomplete, this type of metadata has intelligence value, and firms operating in high-tech and other competitive spaces should take note. Additionally, given China's well-documented role in state-sponsored economic espionage and intellectual property theft, the security implications of TikTok and BYOD for some businesses should be obvious.

Firms should weigh TikTok's benefit versus its potential risks in deciding whether or not to continue to use the platform.

### **AI-Supported Cybercrime**

Artificial intelligence (AI), while providing businesses with data analysis and efficiencies, can also be used by cybercriminals for nefarious purposes. According to cybersecurity company FORTRA, cybercriminals can use AI to mimic trusted sources, such as through deepfake videos and photos, for social engineering attacks.

## Looking Ahead

The Cyber market has recognized the improved resiliency of risks. While the application process continues to be vigorous, we are in a more balanced market with improved pricing and greater flexibility. Some carriers, for example, are accepting shorter renewal applications and requiring fewer subjectivities as a condition of binding. We remain cautiously optimistic that the Cyber market will continue to stabilize as long as we don't see a substantive spike in loss frequency and severity.

Organizations must continually remain vigilant as the threat actor community continues to exploit gaps and use social engineering schemes to gain entry into systems. Cybersecurity best practices will continue to evolve to address new threats and emerging trends. As a reminder, we've provided some of the minimum cyber risk controls that underwriters will inquire about in order to price the risk and offer certain coverage features.

### Underwriting Requirements

While some markets are more flexible in their baseline credentials across all systems and networks, the following are still considered essential to securing Cyber insurance, avoiding sublimits, and preserving incumbent breadth of coverage:

- MFA for remote access into networks, access to web email, and use of 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 two 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

<sup>1</sup> <https://www.blackfog.com/the-state-of-ransomware-in-2023/#February>

<sup>2</sup> <https://www.propertycasualty360.com/2023/02/28/surprises-continue-in-the-2023-cyber-insurance-market/>

# Public Company Directors and Officers Liability

---

The Public Company Directors & Officers (D&O) market has been in its best state since the height of the last hard cycle, which peaked in late 2021. Many companies had experienced significant increases in D&O premiums – price increases were in the double and triple digits in 2020 and at a high of 56% in the first quarter of 2021, according to S&P Global. Since last year, the cycle shifted, with premium reductions in the D&O market.

The primary D&O layers are now more competitive. Additionally, depending on the industry, companies with a clean loss history will likely see a high single- or low double-digit premium decrease year over year on Excess and Side A layer renewal placements with their incumbent carriers, a mix of incumbents, and new markets.





Multiple factors are contributing to a softening market, including the influx of capital and capacity between 2020 and 2021, a steadily decreasing rate of securities class action filings and related matters, an increase in the number of publicly traded companies (the highest level since 2003), a better-than-expected exit from the “COVID economy,” and a more business-friendly regulatory environment. Hospitality and travel have recovered since COVID-19, with just about every other industry in a good position. However, it is important to note that potential headwinds from inflation, high interest rates, the resurgence of an active regulatory environment, and recessionary pressure can turn the market around in the future, depending on the industry sector.

The change in D&O market cycle can also be attributed to the end of the red-hot IPO and SPAC (Special Purpose Acquisition Company) markets in the first quarter of 2022, shifting insurance capacity quickly to the traditional market, which ushered in increased competition and lower prices.

## A Look Back

Statistically, 2022 was a difficult year for total claims paid, at \$3.8 billion<sup>1</sup>, but this figure is up only 13.8% over the 10-year historical average. Median and average settlements were up considerably over 2021, but 2021 was also a below-historical-average settlement year (likely due to COVID-19 shutdowns in the courts, government agencies, etc.). Average settlements in 2022 were \$36.2 million, 27% below the 10-year historical average. However, median settlements in 2022 were up 31% over that same time period at \$13 million.

The movement in average and median settlements is trending in the wrong direction for insureds and carriers. While more than 50% of average settlements were historically typically below \$10 million, now nearly 50% are between \$10 million and \$20 million.

SPACs and IPOs grew at an unprecedented rate during 2018-2020, but pure Section 11/12 claims have remained steady. However, nearly 26% of all filed securities class action claims in 2022 were related to SPACs.

## Headwinds on the Horizon

Several headwinds in our current environment are coming to light that could potentially impact the Public Company D&O market. Macroeconomic issues associated with inflation and a more fragile economy combined with the central banks’ response are working themselves through the financial system. With Silicon Valley Bank (SPV), Signature Bank, First Republic, and Credit Suisse effectively failing in first quarter of 2023, there will be pressure going forward in lending and overall confidence in the economy. Silicon Valley Bank and Signature Bank have each been hit with a putative class-action lawsuit. Financial institutions should expect greater underwriting scrutiny and a deeper dive into practices on renewal.

While it is still unclear the extent to which recent bank failures, business insolvencies, or a sharp equity market downturn will impact the D&O market, we will continue to monitor the current landscape closely. A more fragile economy and additional bank failures may lead to a shift from insurers, who will seek to raise rates and reduce capacity. However, this may be offset by new entrants in the market.

Additional headwinds include cryptocurrency, ESG, trailing COVID-19 litigation, changes in labor laws/rules, cyber risk, and a steady increase in regulatory pressure, primarily from the Securities and Exchange Commission (SEC) – some of which we discuss here.

## Environment, Social, and Governance (ESG) Risk

The ESG landscape is muddled at present and could be a source of litigation once there is clarity.

The SEC's climate disclosure rules require listed companies to not only disclose risks that are "reasonably likely to have a material impact on their business, results of operations, or financial condition" but also "to disclose information about their direct greenhouse gas (GHG) emissions and indirect emissions from purchased electricity or other forms of energy" as well as certain types of GHG emissions "from upstream and downstream activities in [their] value chain."

The impact of the liability risks related to the climate rules is hard to predict, as they expose companies to allegations of making inadequate or misleading statements. For example, providing inaccurate metrics regarding emissions could give rise to litigation.

## Regulatory Pressure

The SEC has not been very active for nearly six years. However, in January 2023, the SEC unveiled its Reg Flex agenda. There are 16 rules slated for this spring. In addition to the climate disclosure rule, there is cybersecurity risk governance for public operating

companies, cybersecurity risk governance for funds and investment advisors, stronger regulation for SPACs, money market reforms, and others. With increased regulation come additional litigation opportunities.

The Federal Trade Commission (FTC) and Department of Justice (DOJ) have also ramped up their oversight. The FTC challenged four hospital mergers last year, and in March 2023, the DOJ filed a civil antitrust lawsuit to block JetBlue's proposed \$3.8 billion acquisition of ultra-low-cost rival Spirit Airlines.

## Corporate Alternative Minimum Tax (CAMT)

A key provision of the Inflation Reduction Act is for billion-dollar corporations to pay a 15% minimum tax on the adjusted financial statement income they report to shareholders. This could have D&O implications, as the increased tax liability may lead to more shareholder lawsuits against directors and officers alleging they breached their fiduciary duties by failing to effectively manage the company's tax liabilities.

In the face of these and other headwinds, we expect insureds to have a positive D&O process throughout the spring and summer of 2023 as carriers attempt to grow in a decreasing rate environment.

<sup>1</sup> Cornerstone





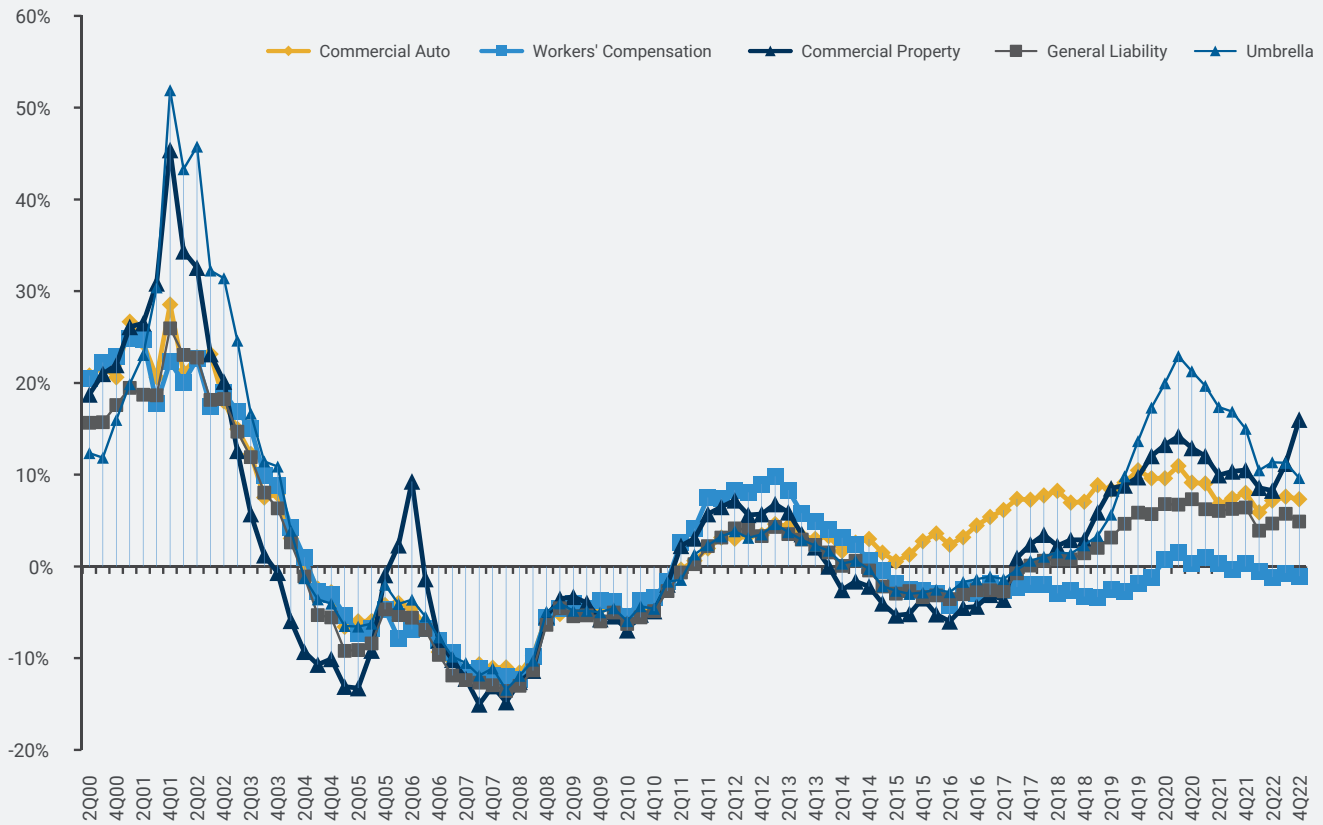
# Construction

---

Several drivers continue to challenge the Liability insurance industry, and depending on the risk profile, they directly impact the U.S. Construction market. Nuclear verdicts – fueled by litigation funding and other factors in specific geographic areas in the country – have insurers continuing to seek additional rate, scale back on capacity, and employ changes in policy terms and conditions to account for significant losses.

Multiple factors have also disrupted the Property insurance market. These factors include weather-related losses, inflation, inadequate valuations, diminished reinsurance capacity and higher pricing, and a spike in claims costs. As a result, insurers are looking for rate adequacy and greater geographic diversity in non-catastrophe areas. Insureds in CAT-prone areas and those not profitable are seeing high double- to triple-digit increases. However, accounts in non-CAT-exposed areas and with good loss history are seeing renewal increases between 10% and 15%.

The Construction industry is also continuing to deal with labor shortages and rising material costs, exacerbated by high inflation. To maintain adequate Commercial Property and Builder's Risk coverage, insureds must perform insurance to value (ITV) calculations, as inflation continues to impact building expenses and valuations.

**Average Commercial Rate Increases by Line**


Source: CIAB, Q4 2022

### General Liability

The General Liability market remains relatively stable, with renewal rates ranging from flat to a 10% increase, depending on the sector and historical losses. In addition, as we mentioned in our overview, geography plays a role in the renewal approach and available capacity. Challenges remain with the litigious environment with New York’s labor laws and California’s complex and often-changing construction regulations and codes, making these states a tough market for placement. Wildfire-prone locations in California, Texas, Arizona, and Oklahoma are also challenging for contractors to find carriers committed to writing coverage.

### Automobile Liability

Automobile Liability has been the most challenging casualty line for insurers and insureds, with 10% to 15% increases as the most common. The insurance market has achieved underwriting profitability only once in the last 10 years despite consistent rate hikes. Liability losses, fueled mainly by rising jury awards and nuclear verdicts, pose the greatest challenge.

In addition, inflation, supply chain issues, and a labor shortage have increased costs and lengthened repair times, necessitating ancillary expenses such as temporary car rentals or other alternative transportation expenses for companies.

## Excess Liability/Umbrella

The rate of premium increases in the Umbrella market continues to moderate and is overall more favorable for Contractors. We are seeing rate increases of 5% to 15%. However, high-hazard exposures and contractors with challenging risk profiles (those performing paving or bridge construction, operating in New York, or with prior excess losses) will continue to see higher premiums but at a tempered rate of growth.

While the trend of how much capacity is deployed has remained unchanged, the good news is that new entrants are coming into the market, which should help support rate stabilization and additional competition.

## Commercial Property & Builder's Risk

A recent report by the American Property Casualty Insurance Association (APCIA) referred to the current Property insurance market as “the hardest market cycle in a generation.” Commercial Property increases are significant in many cases – anywhere from 15% to 200% for certain property, with geography a key factor. Properties in hurricane and wildfire-prone areas are the most impacted.

Insurance losses and deteriorating combined ratios for insurers contribute to the hard Property market. At the same time, insurance claims inflation remains higher than the underlying consumer price index, far outpacing increases in premiums, while natural disaster losses continue to climb.<sup>1</sup>

2022 was the eighth consecutive year the U.S. suffered at least 10 catastrophes with more than a billion dollars in losses, according to NOAA National Centers for Environmental Information.<sup>2</sup>

Builder's Risk rates are also under pressure, with wood-frame projects being problematic for carriers due to finite capacity. Losses from water damage also continue to challenge the market, with higher water damage deductibles anticipated.

Insurers also face pressure from reinsurers, which are increasing renewal rates, issuing tighter terms and conditions, and cutting their exposure to hurricane risks. Reinsurers are pulling back on capacity and moving up attachment points to limit their exposure and hedge against inflation, according to an S&P report – all in an effort to achieve healthy underwriting performance. These moves translate into higher rates, stricter underwriting requirements, and placement difficulty for insureds in windstorm- and hurricane-exposed regions. We are closely monitoring reinsurance treaty renewals and the impact on our clients' programs, communicating well in advance of any appetite changes and anticipated significant price increases.

## Workers' Compensation

Workers' Compensation remains the most competitive casualty line, although some geographic locations like California, New York, and Florida are more difficult than others due to their litigious environments. However, medical cost inflation is also another concern we are tracking. Workers' Compensation is particularly susceptible to inflation due to the long-tail nature of claims.

In addition, as of October 1, 2022, New York changed its Experience Modification Rating (EMR) program. New York now works off experience modification formulas that apply only to its state-specific exposures. The new plan, according to the NYCIRB, is designed to better incentivize workplace safety.

Commercial property inflation is affecting building expenses and valuations. Claims costs are higher, and a focus on accurate ITV calculations is critical during the renewal process to mitigate the potential of insufficient coverage following a property loss. Declared values must be supported, particularly if an insured is not requesting any policy changes at renewal.

An ITV calculation estimates the total cost to replace or restore an insured property. Obtaining a property appraisal from a third-party firm, leveraging fixed-asset records adjusted for inflation, or relying on a basic benchmarking tool are common approaches to accurately estimating this value. While appraisals take more time and resources than other methods of property valuation, they are considered the most thorough and accurate.



### Contractors Equipment

Due to ongoing losses from theft, vandalism, and severe weather events, the Contractors Equipment insurance market remains under pressure. Contractors with low-risk profiles are getting market capacity and low single-digit increases. However, contractors with large losses and in catastrophe-prone areas can expect higher rate increases.

### Professional Liability

Professional Liability rates are rising, with renewal increases of up to 10%. There is also increased underwriter scrutiny of a contractor's services, project delivery methods, and project types.<sup>3</sup>

There is a lack of primary capacity for the large, public, heavy, civil, design/build market. Insurers require that the project be delivered under a progressive design/build at 30%+ design completion rather than a traditional design/build.

Underwriters are also looking at the experience and expertise of the design firm, especially as more environmental-centric markets push to expand projects to include Professional Liability coverage.

### Pollution Liability

The Pollution Liability market remains very stable for Construction companies with a clean loss history, which are seeing flat rates or increases of up to 5%. Over the last decade, the market has received new entrants and has remained competitive. While rates remain steady, we are likely to see broader pollution requirements, increased per occurrence/aggregate project limits, and greater claims scrutiny. Other factors to consider include stricter federal and state regulations in response to the growing soil and groundwater contamination issues from per- and polyfluoroalkyl substances (PFAS), or "forever chemicals."<sup>4</sup>



## Cyber Liability

The Cyber Liability market has stabilized and is not seeing the type of rate increases and coverage structure changes and retentions previously sought in prior years. Cyber insurance prices fell an average of 15% in the fourth quarter of 2022, from a high of 34% in the fourth quarter of 2021, according to data from the Council of Insurance Agents & Brokers (CIAB). Premiums were flat or increased by up to 20% in the first quarter of 2023, according to data analyzed by PropertyCasualty360.<sup>5</sup>

The push for strong cybersecurity requirements for coverage has helped to mitigate losses and stabilize premiums. The key is for insureds to have the proper controls in place.

## Surety

Bonds are readily available for the Construction market due to low losses and Surety profitability. There is also ample capacity, with new entrants into the market.

While private construction projects propelled overall construction spending in 2022, expectations are that the wave of publicly funded projects should help steer the Surety market's expansion this year. According to an AM Best Report released in February 2023, "Over the longer term, as projects are approved and scheduled, the significant amount of public funds dedicated to restoring or replacing aging infrastructure in the U.S., as well as investments in large projects, are expected to provide a meaningful tailwind for the Surety market."<sup>6</sup>

## Looking Ahead

Despite some challenges, such as labor shortage, increased material costs, inflation, and lingering supply chain issues, the Construction sector is expected to grow by 6.1% this year, according to Research and Markets. While the residential construction market has slowed down, government infrastructure spending will contribute to the industry's growth.

Moving forward, to help anticipate insurance costs and to continue to be risk ready, we advise our clients to be vigilant in preparing early for renewals and to plan ahead to secure pricing and coverage terms.

We assist our clients with the underwriting process in preparing a tailored narrative and also encourage them to engage and establish relationships with underwriters to give a complete picture of their firm and the controls in place. Another key element of the renewal process is the evaluation of Total Cost of Risk and liaising with our actuaries to evaluate retention level appropriateness, alternative risk solutions, and/or captives.

<sup>1</sup> <https://www.apci.org/media/news-releases/release/75202/>

<sup>2</sup> <https://www.ncei.noaa.gov/access/billions/time-series>

<sup>3</sup> [https://rtspecialty.com/wp-content/uploads/2023/02/RT-ECP\\_2023-Market-Update.pdf](https://rtspecialty.com/wp-content/uploads/2023/02/RT-ECP_2023-Market-Update.pdf)

<sup>4</sup> [https://rtspecialty.com/wp-content/uploads/2023/02/RT-ECP\\_2023-Market-Update.pdf](https://rtspecialty.com/wp-content/uploads/2023/02/RT-ECP_2023-Market-Update.pdf)

<sup>5</sup> <https://www.propertycasualty360.com/2023/02/28/surprises-continue-in-the-2023-cyber-insurance-market/>

<sup>6</sup> [https://www3.ambest.com/ambv/sales/bwpurchase.aspx?record\\_code=329034&altsrc=](https://www3.ambest.com/ambv/sales/bwpurchase.aspx?record_code=329034&altsrc=)



# Energy

---

## Power, Midstream, and Downstream

The U.S. Power, Midstream, and Downstream markets have sustained large losses, with loss ratios close to or over 100%, which has impacted the profitability of these sectors. The major driver of losses has been Business Interruption/Time Element claims that involved a major LNG (liquefied natural gas) loss, large power utility losses, and a major downstream/midstream loss.

Markets are now requiring greater details from insureds regarding business continuity plans; the measures in place to address supply chain issues that could potentially cause delays and bottlenecks; workforce challenges (increased labor costs and the great COVID retirement that has ushered in a loss of industry knowledge and experience); the identification of alternative suppliers/customers; and contract language review for Force Majeure/Indemnity/Risk of Loss – Consequential Loss.

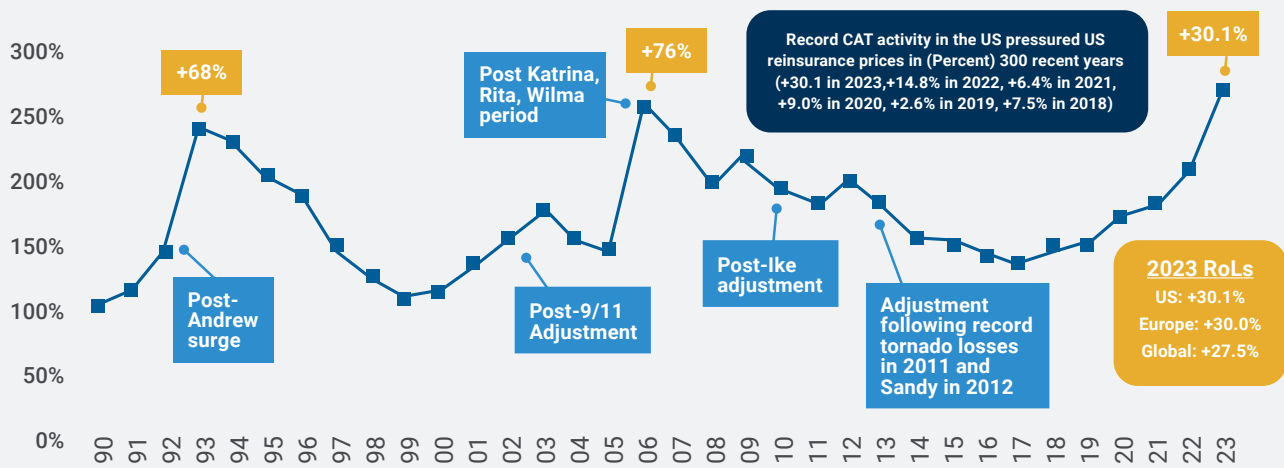


## Property Reinsurance

Over two-thirds of the insurance market renewed their reinsurance programs January 1, 2023, with catastrophic reinsurance property rates for loss-hit U.S. accounts rising between 45% and 100%.

Contributing to the rate increase are losses from Hurricane Ian, the second-largest insured natural catastrophe loss on record with estimated losses at \$60 billion or more.

**U.S. Property Catastrophe Rate-on-Line Index: 1990 - 2023\***



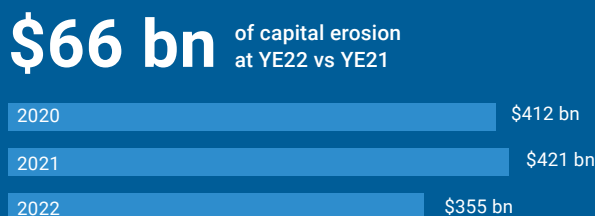
**US Property-CAT Reinsurance Pricing Is Sensitive to CAT Activity and Ultimately Impacts Primary Insurance Pricing, Terms and Conditions.**

\*As of January 1 each year.

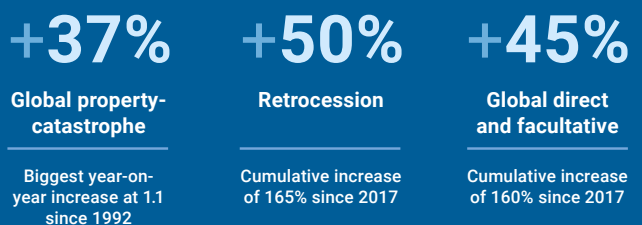
Source: University of South Carolina, Robert P. Hartwig, PhD, CPCU Presentation

Several reinsurers have reduced their capacity to direct insurers with particular emphasis on CAT-exposed areas. Howden's Global Risk-Adjusted – CAT Rate online index rose by an average of 35% on January 1, 2023. This is considerably higher than the 9% recorded on January 1, 2022, and marks the biggest year-on-year increase since 1992.

### Biggest reinsurance capital squeeze since 2008



### Jan. 1 2023 reinsurance renewals



Rising interest rates have also drawn capital away from insurance investments, with capital going elsewhere. In addition, for the first time in the last 10 years, there is less capital available in the reinsurance market than in the year before.

In August, AM Best estimated that traditional reinsurance capital would decline by 8% (\$40 billion) in the face of capital market headwinds.

As a result of these factors, a bifurcated market exists between CAT-exposed and non-CAT-exposed business, as the cost of insurance for the natural catastrophe portion of accounts will go up disproportionately to the all-risk portion. Clients with catastrophe exposures will need to provide greater risk-mitigation measures and secondary modifier information for models to determine adequate levels of sublimits.

In the past Excess catastrophe capacity was competitively priced, but this is changing, so lowering Excess limits may help reduce premium.

### **Valuations**

Property values are expected to increase again in 2023 due to inflation, supply chain disruptions, cost of materials, labor, shipping costs, plus the ripple effect of the war in Ukraine. The HW and FM industry index shows significant increases in values in some situations.

It is important to provide clear information on the valuation methodology. To do so, some insureds are getting detailed appraisals at their largest and more critical facilities.

Values may be up significantly for certain assets and not as high (or even down) for others. Exploring values in detail, whether through internal processes or appraisals, may help to tell a story to the market while maintaining a blended value increase on the lower end of the spectrum.

### **Claims Inflation**

Markets are also focused on claims inflation and general increases in materials and service costs following a loss.

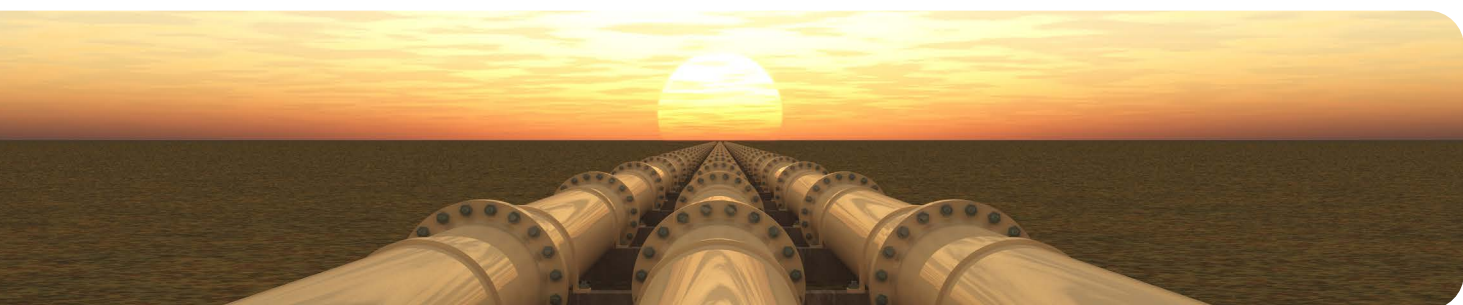
### **Deductibles and Wait Periods**

Markets are evaluating the impact of historical/current deductibles and wait periods and are looking at "index-linked deductible/wait periods." A \$250,000 deductible and 30-day wait periods do not go as far as they did a few years ago.

### **Environmental, Social, Governance (ESG)**

ESG remains at the forefront, and markets will continue to request ESG plans from clients. While many markets focus on the "E" of ESG, laying out policies for the "S" can be just as valuable and a key part of the story as energy transition needs to be done responsibly.

There may be some conflicts over the next few years due to the impact of a cutback or reduction of gas supply to Western Europe, and, as a result, coal and/or other alternate sources will be needed.



## Renewables

During the past 24 months the reinsurance industry has faced an unprecedented mix of challenges caused by a multitude of factors including a global pandemic, geopolitical tensions, high frequency of natural catastrophes, and growing concerns over climate change. The current impact of these and other factors has resulted in rising inflation, supply chain disruptions, higher treaty reinsurance costs, a further focus on ESG initiatives, and less confidence in natural catastrophe models.

After loss-making years in 2017, 2018, and 2019, results had improved temporarily for renewable insurers in 2020, only to see a strong regression in 2021 and 2022 spurred on by significant severe convective storm losses across the solar PV space. Although rate increases remain present, ESG has kept the pressure on insurers as a steady stream of capacity continues to flow into the space, ensuring that renewals are underwritten on a case-by-case basis.

### Underwriters are looking at these key areas:

- **Valuation:** Expect close scrutiny at renewal of sum insured values, and in some instances, insurers may look to impose an average clause or premium loading if they are not satisfied with the values declared. Supply chain disruptions caused by the COVID pandemic pushed up material and services prices, only then to be exacerbated by inflationary (including significant wage inflation) pressure, partly as a result of the current Russia-Ukraine conflict.
- **Business Interruption:** Insurers are apt to require monthly reporting of values due to ongoing concerns of supply chain constraints driving up downtime scenarios.
- **Natural Catastrophe Coverage:** A wider range of perils are now considered established high-hazard natural catastrophe exposures, such as severe convective storms. In 2022, secondary perils, including floods, accounted for 70% of all insured losses.



In addition, the geographical areas considered high hazard for some newer catastrophe perils are expanding. This has led to an increase in the number of risks requiring modeling and further aggregation assessment from insurers, which in turn is likely to lead to the continued rollout of higher deductibles and tighter sublimits for such perils as hail and lightning, for example, as we saw throughout 2022 and as we move through early 2023.

- **Treaty Reinsurance:** Recent treaty reinsurance renewals were tough for insurers, particularly for natural catastrophe protection. With most buyers experiencing a significant increase in cost and a reduction in coverage and most renewable risks tracking into nat-CAT concerns, there is anticipated upward rating pressure (and a shift in capacity deployment for some) that will continue in mid-2023.

### **Tax Insurance**

Traditionally, Tax insurance has been used to backstop qualification for and quantification of renewable energy federal income tax credits and to provide tax equity investors with certainty related to their investments in solar and wind projects. With the passage of the Inflation Reduction Act (IRA), the use of Tax insurance as a risk mitigation and credit enhancement solution is anticipated to significantly increase. The IRA enhances traditional renewable energy tax credits for solar and wind technology, making them far more valuable, and provides new tax incentives for green technologies such as hydrogen, nuclear, carbon sequestration, etc.

Additionally, and maybe most notably, the IRA provides for transferability, or the buying and selling of tax credits, on the open market between unrelated parties for cash, in an attempt to mobilize unprecedented investment in the Renewable Energy sector by both traditional tax equity participants and new, non-traditional participants such as public corporations. Tax credit buy-sell marketplaces have already begun to develop, and it is anticipated that buyers of renewable energy tax credits will be able to obtain a 5% to 15% discount on the credits purchased.

Tax insurance will play an important role with respect to these enhanced and increased renewable energy tax credits. Tax equity investors, tax credit buyers, and renewable energy project lenders are all going to demand tax credit certainty with respect to their investments. Additionally, developers/sponsors can utilize Tax insurance proactively to market their tax credits being sold with the goal of ultimately commanding a higher purchase price and a narrower indemnity and/or guaranty. Thus, the use of Tax insurance in renewable energy transactions is anticipated to significantly increase. Many of the 20+ traditional underwriters in the Tax insurance market are adding technical tax experts to their teams in anticipation of an influx of Tax insurance requests and matters. Additionally, new underwriter participants, both domestic and abroad, are constantly entering the U.S. Tax insurance market. As such, pricing and policy terms are anticipated to remain favorable for insureds given underwriter demand for premium.

### **Liability**

Excess Liability markets remain stable, providing higher limits, but industry mutuals that provide lower Excess limits in the Energy space still face a tough time due to the frequency of high-severity losses. Here is an update on some of the markets available:

AEGIS finished 2022 favorably though not as strong as in previous years. Rate increases continue to be necessary, as the severity observed in “non-green” years 2015–2018 has outpaced the rate increases from 2019 to 2022. Over the past five years, the average claim has been approximately \$7 million compared to \$3 million in the prior five-year period. AEGIS is targeting 10% to 12.5% rate increases on average (plus a wildfire load if applicable). The company continues to provide meaningful wildfire capacity, but it will require adequate pricing to keep this in place. AEGIS began writing on its new policy form in 2022, which includes a new Cyber Liability Exclusion, new Protected Information Exclusion,

and new Subsidiary Definition, among other changes. Please notify a McGriff representative if you would like an analysis and commentary on the changes.

EIM continues to offer meaningful, stable capacity with limits of up to \$125 million available. Due to continued loss severity, its push for rate adequacy has not changed and has actually increased in some instances. Members should prepare for EIM to seek 15% to 20%+ on renewals. Insureds with exposures in wildfire-prone states will also have a load applied to the premium. EIM has also stated that it is looking to raise its average attachment point over the next three to five years. While this push for higher attachments is focused on gas pipeline accounts, other risks looking to raise their attachment will be seen favorably.

Cedar Hamilton (NEIL) continues to support members as a capacity provider and has recently raised its maximum capacity to \$75 million. Currently, the full

capacity is not typically available to new insureds or insureds buying less than \$50 million, as Cedar Hamilton prefers to staircase the capacity offering over several renewals. Cedar Hamilton will continue to follow the pricing trends set by the other mutuals and can participate in a quota share or excess position.

The growing exposure of PFAS (per- and polyfluoroalkyl substances, man-made chemical substances used in manufacturing products resistant to fire, water, and stains) is pegged as the “new asbestos” of the insurance industry. PFAS plays a critical role in many alternative energy technologies. With increased proposed PFAS regulatory changes from the Environmental Protection Agency (EPA) and other agencies, insureds can expect greater underwriting scrutiny regarding PFAS. In addition, given the broad-reaching impact of PFAS, a growing number of insurers are introducing exclusions for this exposure.





## Cyber Liability

Although not at the accelerated rate we have seen previously, pricing pressure for Cyber insurance continues in the Energy market, with the sector considered critical infrastructure and subject to more attacks. The Colonial Pipeline cyberattack in 2021 forced the energy company to shut down its entire fuel distribution pipeline and pay \$5 million to Eastern European hackers. This attack opened the energy industry's eye to the potential for cyber loss and the need for Cyber Liability insurance.

In fact, systemic risk is getting increased regulatory scrutiny in 2023, with a focus on energy, among other critical infrastructure sectors. For example, in early March, the Biden administration unveiled a new National Cybersecurity Strategy, including various initiatives to protect U.S. energy infrastructure from attacks. In a fact sheet released by the White House, the new cybersecurity strategy seeks to build and enhance collaboration around five pillars:<sup>2</sup>

1. Defending critical infrastructure
2. Disrupting and dismantling threat actors
3. Shaping market forces to drive security and resilience
4. Investing in a resilient future
5. Forging international partnerships to pursue shared goals

## Looking Ahead

On the Property front, one can expect premium hikes on accounts due to inflation and rate increases – possibly double-digit on certain accounts.

Insurers will always want to support the better-performing accounts and those with limited CAT exposures.

In addition, data will be a critical factor, with underwriters and their management and capital providers relying on models and AI.

## Upstream

### Reinsurance Impact and Capacity Overview

Recapping 2023, the first week of January ushered in tougher reinsurance renewal terms than underwriters anticipated. Reinsurance brokers were consistent in citing this as being one of the worst catastrophe renewal markets in recent history – a renewal that packed a one-two punch of increased retentions and increased costs. In many cases, previous reinsurance structures were no longer cost effective, causing underwriters to either retain more risk or not to purchase reinsurance at all.

That said, the ultimate impact of reinsurance renewals on our Energy insurers was mixed due to varying levels of reliance upon reinsurance by our direct underwriters. Recognizing this fact presented McGriff with the most favorable pathway to negotiating through this difficult cycle.

Capacity is paramount for underwriters to achieve any meaningful change to expiring terms, so what impact has there been on capacity? The first four months of 2023, underwriters delivered warning messages to our clients about reduced capacity and the need for increased premiums (high single digits for risk and high double digits for Named Windstorm coverage). They cited the reinsurance market and reduced capacity at various underwriters, led by the loss of Munich Re as an Oil & Gas underwriter, as factors. Fortunately for our clients the reduction of capacity has not proven nearly as tight as they predicted. First, many underwriters have increased lines to take up the Munich Re shortfall. Second, several new markets entered the Energy arena.

### Upstream Property and Well Control

For accounts that do not require over \$35 million in capacity for Well Control, we find renewal rates have ranged from flat to a 10% increase for risks (non-windstorm exposed). The lower rates generally entail moving the account to new underwriters as underwriter management is prescribing rate increases on renewals but not new business. Accounts with higher frequency and/or severity of claims will experience higher rates dependent upon the loss facts. Serial loss offenders are understandably attracting the highest rates. Underwriters are also reviewing coverage forms and conditions during this hard market.

For GOM accounts that purchase Named Windstorm (NWS) coverage, most renewals have experienced rates increases ranging between 5% - 10% for risk and 10% - 22% for NWS coverage. Underwriters also focused on property valuations, citing the need to adjust scheduled values to reflect inflationary trends for materials and services.

## **Upstream Casualty**

Expectations for the offshore markets included a push from the markets regarding terms and conditions, exclusions, increased deductibles/self-insured retentions, and even warranties containing prescriptive risk management processes (e.g., securing Marcel Endorsement Provisions from contractors for work that falls under the Louisiana Anti-Indemnity Act).

The sudden loss of market through J.H. Blades the first week of January impacted the market profoundly, particularly offshore accounts. While Markel was ultimately able to provide renewals through June 1 at reduced capacity, it did so with rate increases ranging between 10% and 25% for General Liability and 20% and 50% for Umbrella. The layers above these limits proved more difficult, especially where the excess attachment point dropped to \$5 million or \$10 million. Rate increases for the next \$15 million to \$20 million layer were erratic, with rates ranging between 20% and 40+% for loss-free accounts.

Offshore renewals were subject to even higher rate increases, especially for accounts with claims. There has been a confluence of factors challenging these renewals, for example reinsurance and edicts for minimum rate increases plus loss of a key market in this space which caused significant movement of accounts. Where the client decided to change markets, the cost increases ranged between 10% and 20%. Due principally to the changes with Markel, several additional London markets offered options for primary and first layer Excess coverage. The aforementioned factors prompted changes in terms and conditions, such as scaling limits, defense inside limits, higher deductibles/SIRs, and greater scrutiny on terms and conditions in general. Some markets offer “for interest” limits, in return for additional premium, while other markets can only offer limits that scale to the client’s ownership interest; our clients must be ever mindful of the reduced limits available where their ownership interests are not 100%.

## **Strategies to Manage through the Market Cycle**

### **What strategies have helped reduce negative impacts on our clients’ renewals?**

The key for renewals has been to allow extra time to assure a total grasp of the client’s internal procedures and willingness to prompt change where needed, the client’s ability and/or willingness to take on larger retentions where applicable, analysis of options for tightened or restricted coverage, and the 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. McGriff also creates a range of options from underwriters to afford clients a matrix of data points to enhance decision-making.

## **Looking Forward**

While McGriff believes there is sufficient capacity to maintain coverage limit levels that insureds currently have on their 2023 placements, we are watching this space very closely due to the recent exit of Munich Re from the Upstream Energy space – due to Munich Re’s stance on the Oil and Gas sector and ESG (Environmental, Social and Governance). It remains a possibility that other insurers/reinsurers will follow suit (particularly European insurers).





# Environmental

---

The Environmental insurance market has not changed much since the fall of 2022, with premium increases in the 5% range. Insurers are seeking rate in alignment with their appetite and loss history. Capacity is still available, although carriers are protecting themselves from high-hazard risks with layers involving multiple insurers.

The passage of the Infrastructure Investment and Jobs Act (IIJA) has created many opportunities for construction and energy-related projects with mandatory Environmental insurance requirements included in contracts, leading to greater coverage needs. Owners and Contractors will protect their best interests by implementing today's advanced and sophisticated risk management strategies. These include implementing comprehensive solutions specifically designed to protect stakeholders from the catastrophic environmental risks associated with the design, construction, and repair of hard infrastructure projects such as roads, bridges, pipelines, airports, rail lines, and ports.<sup>1</sup> New insurance products are being created that combine Pollution Liability solutions.

Environmental activism remains front and center, increasing awareness of pollution risks and more lawsuits. Several other headwinds are on the horizon that could impact the Environmental market, including environmental, social, and governance (ESG) risks, weather-related losses with pollution implications, and the recent regulatory updates by the Environmental Protection Agency for per- and polyfluoroalkyl substance (PFAS) exposures.

## Credit Crunch, Higher Interest Rates

We are seeing a slowing in property transactions, specifically redevelopment projects involving contaminated properties due to credit markets tightening and higher interest rates. Frequency of insurance placements has slowed down as deals are put “on hold,” with financing for redevelopment projects becoming more difficult.

## ESG

Environmental insurance can play an important role in ESG considerations by providing companies with financial protection against potential environmental liabilities and risks.

ESG is a set of standards that investors and other stakeholders use to evaluate a company’s performance in environmental sustainability, social responsibility, and corporate governance. In particular, the “E” in ESG focuses on a company’s impact on the environment, including its carbon footprint, waste management practices, and compliance with environmental regulations.

Environmental insurance can help companies manage their environmental risks and liabilities, improving their ESG performance. Pollution Liability insurance, for example, covers financial risks associated with potential environmental liabilities and helps the company demonstrate its commitment to environmental responsibility.

We are watching this area closely regarding lawsuits due to disclosures that could be required under ESG regulations. There has been political and corporate pushback on ESG regulations and confusion surrounding what this could mean for businesses. Most recently, the House Financial Services Committee created a working group to closely scrutinize the Biden administration’s proposals promoting ESG best practices.

## Weather-Related Events and Pollution Exposures

Recent weather-related events may significantly impact pollution exposures in affected areas, including causing pollution conditions at residential housing, construction sites, industrial facilities, and other sources. For example, the recent floods in California are expected to impact the Environmental marketplace by causing mold, water contamination, and disbursement of chemicals, fuel, and debris from onsite and offsite sources across the state.

Wildfires can also cause pollution conditions in a variety of ways. One of the primary methods is the release of smoke and other airborne particles into the atmosphere. These particles may contain hazardous chemicals and particulates such as carbon monoxide, nitrogen oxides, and volatile organic compounds. People exposed to these particles may develop respiratory issues such as asthma attacks, coughing, and difficulty breathing. In addition to smoke and airborne particles, wildfires can pollute the environment by destroying vegetation and eroding soil. Sediment and other pollutants may be washed into nearby rivers and waterways, contaminating drinking water sources.

Wildfires arise from both natural and man-made causes. Considerable effort is put into determining cause. Companies found to be responsible for causing these fires can be held liable for considerable damages arising from their pollution impacts.

The uptick in the frequency and severity of legionella and mold claims in the hospitality industry and multifamily housing continues, often as a result of the increased frequency and severity of recent storms and flooding events.

## PFAS Regulations

The EPA in March proposed the first national drinking water standard for “forever chemicals” that are hazardous to human health. The new rule will establish drinking water standards for six perfluoroalkyl and polyfluoroalkyl substances, also known as PFAS or “forever chemicals.” PFAS are a class of synthetic chemicals ubiquitous in the environment and the human body, where they can cause serious health problems.

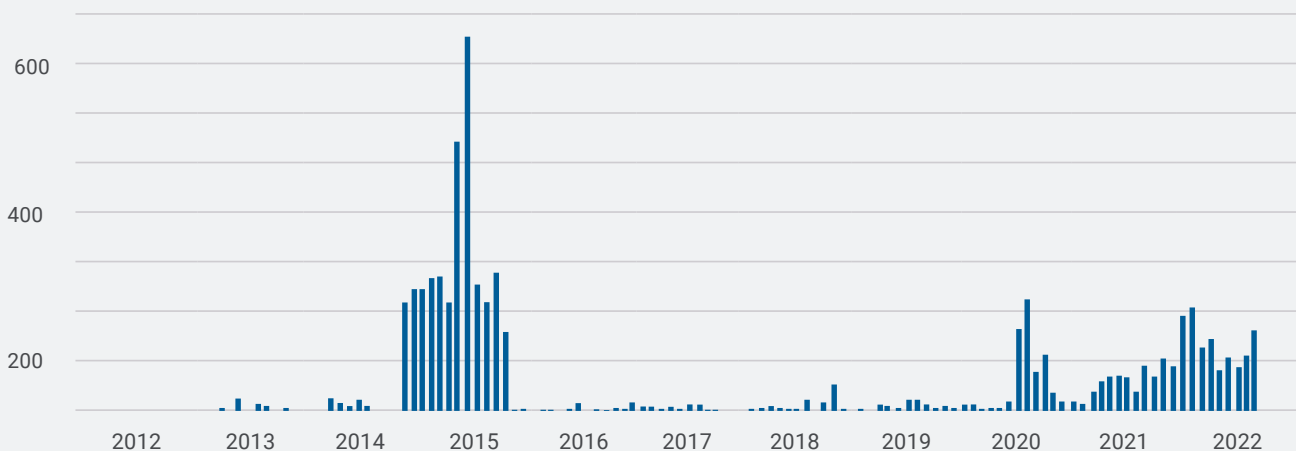
The EPA also recently proposed banning PFAS in cosmetic and other consumer products, including shampoo, makeup, deodorant, sunscreen, hair dyes, and more. California, Colorado, and Maryland have passed PFAS restrictions on cosmetics that go into effect in 2025. Other proposals are under consideration in Washington and Oregon, and bills have also been introduced in Georgia, Illinois, Rhode Island, and Vermont.

These proposed bans and restrictions are expected to increase litigation against PFAS manufacturers and manufacturers of PFAS-containing products for environmental cleanup and remediation, with some lawsuits involving personal injury claims.

Many experts predict that the wave of litigation will become a tsunami as concerns about the effects of these chemicals on people and the environment grow. Bloomberg Law has reported that at least 50 lawsuits concerning PFAS have been filed in, transferred into, or transferred within U.S. federal courts since March 1, 2023.<sup>2</sup>

We continue to see contaminant exclusions for PFAS in Pollution policies and expect to see an expansion of exclusions with more regulation on the horizon and a wider swath of businesses impacted by PFAS-related claims.

**A Decade of 'Forever Chemical' Litigation**  
 Monthly PFAS Lawsuits Filed (January 2012 - March 2022)



Note: This graphic shows lawsuits filed beginning in 2012. There were a cases tiled between 2005 and 2011.

Source: Bloomberg Law analysis of PFAS-related lawsuits filed in federal courts between July 2005 and March 2022.

## Focus on Transportation Pollution Exposures

In the wake of the Norfolk Southern train wreck in East Palestine, Ohio, and the resulting chemical spill, attention is now on railroads and the impact on the Pollution Liability market. Thirty-eight rail cars derailed, and another 12 were damaged by fire due to the derailment. Eleven derailed cars carried hazardous materials, including 115,580 gallons of vinyl chloride.

Under the federal Superfund law, the EPA ordered Norfolk Southern to take all available measures to clean up contaminated air and water. The EPA also required the company to reimburse the federal government for a new program to provide cleaning services for impacted residents and businesses.

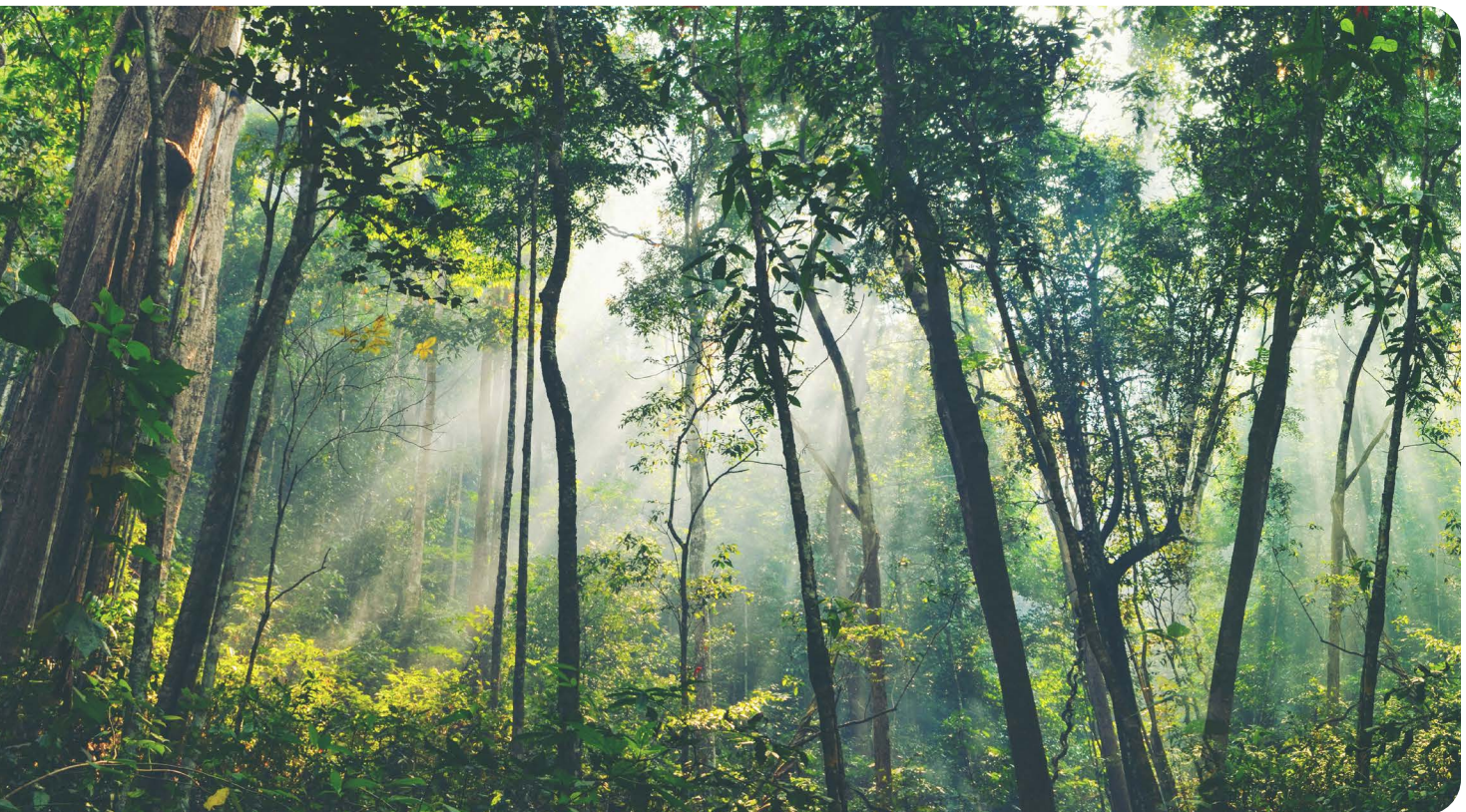
Numerous lawsuits seeking class-action status have already been filed on behalf of businesses and residents against the Atlanta-based railroad holding company and unit Norfolk Southern Railway Co., alleging negligence and seeking millions of dollars in damages.<sup>3</sup>

We will monitor these cases to see if they lead to higher premiums, greater underwriting scrutiny, or reassessment by insurers of their risk exposure.

<sup>1</sup> <https://www.propertycasualty360.com/2022/03/03/infrastructure-projects-and-the-need-for-environmental-insurance/>

<sup>2</sup> <https://news.bloomberglaw.com/insurance/pfas-litigation-begins-tip-of-the-iceberg-turn-toward-insurers?source=newsletter&item=body-link&region=text-section>

<sup>3</sup> <https://www.businessinsurance.com/article/20230228/NEWS06/912355847/Ohio-derailment-puts-focus-on-railroad-insurance,-risk-management>





# Public Entity

---

Public Entities continue to face some of the same headwinds we discussed in our 2022 Fall Market Update, including reinsurance rate increases, inflationary concerns, labor shortages, supply and demand imbalances, high fuel costs, cyber risks, and an uncertain geopolitical environment. In addition, other issues have arisen since our report, including the tightening of credit markets stemming from the banking crisis in March, with all eyes on how this will impact the Directors & Officers (D&O) market. We have already seen several shareholder class-action suits filed against the CEOs and other executives at Silicon Valley Bank (SVB) and Signature Bank.

Active shooter, sexual abuse and molestation, employment practices, social inflation, law enforcement liability, and other risks remain a concern for the Public Entity sector.

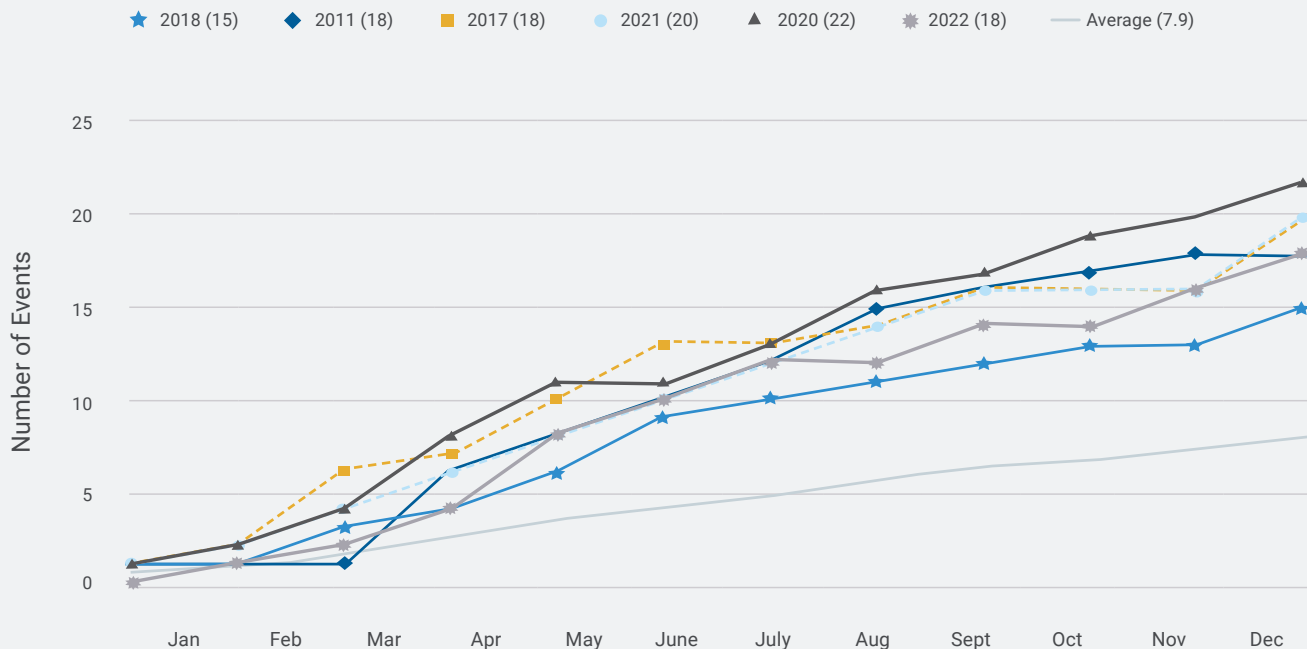
## The U.S. P&C Industry: Underwriting Losses Soar

Overall, the U.S. Property & Casualty industry recorded a \$26.5 billion net underwriting loss in 2022, according to a report published by AM Best. The underwriting loss occurred despite an 8.4% increase in net earned premiums and a 21.4% decrease in policyholder dividends, which were offset by a 13.9% increase in incurred losses and loss adjustment expenses (LAE) and a 6.2% increase in other underwriting expenses, said the report.

## Natural Catastrophe Losses: 2022 Costs

The year 2022, according to the NOAA National Centers for Environmental Information (NCEI), was another active year during which we had a high frequency, high cost, and large diversity of extreme events. 2022 (red line in the chart) marks the eighth consecutive year (2015–2022) in which 10 or more separate billion-dollar disaster events have impacted the U.S. The 1980–2022 annual average (black line) is 7.9 events (CPI-adjusted); the annual average for the most recent five years (2018–2022) is 17.8 events (CPI-adjusted).

**1980-2022 United States Billion-Dollar Disaster Event Count (CPI-Adjusted)**



Month-by-month accumulation of billion-dollar disasters for each year on record. The colored lines represent the top six years for most billion-dollar disasters. All other years are colored light gray. NOAA image by NCEI.

## A Hard Reinsurance Property Market

January renewals saw some of the highest rate increases from reinsurers in response to losses of \$122 billion in 2022, depleted capital, inaccurate valuations, inflation, stock market volatility and lower returns on investment, and high claims costs.

Reinsurers also reduced their capacity, rebalancing the portfolios for catastrophe coverage. According to Fitch Ratings, tighter terms and conditions will continue in 2023, including a movement to named-perils coverage from all perils, higher insurer retentions, and reduced limits.

### Fitch Ratings' Global Reinsurance Forecast

(USDm)	2021 Actual	2022 Forecast	2023 Forecast
<b>Net premiums written</b>	158,853	173,975	189,600
<b>Catastrophe losses</b>	19,475	20,175	18,650
<b>Russia/Ukraine losses</b>	0	2,200	0
<b>Pandemic-related losses (non-life)</b>	525	0	0
<b>Net prior-year favorable reserve development</b>	4,286	3,180	3,570
<b>Calendar-year combined ratio (%)</b>	98.0	98.1	94.0
<b>Accident-year combined ratio (%)</b>	100.8	100.0	96.0
<b>Accident-year combined ratio excl. catastrophes/pandemic/Russia (%)</b>	87.6	86.4	85.6

Source: Fitch Ratings

As a result, Public Entities are experiencing higher Property insurance premiums even in non-CAT areas. Five to ten years ago, the U.S. had distinct CAT zones, with underwriters pricing for higher exposures. There are, however, fewer non-catastrophe zones today, according to reinsurer Munich Re. Wildfires and severe convective storms, for example, are no longer limited to previously defined CAT zones. As a result, Public Entities are more vulnerable to property damage from natural disasters.

According to Munich Re, some Property prices rose “well into the double-digit range,” and, in some cases, in heavy CAT-exposed areas with unfavorable loss history, increases reached 100%.

In addition to higher rates and capacity reduction, the requirement for accurate property valuations – insurance to value (ITV) – is front and center. Underwriters have a greater focus on valuations, requiring updated appraisals to validate replacement cost coverage on buildings, contents, equipment, inventory, and business interruption risks. Without current appraisals, insurers are moving to scheduled limits and margin clauses. Performing a deep dive into property schedules for correct values is prudent.

## Casualty Risks

### Active Shooter

Gun violence at schools – from the 2022 shootings at Robb Elementary in Uvalde, Texas, to the 2023 Covenant School attack in Nashville, Tennessee – continues to make headline news at an alarming rate. According to a recent article in The Wall Street Journal, a newly released federal survey reveals that most U.S. public school districts do not feel well-prepared to respond to active shooters, even after implementing updated safety measures.

According to the National Center for Education Statistics, roughly two-thirds of public schools now control access to school grounds during the school day, up from 51% in the 2017–18 school year. Locks are now installed on 78% of classroom doors, up from 65% five years ago. In addition, 43% of schools now use panic buttons or silent alarms that connect directly with law enforcement, up from 29% previously. The percentage of schools in the U.S. that use one or more security cameras to monitor campus has increased to 92% from 84%, and more schools are implementing metal detector checks and requiring clear book bags or banning book bags.<sup>1</sup>

However, even with these measures in place, shooting incidents continue. According to the survey, 24% of schools reported feeling very prepared for active shooters, while 60% said they felt somewhat prepared; 11% reported feeling somewhat unprepared for active shooters, with the remainder reporting that they felt very unprepared.

### Sexual Abuse & Molestation

Sexual abuse and molestation claims continue to rise for educational institutions. Costly cases such as the one at Baylor University and others are shifting the insurance landscape for colleges and universities, with insurers narrowing their General Liability policies to exclude sexual abuse. Coverage may be available from some insurers if educational institutions meet certain requirements, such as implementing policies on sexual-misconduct prevention and ways to report and investigate incidents.

Many universities and colleges, to obtain coverage, have set up captives to insure their risks. Yale University, the University of California system, Rutgers University, and the University of Minnesota are among the colleges that self-insure with captive insurance companies, for example.<sup>2</sup>

### Environmental Liability: PFAS

Per- and polyfluoroalkyl substances (PFAS) pose health risks that have been the subject of numerous studies. PFAS have been found to have contaminated drinking water in 49 states.

### Law Enforcement Liability

Municipalities that oversee police departments are facing increased risks from police actions. With body cameras, dashboard cameras, and smartphones, more interactions with police are recorded and shared. Social media has served to amplify events with calls for reform and increased litigation. As a result, Public Entities continue to face more and larger lawsuits and settlements.

The insurance market is reacting to these risks by hardening many casualty lines. This means higher rates, reduced capacity, and increased retention levels for Public Entities to bear more of the risk.

### Wrongful Termination

Wrongful termination claims have spiked, including allegations of retaliation, age discrimination, and racial bias. Defense costs are rising, putting institutions under pressure to settle cases. As a result, settlement values are on the rise.



## Commercial Automobile

Automobile prices combined with inflation and supply chain shortages of auto parts have impacted Auto Physical Damage insurance. Higher claims costs have resulted in higher premiums for the large fleets of Public Entities. These factors, along with high fuel prices and driver shortages, impact forecasting and the budgets of municipalities and other entities.

Nuclear verdicts – claims of \$10 million or more – spurred by social inflation, litigation funding, and pro-plaintiff juries, continue to impact the Auto Liability insurance market. The backlogged court system due to the pandemic is back in session, and expectations are that these massive verdicts will continue, impacting entities with large fleets. Public entities should revisit their fleet safety management programs and perform a comprehensive gap analysis of risk controls to minimize the potential of big casualty losses such as severe auto accidents.



## Cyber

Although the Cyber insurance market has softened in several areas, Public Entities, including schools and government agencies, continue to be targets of bad actors looking to leverage vulnerabilities in educational institutions and critical public infrastructure, such as water districts.

According to a report from Emsisoft, in 2022, 89 education sector organizations were victims to ransomware attacks. The number of schools potentially affected by the attacks increased significantly from 2021 to 2022, with 1,981 schools potentially affected in 2022, up from 1,043 the previous year. These incidents had an impact on 45 school districts as well as 44 colleges and universities.

In addition, according to Emsisoft, ransomware attacks affected 106 state or local governments or agencies in 2022, a significant increase from the 77 attacks in 2021. It should be noted that these figures were heavily influenced by a single incident in Miller County, Arkansas, in which a compromised mainframe spread malware to endpoints in 55 different counties.<sup>3</sup>

Although tight budgets frequently limit the ability of the public sector to build an adequate cyber defense, without a robust cybersecurity plan, entities will have a hard time obtaining insurance. Many Cyber insurers have seen significant increases in losses in the public sector and, as a result, underwriting requirements have become more stringent. Nearly all insurers use supplemental applications to ask more detailed questions about ransomware. Depending on which controls an entity has in place, answers to these questions may take center stage at renewal. As we previously reported, multifactor authentication (MFA) is perhaps the most visible requirement for coverage today.

We are also seeing insurers expanding their war exclusions and political risks in Cyber policies on the heels of the Russia-Ukraine conflict.

## Directors & Officers

We are closely monitoring the potential fallout, if any, on the D&O market from the several banking collapses that occurred in March. It is too early to tell the impact that class-action lawsuits will have on D&O insurance. Expectations are for more lawsuits to follow, potentially causing a ripple effect of higher rates and reduced capacity in the market.

## Workers' Compensation

There have not been any significant increases in Workers' Compensation premiums unless there is unfavorable loss history. Several states are looking to pass legislation to expand coverage for first responders and dispatchers for post-traumatic stress disorder.

## Looking Ahead

A mitigation strategy with updated procedures, a crisis management plan, business continuity/resiliency planning, additional training, and other risk management protocols is critical in stemming losses. Beginning the renewal process early to analyze data, address emerging issues, manage budgetary parameters, and seek alternative financing and insurance structures will facilitate the best coverage terms and conditions in the current market environment.

<sup>1</sup> <https://www.wsj.com/articles/most-u-s-schools-dont-feel-fully-prepared-for-shootings-despite-added-security-11673559435>

<sup>2</sup> The Chronicle of Higher Education

<sup>3</sup> <https://securityintelligence.com/news/cyberattacks-rise-sharply-against-governments-schools/>



# Real Estate & Hospitality

---

The volatility in the Property insurance sector – characterized by significant price hikes, restricted capacity, and more stringent terms, combined with a hyper focus on asset valuations – marks one of the hardest markets in recent history. The new year ushered in a tumultuous Property insurance environment for the Real Estate/Hospitality industry due to a convergence of factors, including natural catastrophes, inflation, valuation adjustments, and higher claim costs.

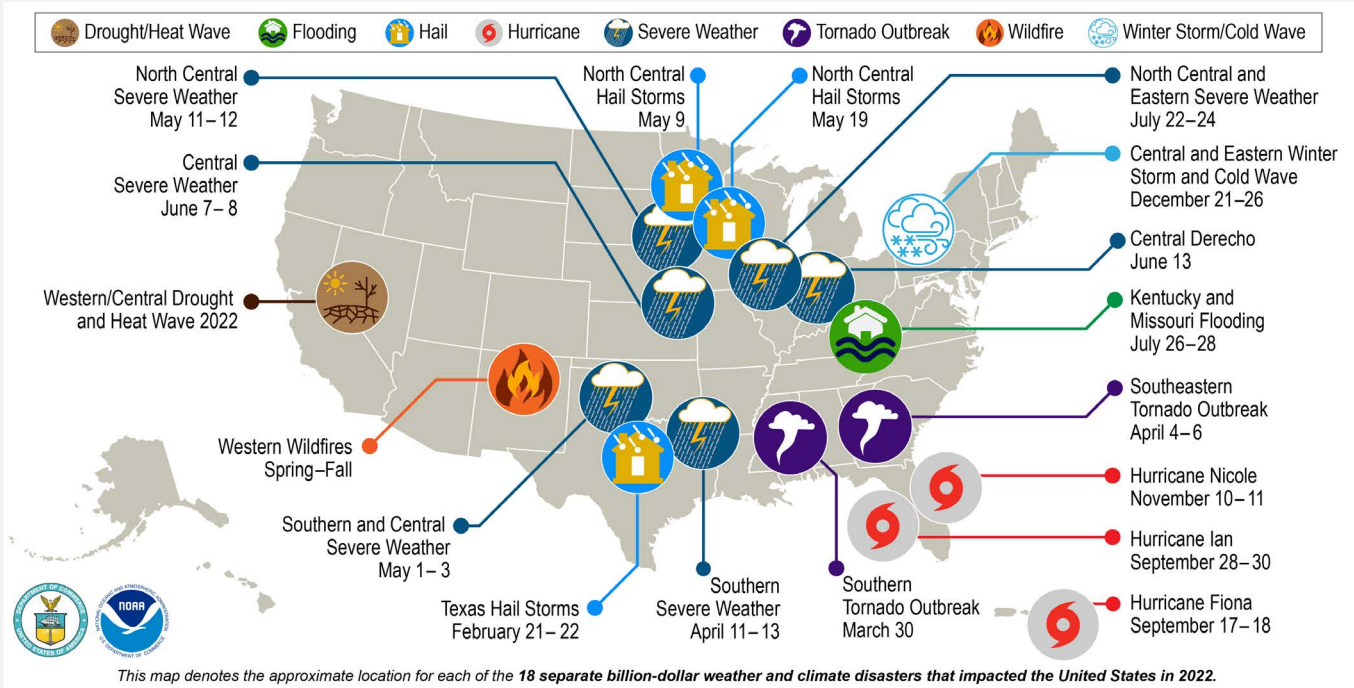
The laser focus on insurance to value (ITV) has underwriters closely scrutinizing valuation adequacy, with insureds required to provide supporting evidence of values.

The Casualty market is not experiencing the same disruption as the Property sector. While there are challenges on the Casualty side for the Real Estate/Hospitality industry, they are more localized, with insurers focused on specific types of challenging categories of risks. Concern also remains over the impact of nuclear verdicts.

## Property

Property insurance costs have increased at an accelerated rate in 2023 due to the reinsurance pressures that surfaced in January. There is also less capacity, particularly in named windstorm coverage, in part due to the shortage of reinsurance in the Florida market. A shortage of new company entrants and the rise of non-traditional claims are also causing a reduction in capacity. It is no longer only hurricane losses driving the market but also the increased frequency and severity of losses from wildfires, freezes, tornadoes, flooding, and winter storms.

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



Source: NOAA

As a result of diminished reinsurance capacity, many insurers have less of their own capacity to deploy, so they seek to deploy it responsibly and are pushing toward rate adequacy in order to be able to cover claims. Florida windstorm capacity, specifically, has a limited supply in the marketplace which is forcing insureds to reduce their named-windstorm limits.

We also see stricter terms and conditions with higher retentions, per-location deductibles, and new freeze deductibles. Insurers also remain selective with capacity for wood frame construction.

In addition, it is important to note that, although more highly protected, non-combustible risks in non-CAT areas are not seeing the same level of increase as CAT-exposed zones, the market remains hard for everyone. There is pressure throughout all regions as more non-traditional CAT areas are hit with losses from weather-related events.

## All Eyes on Valuations

Insurers are putting pressure on valuations due to the uptick in losses that do not correlate with stated property values. Underwriters are taking a hard line on valuations and requiring insureds to provide appraisals, real time developments costs, and/or a Marshall & Swift Report to support property values. Without this documentation to validate values, insurers are employing more restrictive terms and conditions, including issuing policies with scheduled limits and a margin clause.

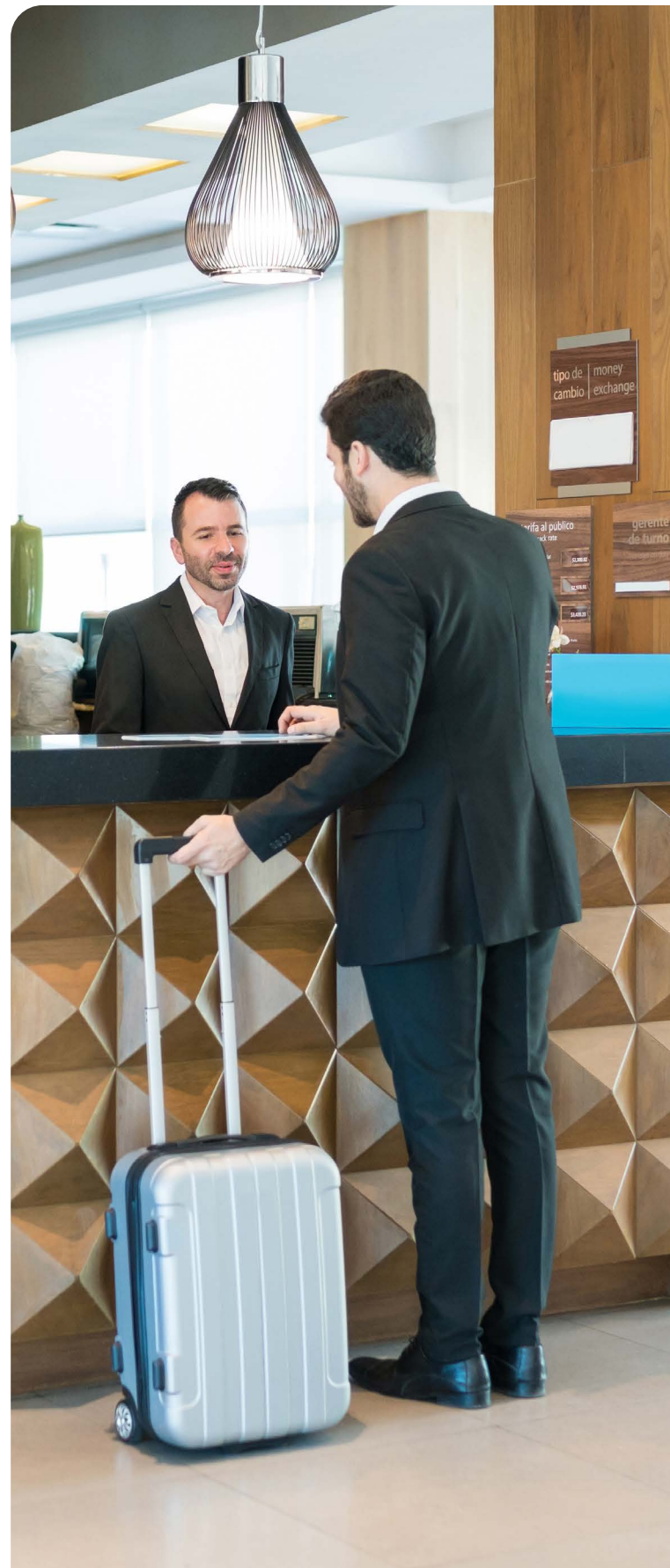
## Casualty

The Casualty market has not seen the type of turmoil experienced in the Property market since our 2022 Fall Market Update. It is, however, a bifurcated market between the residential/hospitality and non-residential/non-hospitality sectors. In the primary General Liability (GL) market, on the residential/hospitality side, we see single- to low double-digit increases for good risks and 15% and above for risks with a loss history. Non-residential/non-hospitality risks with favorable loss history are seeing flat rates to 5% increases.

Pockets of the residential segment, such as affordable housing, are more adversely impacted than others, with 15%+ rate hikes, increases in retention levels, and restrictions in terms and conditions. The addition of habitational and assault and battery exclusions or the inclusion of sublimits for both continues.

Commercial Auto rate increases run between 5% and 15% on renewals and higher if the risk has a large fleet or shuttle exposure.

Workers' Compensation has moderated over the years and continues to deliver between flat rates and 5% increases on renewals.



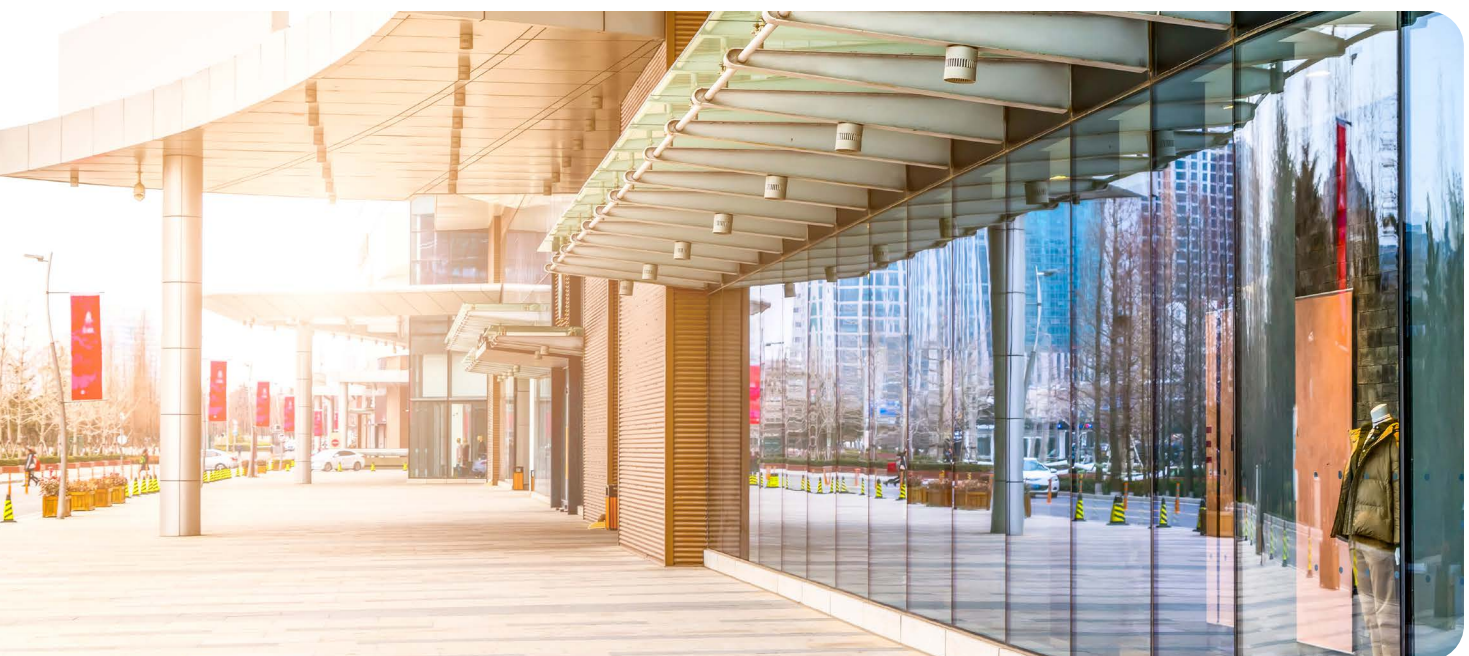
We are still experiencing the impact of nuclear verdicts with higher claims payments and continue to monitor the ripple effect they will have in the market. With the courts now opened, many backlogged and new claims are on the docket. While we are seeing tort reform in Florida and potentially in Iowa, the social inflationary environment has worsened since court closures three years ago, and we expect to continue to see a general trend of increased costs of verdicts and settlements.

Umbrella attachment points over the primary GL remain a concern. We continue to see requirements for increased attachment points, especially in the more challenging sectors of residential/hospitality and in challenging jurisdictions, such as New York. While we have seen rate increases in the excess layers moderate, due to the increase in costs of verdicts and settlements, insurers are continuing to apply rate increases in the lead umbrella position.

### Looking Ahead

With the Property market at an inflection point, insureds are making hard decisions on how to best manage their insurance program. McGriff is assisting our clients by going to market early, working with insurers throughout the year, and consulting with our clients' risk managers and the C-suite for a complete understanding of the insurance landscape.

Together with our clients, we are looking at available options such as parametric products, fronting, risk participation with higher retention levels and deductibles, and alternative risk solutions such as captives. In addition, our data analysis and insights from CAT modeling are critical in potentially getting clients more capacity. We take a deep dive into understanding our clients' claims, the impact on underwriting, and what our clients are doing to mitigate risks in the future.



# Dealer Services

---



## Liability

The Liability insurance market for Auto Dealers with good loss history remains competitive with renewal rate increases between 6% and 10% to account for social inflation. Renewals for businesses with a poor loss history, however, will experience rate increases greater than 10% and have a more difficult time with markets willing to provide quotes. Some insurers have scaled back their appetite for dealerships with poor loss experience.

Social inflation is a result of several factors that cause a spike in claims costs and insurer loss ratios along with increased premiums for policyholders. The factors behind social inflation include an increase in the number of outsized jury awards; longer legal proceedings; rollbacks in tort reform, such as overturning statutory limits for non-economic damages (pain and suffering, for example); and third-party litigation funding. Third-party litigation funding is a type of financing in which an investor or entity funds attorneys or clients in exchange for a financial stake in the outcome or settlement of a lawsuit or arbitration.<sup>1</sup>

## Property

The Property insurance market is challenging across all industry sectors. On average, according to MarketScout's Market Barometer, in the first quarter of 2023, Commercial Property rates were up 9.3%. Businesses in CAT-exposed areas saw increases of 25% and higher.

Multimillion-dollar catastrophic losses – from hurricanes to wildfires, flooding, mudslides, and winter freezes – have contributed to a hardening Property market, with insurance rates continuing to rise, even in non-catastrophic regions. Additionally, there haven't been new entrants into the market to bring in an influx of new capacity. Reinsurers have also increased their rates, with insurers passing the costs to policyholders.

## Cyber

The Cyber insurance market began to stabilize last year and continues to do so as increasingly more companies implement cybersecurity measures to mitigate their risks and fulfill requirements of coverage. According to MarketScout's Market Barometer, in first quarter 2023, rate increases averaged about 15%, with small and midsized accounts seeing an increase of 4% to nearly 5%.

The Federal Trade Commission (FTC) issued new cybersecurity standards for Auto Dealers. These new standards were set to go into effect by December 2022, but the FTC issued a six-month extension. Auto Dealers now have until June 9, 2023, to comply with the new FTC Safeguards Rule requirements.

As a reminder, according to the FTC Safeguards Rule, there are nine elements that an Auto Dealer's information security program must include<sup>2</sup>:

- Designate a qualified individual to implement and supervise your company's information security program.
- Conduct a risk assessment.
- Design and implement safeguards to control the risks identified through your risk assessment.
- Regularly monitor and test the effectiveness of your safeguards.
- Train staff.
- Monitor your service providers.
- Keep your information security program current.
- Create a written incident response plan.
- Require your qualified individual to report to your board of directors.

## Impact of Higher-Priced Used Vehicles on Insurance

The price of used vehicles increased 4.3% in February from January – marking the largest increase between the two months since 2009, according to Cox



Automotive. This jump surprised dealers who looked to the wholesale market to restock inventory, driving up prices.

There also seems to be a general concern on the potential long-term effects for autos financed above MSRP as consumers start trading/reselling these vehicles back to dealers. With the potential for large swings in negative equity and additional carrying cost (including insurance cost), there can be some uncertainty on what the future holds for Auto Dealers. That being said, dealers always find a way to succeed in uncertain times and, as Henry Ford once said, “Obstacles are those frightful things you see when you take your eyes off your goals.”

### Inventory Supply

Inventory is slowly returning to normal after supply chain issues caused a shortage of parts and delays. While we are still not seeing inventory at pre-COVID-19 levels, dealerships are starting to have more inventory on their lots – both new and used. Manufacturers, in order to meet demand, are delivering more basic models without all the bells and whistles to dealers.

### Auto Manufacturers Going Electric

By 2030, it is estimated that the global electric vehicle (EV) market size will reach over 39,000,000 units, a 22% compound annual growth rate over an eight-year period, according to Research and Markets. As part of a push toward EVs, OEMs are asking dealerships to install charging stations in front of their lots for general public use. General Motors and Ford, for example, are requiring dealerships nationwide to build out battery-charging infrastructure to help get EV ownership in general off the ground.

Installing an EV charging station is complicated and expensive for dealers. Dealers must develop custom solutions to meet the requirements of their manufacturers based on the age of the building, the

proximity and capacity of their current transformer, and other factors. According to Automotive News, dealers are spending between \$400,000 and \$750,000 to install infrastructure for Level 3 chargers – the fastest type, which take 15 to 20 minutes to refill most of an EV’s charge.<sup>3</sup>

As these public-use charging stations are installed, it is important to evaluate the potential for increased liability exposures on the part of the dealer. While yet unknown, we will be assessing if dealers will be facing greater liability exposures as a result of public-use charging stations on or near their premises. Everything from increased legal liability as a result of an EV catching fire to increased foot traffic at and around the dealership will need to be closely monitored.

### Looking Ahead

As headwinds continue for Auto Dealers – from increases in Liability and Property insurance rates to rising premiums due to higher inventory values, new cybersecurity regulatory compliance, higher interest rates, a credit crunch, and other issues – it is important to work with a trusted broker that understands the industry, insurance marketplace, and how to navigate it properly.

<sup>1</sup> <https://www.iii.org/article/social-inflation-hard-to-measure-important-to-understand>

<sup>2</sup> <https://www.ftc.gov/business-guidance/resources/ftc-safeguards-rule-what-your-business-needs-know>

<sup>3</sup> <https://www.autonews.com/dealers/installing-ev-chargers-car-dealerships-complicated-expensive>





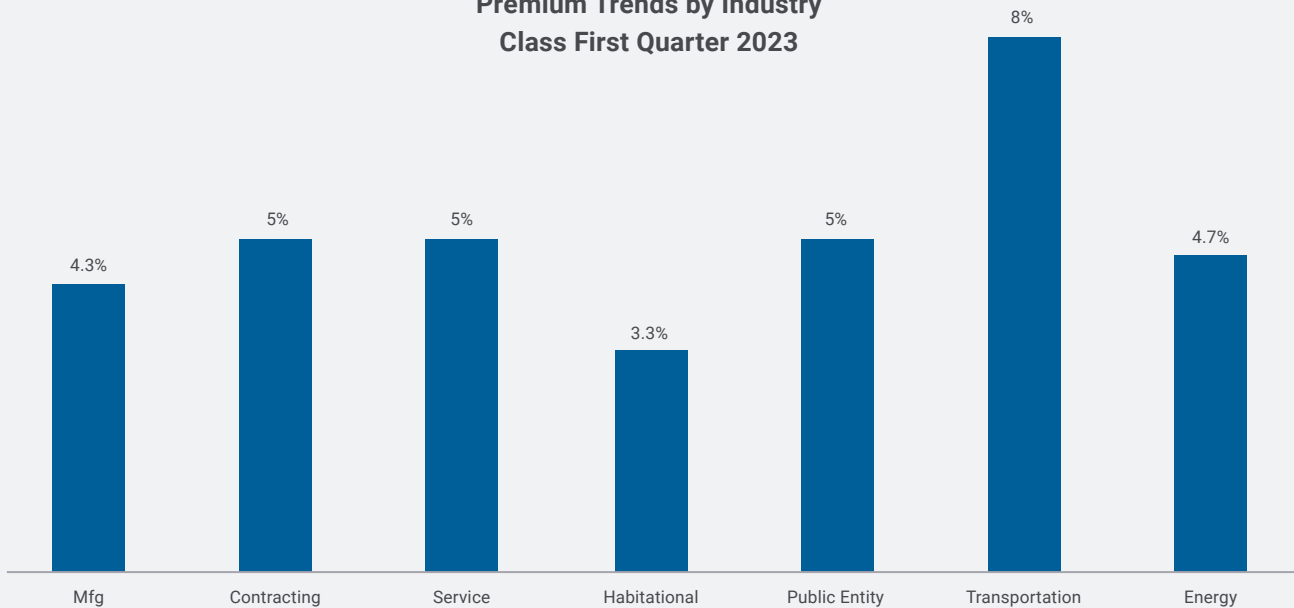
# Transportation

The Transportation and Logistics insurance market has continued to harden through Q1 of 2023. While rates did see some relief in late 2022, we are now seeing rates trend upward. This trend is being driven by factors such as inflation, general legal climate, reopening of the courts after COVID-19, and continued nuclear verdicts – issues we have been closely monitoring.

Inflationary trend has been a difficult issue for insurers to deal with. Some insurers have indicated that inflationary rates that have been placed on loss reserves may have been inadequate, with some carriers seeing ultimate loss values come in at a higher level than reserves. The high cost of auto parts and repairs is impacting Auto Physical Damage insurance.

According to MarketScout's survey, commercial rates overall by industry segment reported Transportation as the only quarter-over-quarter rate increase, which was up from plus 7.3% in Q4 2022 to plus 8% in Q1 2023.

### Premium Trends by Industry Class First Quarter 2023



Source: MarketScout Corp.

## Commercial Auto Liability

Depending on an insured's loss experience and risk profile, rates for primary Commercial Auto Liability could reach double-digit increases. Transportation companies with strong risk profiles – experienced drivers, high safety scores, and a solid loss history – will fare better and secure more favorable increases in the mid-single digits.

The increases are due to insurance losses and underwriting unprofitability. While combined ratios – the ratio of loss and expense costs to premium dollars taken in – for insurers in 2021 fell slightly below 100% to 98.5%, which is good, the outlook for the 2022 industry combined loss ratio is not good, which we believe will push rates higher.

## Excess Auto

We expect to see higher rate increases in the Excess Auto market for limits in excess of \$10 million and more. There is not as much capacity, and there are fewer players in the space. Therefore, insurers in the Excess Auto market are able to demand higher premiums.

Capacity continues to fluctuate. Liberty Mutual has recently made the decision to exit the Transportation Excess Liability space while Ace Westchester has indicated a change in its appetite, with attachment points increased to \$50 million, depending on the insured's risk profile. Ace Westchester had been a cornerstone market for limits in excess of \$20 million. It is now more of a challenge to build excess towers.

Inflation and legal pressure continue to be a heavy influence in the Excess Liability space. Claims continue to increase in values, with the number of multimillion-dollar verdicts over the last seven years for trucking companies increasing 300%. Additionally, the legal climate in many states continue to evolve in a "pro-plaintiff" direction creating an environment for higher-cost claims for transportation companies.

## Workers' Compensation

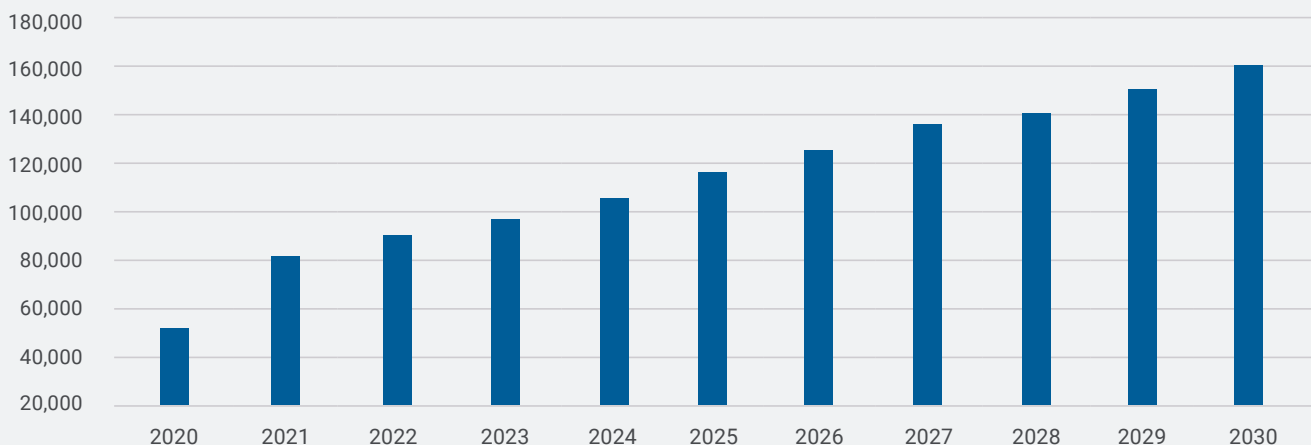
Workers' Compensation continues to be a more profitable line of business for insurers. Rates are generally more favorable with renewal rates coming in at between -3% to +3% on average. We are seeing some larger fleets consider higher Worker's Compensation deductibles as a way to benefit from improving loss experience.

## Driver Shortage

The industry's most pressing long-term issue is the ongoing shortage of truck drivers. While the current shortage has eased slightly, the industry still expects a 160,000-driver shortage by 2030, according to the American Trucking Association (ATA). The ATA estimates the industry will need to recruit nearly a million new drivers over the next decade to replace retiring drivers and drivers who leave voluntarily (e.g., lifestyle) or involuntarily (e.g., driving records or failed drug test) and to account for additional drivers needed for industry growth. These trends do not take into consideration the impact of potential laws that could affect the industry either positively (lowering the minimum age to drive across state lines) or negatively (regulatory mandates that force drivers to leave the industry or become less efficient).

To combat the driver shortage, many transportation companies are expanding their applicant pool. Some are hiring from outside the industry and training new drivers to join their fleets. While this strategy may help with driver shortages, it may also change the risk profile of the fleet for insurance purposes. New drivers can reduce the fleet's collective experience, raising rates or making it more difficult for the carrier to obtain coverage. Companies that continue to find innovative ways to fill open cabs may discover that their hiring strategies have repercussions in other areas of their business, such as risk management practices and insurance coverage.<sup>1</sup>

**Truck Driver Shortage**



Source: American Trucking Association

## Looking Ahead

It is important for Transportation and Logistics operators to work on renewals on a timely basis. Telematics and strong safety programs will help avoid accidents, monitor drivers, and even manage maintenance more efficiently, which can in turn help reduce insurance costs. Additionally, proactive claims handling is critical to understanding the nuances of each claim and ensuring that claims are handling in a cost-efficient manner.

The insurance market will continue to be heavily influenced by capacity, the economic climate, and the legal environment. Any new capacity that enters the space should benefit future rates while continued inflation and unfavorable advances in the legal system will push claim values higher leading to continued rate pressure from the market.

<sup>1</sup> <https://www.crcgroup.com/Tools-Intel/post/primary-trucking-insurance-state-of-the-market>





# Aviation

---

The Aviation insurance market has seen a shift in the past year and is showing signs of stability compared to prior years. Rate changes range from modest reductions to a modest increases, with loss activity and rising claims costs continuing to play a large role in underwriters' rating structures.

Upcoming headwinds in the Aviation market include continued uncertainty over hull claims related to the confiscation of European and U.S. registered aircraft by Russia, and double-digit increases on insurer's reinsurance renewals.

Global tensions have impacted the Hull War market as some insurers reduce their capacity or exit the market altogether, resulting in rapid hull war rate fluctuation and short-term quote validity. Overall, the Aviation Hull War insurance market remains an important sector within the broader market, and it will continue to evolve as the industry adapts to new risks and challenges.

Despite the large loss reserves related to the Russia-Ukraine conflict, hull war volatility, and the pressure on insurers from their reinsurance pricing increases, we are seeing insurance companies demonstrate a willingness to compete to retain their lines on existing business. This competition, along with some new capacity to the market, has created enough pressure to keep rating flat or push it downward in many situations.

### Shortage of Pilots and Mechanics

The continuing shortage of pilots and mechanics poses challenges for the Aviation industry, with deficits anticipated to linger through 2033. The lack of slots available at programs for recurring pilot training by aircraft manufacturers is increasing the demand for alternative training facilities. Consequently, underwriters are employing greater scrutiny for pilot training standards.

The maintenance, repair, and overhaul (MRO) sector is equally problematic as the mechanic labor shortage continues. Many seasoned aircraft mechanics took early retirement packages in 2020, and MRO shops have struggled to replace their expertise.

### Aircraft Values

Asking values for aircraft remain elevated but have begun to show signs of slight decline, slowly retreating from last year's all-time highs. Aircraft inventory levels showed an upward trend in the first quarter of 2023, however, aircraft parts inventory remains low as the supply chain continues to recover from the impact of COVID-19. Interest in aircraft salvage is high with salvage bids reflecting the industries need for readily available parts. We continue to ask clients to review their aircraft values to account for current market valuations, costly repair costs, and extended repair timelines.

### Looking Ahead

We anticipate the market will continue to stabilize and move toward softening as insurers look to gather premium to pay the increased cost of their reinsurance renewals. New entrants to the market and a broadening of appetite from some current markets will continue to put pressure on the market to soften.

Planning ahead and partnering with an innovative broker to craft tailored coverage solutions will be key as we navigate the current market conditions. Our strengths lie in developing programs on a quota-share basis for maximum competition, capacity, and coverage.





# Senior Care

---

The Property insurance market presents the biggest challenge for the Senior Living sector. According to the NOAA National Centers for Environmental Information (NCEI), in 2022, 18 disasters caused an estimated \$169.8 billion in losses. Hurricane Ian in Florida in 2022 caused an estimated \$60 billion in insured losses, according to Swiss Re.<sup>1</sup>

Furthermore, 2022 was the eighth consecutive year the U.S. suffered at least 10 catastrophes causing more than billion dollars in losses. Additionally, natural disaster losses from 2020-2022 surpassed \$275 billion in 2022 dollars—the highest ever three-year total for U.S. carriers.

Severe weather losses have continued in 2023. The first quarter of 2023 shows insured natural catastrophe losses reached \$15 billion and total economic losses hit \$65 billion. Fifty-eight percent of these losses are from the United States. Insured losses in excess of \$3 billion are expected from an outbreak of severe convective storm activity in March.

These losses have impacted the Property & Casualty industry's underwriting profitability. According to a report from the American Property Casualty Insurance Association (APCIA), the industry's combined ratio climbed above 100% for the first time since 2017, reaching 102.5% to 104%. The insurance industry's policyholder surplus fell 9.4% in 2022, and is likely to be the largest drop since early 2009, says the report which cited AM Best and S&P data.



As a result of the property loss environment, reinsurance renewals for January 1 were the most difficult in decades, with capacity tightening and rates and retentions rising. Property insurance rates in catastrophe-prone areas and non-CAT properties with poor loss history have increased between 25% and 150%. Senior Living operators in non-CAT areas with good loss histories are experiencing rate increases of 8% to 15%, depending on their location and absent any right-sizing of property valuations.

Insurance capacity in catastrophe-exposed areas also remains a challenge. New capacity is not entering the market, and expectations are that this will likely continue through most of 2023.

The Casualty market, on the other hand, is not experiencing the same type of turmoil as Property insurance. Senior Living operators with good loss history are poised to see some rate relief. Those in highly litigious states with tough losses, however, will continue to see rate increases and restricted coverage terms.

## Property

Catastrophic weather events, inflation, property valuations, and reinsurance renewals continue to negatively impact the Property insurance market. In addition, we are seeing insurers requesting higher wind, hail, and named-storm retentions across the board to transfer more risk to insureds.

Blanket coverage is more difficult to obtain for catastrophe-exposed accounts. Insurers are asking for schedules with individual Property insurance limits based on accurate insurance-to-value (ITV) estimates – the ratio between policy coverage and property value – backed by supporting documentation.

Industry data indicate that an estimated 70% of commercial properties are underinsured by anywhere from 30% to 40%. As rates and inflation rise, we strongly recommend insureds reassess their reported valuations and make any necessary adjustments to reflect the replacement cost of their properties accurately. ITV calculations should include current construction costs, including labor and materials, demolition and debris removal costs, changes to building costs, permit costs, and architect and engineering fees.

With no influx of new capital and less capacity for full Property limits, programs require quota sharing and layering by multiple carriers for CAT-exposed risks.

Although property developments have slowed, Builder's Risk insurance is experiencing the same issues as the Property market. We are seeing capacity deductions, higher retention levels, and accurate ITV requirements in addition to implementing fire-mitigation programs, water-mitigation controls, and site security and surveillance requirements as a condition of coverage.

## General Liability/Professional Liability

The General Liability and Professional Liability insurance markets for Senior Living have stabilized, with new entrants looking for market share. Accounts with good loss history are seeing flat rates to single-digit rate increases on renewals. However, rate increases vary depending on the type of facility and claims activity. Large verdicts and settlements, social inflation, and litigation funding continue to drive up claims severity, with insurers' appetite restricted in litigious environments such as New York, New Jersey, Florida, California, Kentucky as well as others.

Carriers are refining COVID-19 exclusions in their policies, with communicable disease and pandemic exclusions now routine. There are, however, limited opportunities to avoid these exclusions in Professional Liability policies.

### Workers' Compensation

Workers' Compensation continues to be a competitive line for Senior Living operators. According to the Council of Insurance Agents & Brokers (CIAB), Workers' Compensation rates continued their downward trend, decreasing in the fourth quarter of 2022 at an average of 1.1%. Issues in the Senior Living market revolve around an aging workforce, regulatory reform, and medical and payroll inflation.

### Automobile Liability

The Automobile Liability insurance market continues to be unprofitable due to the frequency and severity of losses, which tend to impact all industry sectors. As a result, operators are seeing rate increases.

### Environmental Liability

Mold and legionella are the main drivers of environmental claims. With the proper coverage, Senior Living operators can avoid severe financial losses. To obtain coverage, a water management program and operation and maintenance (O&M) plans for asbestos and lead-based paint (LBP) are required.

### Excess Liability

Excess Liability capacity remains limited, although as new markets emerge, we should see rate increases temper and towers easier to fill. Pricing for Excess coverage is more challenging than General Liability/Professional Liability, especially for operators with significant auto exposure.



## Directors & Officers (D&O) and Employment Practices Liability (EPLI)

We are seeing flat rates to slight increases for private and non-profit Senior Living operators in the D&O market. EPLI rates continue to increase at a more accelerated pace than D&O, primarily due to claim and cost-driving trends such as nuclear verdicts, social inflation, greater regulatory scrutiny, and labor market challenges. The size of the rate hikes varies based on location, potential exposures, and prior losses.

## Cyber

The Cyber Liability market is no longer seeing the significant rate increases as in 2021 and through the third quarter of 2022. There is less volatility in the market, with insurers more comfortable with risks that have strong cybersecurity controls and protections. Those operators without these protections will see limited coverage if available.

The U.S. Department of Health and Human Services (HHS) and the Health Sector Coordinating Council Cybersecurity Working Group released a new “Cybersecurity Framework Implementation Guide,” providing health care organizations with steps to manage cyber risks to their information technology systems.<sup>2</sup> We highly recommend these guidelines be reviewed and benchmarked against your existing practices and improvements be made to boost cybersecurity.

## Looking Ahead

The operating fundamentals of the Senior Living market regained favorable traction in 2022 following a couple of challenging years. This trend is expected to continue in 2023, according to a new U.S. Senior Housing Outlook released by commercial real estate research and advisory firm Green Street.<sup>3</sup>

McGriff and our dedicated team of risk professionals are here to help insureds protect existing assets and future developments through:

- Starting the renewal process early – 90 to 120 days in advance
- Leveraging in-house property portfolio modeling to drive informed insurance purchasing decisions
- Structuring programs that meet your specific needs and risk profile while meeting lender terms
- Assisting with navigating property ITVs and reviewing rebuilding cost estimates
- Front-end guidance on loss control and site security to drive the best submission quality to market, ultimately obtaining the best terms for our clients
- Accessing insurers with capital that matches your businesses portfolio
- Utilizing partners with exclusive capacity for Builders’ Risk placements
- Cost forecasting for upcoming projects and acquisitions
- Full McGriff Senior Living Team access for Property insurance placements
- Full marketing transparency – we work the entire marketplace, not just our favorites
- Leveraging key partnerships with sister companies CRC and WayPoint for stronger coastal property results
- Full transparency every step of the way as we build your risk management and insurance program

<sup>1</sup> <https://www.swissre.com/press-release/Hurricane-lan-drives-natural-catastrophe-year-to-date-insured-losses-to-USD-115-billion-Swiss-Re-Institute-estimates/2ab3a681-6817-4862-8411-94f4b8385cee>

<sup>2</sup> <https://aspr.hhs.gov/cip/hph-cybersecurity-framework-implementation-guide/Documents/HPH-Sector-CSF-Implementation-Guide-508.pdf>

<sup>3</sup> <https://www.mcknightsseniorliving.com/home/news/business-daily-news/senior-housing-fundamentals-outlook-promising-for-2023-report/>

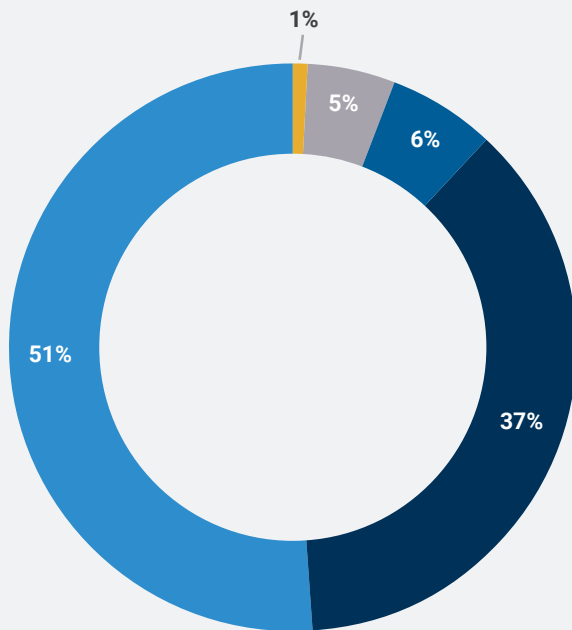
# Restaurants

---

The hospitality/restaurant insurance market continues to firm, though at a decreased pace relative to last year. Carriers are still seeking Communicable Disease exclusions due to the fallout of the COVID-19 pandemic, but those restrictions seem to be negotiable in some cases. The biggest area of consternation in the segment, much like other industries, is with property rates, limits, and insurance to value (ITV). Umbrella limits continue to be reduced and there remains increased underwriter scrutiny on:

- Geography (specific location of stores)
- 24-hour operations
- Liquor liability (limits are being reduced in certain states)
- Delivery exposure
- Abuse and molestation exposure and history

Sexual abuse/molestation claims are increasing, and carriers are beginning to consider structural changes to address this exposure (sexual abuse exclusions in many cases). Interactions between employees and customers are becoming increasingly difficult, often resulting in assaults or even worse. Employment Practices Liability (EPL) insurance pricing is increasing because of allegations of improper hiring and lack of employee scrutiny. Delivery continues to be problematic with claims increasing and premiums responding accordingly. There is very little capacity and appetite for “quick delivery” in the marketplace, as opposed to “catering” or corporate delivery and setup, which remains much more stable. Those restaurants with non-owned auto delivery exposure are finding few options. Those that are available are expensive, restrictive, and typically have large deductibles or retained amounts.



**Employment Practices Liability Verdicts, By Defendant Type, 2014-2020<sup>1</sup>**

- Service/Retail Companies
- Government Entities
- Manufacturing/Industrial Companies
- Transportation Companies
- Other

<sup>1</sup> Based on plaintiff and defendant verdicts rendered.

Source: Thomson Reuters, Employment Practices Liability: Jury Award Trends and Statistics, 2021

## Property

The property market is more difficult for both high-hazard and non-high-hazard locations due, in part, to the construction type frequently utilized in the industry (typically frame) and an increase in natural catastrophes. In addition to named wind difficulties, wildfire exposures are emerging as issues and receiving increased underwriter scrutiny. Many carriers are now imposing percentage deductibles for hail and/or wind other than named wind. Capacity is limited for Tier 1 Wind.

Considered thought must go into property valuation and marketing. BI limits are important to evaluate and is getting closer underwriting scrutiny. Carriers have paid claims that they deem excessive relative to the perceived exposure due to:

- Government intrusion (new building codes, setback requirements, plan approval process, etc.)
- Supply chain constraints
- Availability of contractors and construction labor

Accordingly, it is important to consider these factors in establishing limits and expect underwriter questions.

## Market Changes

Looking ahead, there will be more scrutiny from underwriters regarding hiring practices and an increased underwriting focus on liquor and 24-hour operations. As noted, property underwriters in the restaurant and hospitality industry are pushing for clients to evaluate and update insurance to value. Therefore, property insurance premiums will continue to increase over the coming months and years, not only in response to rising rates, but also as result of increased cost of construction and potential business interruption exposure increases.

Specialty programs and captives are emerging and growing to replace the capacity deficit created by the traditional marketplace. While these programs can provide significant benefits and stability for their members, the umbrella and EPL issues still exist, so there is no “one size fits all” solution. In short, there are several issues and concerns driving this segment and they are not going away any time soon.

# Employee Benefits

---

Many of the same challenges since our Fall 2022 Market Update continue to influence employee benefits, including rising medical costs, record inflation accelerated by COVID-19, and supply chain interruptions that resulted in a scarcity of materials for medical equipment and are further driving up the cost of healthcare. Personal medical debt is also a concern, as the rise in cost of medical services well exceeds wage increases with recessionary headwinds on the horizon.



## Medical Debt

An investigation by KHN/NPR/CBS News revealed that 100 million people nationwide have medical debt, draining the savings of Americans and preventing millions from accessing the care they need.<sup>1</sup> Furthermore, the amount of medical debt Americans have is much more pervasive than previously thought. This is because much of the debt, according to the investigation, is hidden as credit card balances, family loans, or payment plans to hospitals and other medical providers.

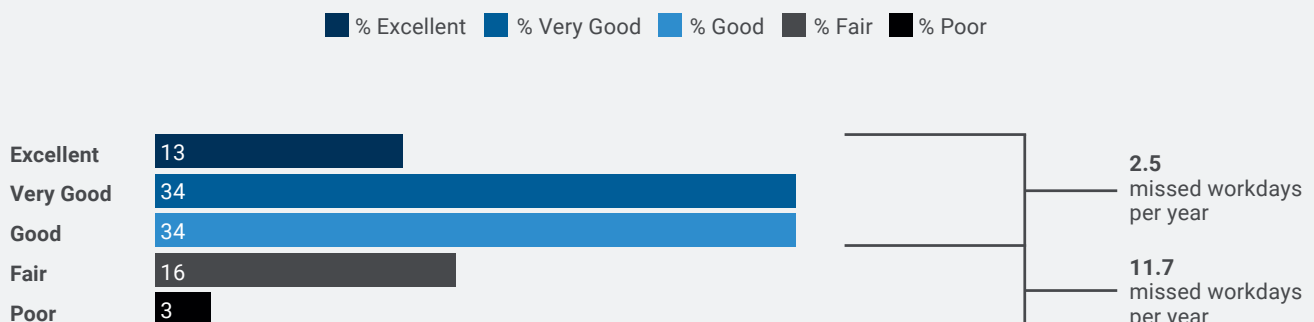
Two in three Americans cannot afford to cover a \$400 emergency bill.<sup>2</sup> Add to this the high cost of living, increased medical expenses, and health plans that include a \$2,000/\$5,000 deductible for individuals/families, and it is easy to see why so many Americans have medical debt.

## Mental Health & Wellness

Mental health and wellness in the workforce has become a top priority as more employees experience burnout, isolation, and financial stress. As a result, we have seen a significant increase in the utilization of mental health and wellness services with our clients in addition to what the general data reveal. A Kaiser Family Foundation analysis of June 2022 U.S. Census data found that nationwide 32.8% of people reported symptoms of depression or anxiety, up from 11% in 2019. A Gallup poll released last winter also revealed that one-fifth of U.S. workers (19%) rate their mental health as fair or poor.<sup>3</sup>

### Impact of Worker Mental Health on Unplanned Missed Workdays Annually

Overall, would you say your mental health is excellent, very good, good, fair or poor? In the last month, how many workdays have you missed due to poor mental health?\*



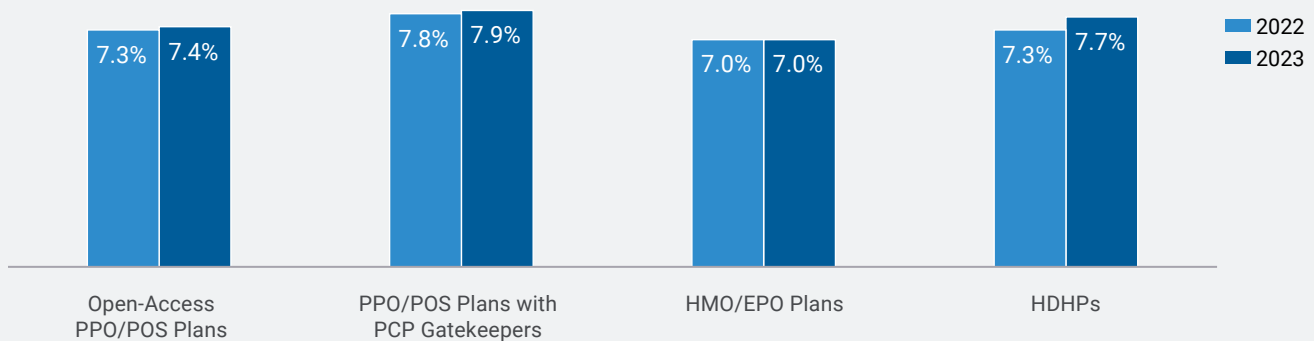
\*Controlling for age, gender, household income, education, race, ethnicity, marital status and region

\*\*Extrapolated to a 12-month period

## Medical Rate Changes

Increases in medical plans for 2023 are returning to pre-pandemic levels and are running at about 7.5% per year.<sup>4</sup> Factors contributing to higher medical rates include inflationary pressures, healthcare worker staffing challenges, provider consolidation, the impact of delayed treatment, an uptick in healthcare demand, and new treatments and technology.

### Medical Trend Projections\* for 2023 Are Expected to Be Similar to Pre-Pandemic Levels, Despite Prior Year Fluctuations



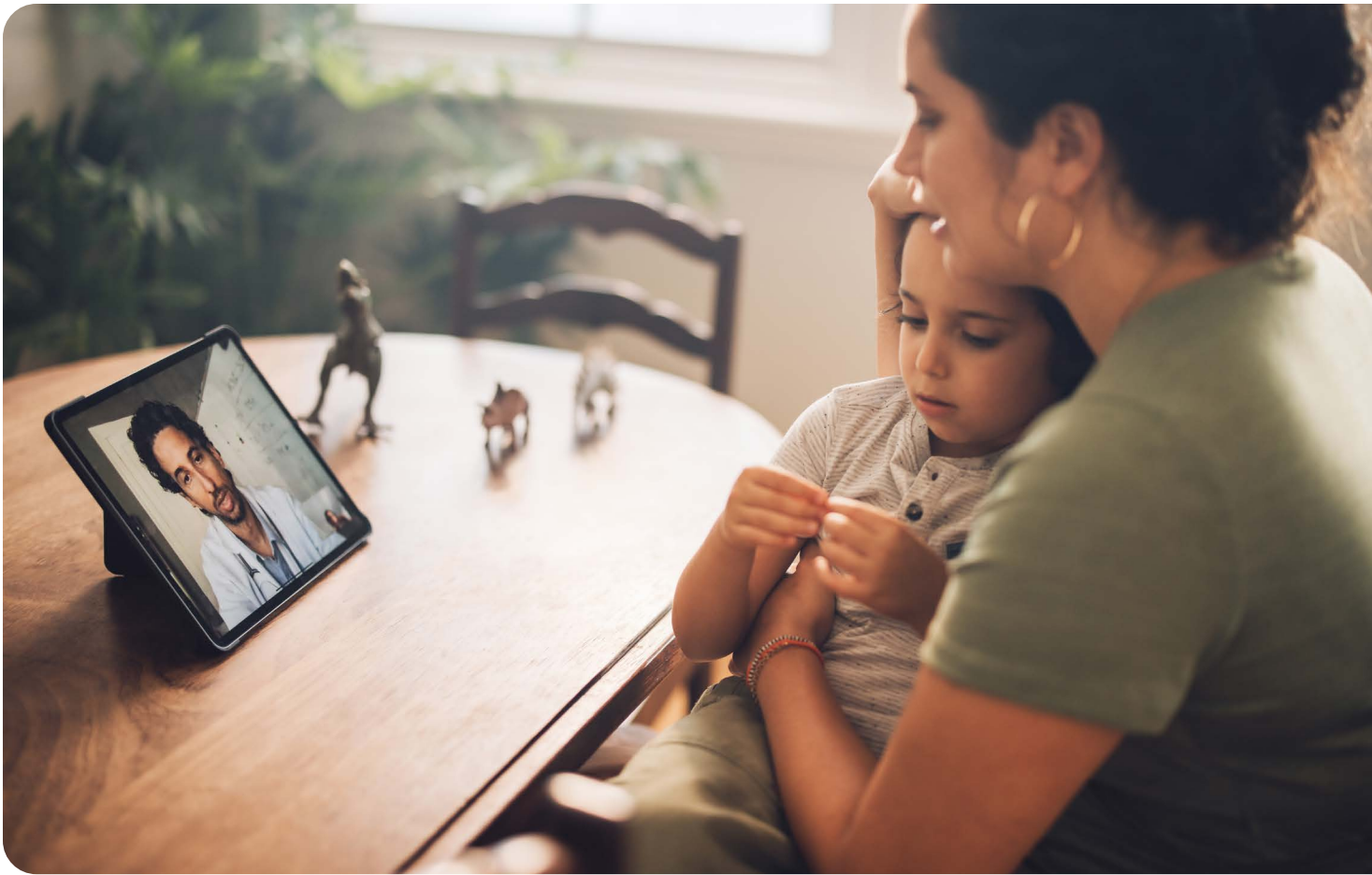
\* Projections are for actives and early retirees and exclude Rx.

Source: Segal, 2022

## COVID-19

With COVID-19 no longer deemed a public health emergency, lower-income citizens will lose Medicaid eligibility that was extended during the pandemic. As of April 1, 2023, states will begin reviewing Medicaid enrollees' eligibility and will end coverage (known as "unwinding") for those found ineligible. A majority of states plan to take 12 to 14 months to complete the eligibility verifications, with many states beginning to remove people from Medicaid rolls by late spring or early summer. We will be watching how this unfolds in each state. Nearly 15 million will lose coverage in the coming months, according to the federal government.<sup>5</sup>





## Telemedicine

The utilization and value of virtual care or telemedicine came to the forefront during the pandemic. Telemedicine provided greater access to healthcare in rural and low-income areas, working to close the health equity gap. It also provided insureds with access to counselors and therapists, bridging the mental health gap.

Calls from medical professionals are to usher in telemedicine 2.0 where virtual services are integrated with employer-sponsored health plans and a key service as opposed to an add-on to plans.

Telemedicine trends, according to the American Medical Association (AMA), include:

- More time and money will be invested in improving the usability of telehealth solutions.
- Steps will be taken in the field toward aggregated, all-in-one seamless technology.
- Chronic disease management will improve. When it comes to chronic illness management, medicine has traditionally focused on pharmaceuticals. Expect to see more wearable technology and sensors, as well as chat boxes and symptom-management tools, to manage one of the most expensive morbidity and mortality buckets in healthcare.

## Regulations

The Consolidation Appropriations Act (CAA) of 2021 authorized nearly \$1.7 trillion in funding for domestic initiatives, including healthcare and related programs. Aside from funding, the CAA modifies certain telehealth provisions, expands and extends Medicare and Medicaid programs, and supports behavioral health and substance use treatment initiatives.

Furthermore, the CAA includes the Transparency in Coverage (TIC) Rule, which requires health insurers and group health plans to make pricing information available to consumers for comparison shopping. Insurers and group health plans are also required to post publicly available machine-readable files containing in-network negotiated payment rates and historical out-of-network charges for covered items and services, including prescription drugs. Data in machine-readable files must be updated at least once a month.

The goal to provide greater price transparency from hospitals and other providers is a step in the right direction. Consumers will be able to make better buying decisions, and providers will recognize if their pricing is not aligned with other facilities and hopefully self-regulate.

TIC enforcement was delayed and is now being implemented in the market. If done successfully, it could transform the marketplace over time, as consumers will be better able to shop for medical services based on cost and quality.

## Looking Ahead

Employers reluctant to cut benefits or reduce deductibles because of the continued rise in medical expenses and health insurance premiums are seeking other ways to help their employees. For example, we are seeing increasingly more employees offering HRA and HSA arrangements, Qualified High Deductible Plans, benefits that cover childcare and parental leave, and a travel reimbursement plan. These ancillary benefits are designed to help alleviate some of the financial burden workers are experiencing.

Employers are also concerned about their workers' mental health and well-being and are offering more support through their Employee Benefits programs. A 2022 AHIP member survey of health insurance providers found that the number of in-network behavioral health providers has grown by an average of 48% in three years among commercial health plans. The AHIP survey also shows that the overwhelming majority of health plans (89%) are actively recruiting mental healthcare providers.<sup>6</sup>

It is important to continue to work with your Employee Benefits consultant to help you navigate the ever-evolving healthcare landscape to offer alternative solutions to your workforce, manage costs, and maximize the value of your benefits.

<sup>1</sup> <https://khn.org/diagnosis-debt/>

<sup>2</sup> <https://www.federalreserve.gov/publications/2022-economic-well-being-of-us-households-in-2021-dealing-with-unexpected-expenses.htm>

<sup>3</sup> <https://www.gallup.com/workplace/404174/economic-cost-poor-employee-mental-health.aspx>

<sup>4</sup> 2023 Segal Health Plan Cost Trend Survey

<sup>5</sup> <https://www.cbpp.org/research/health/states-must-act-to-preserve-medicare-coverage-as-end-of-continuous-coverage>

<sup>6</sup> <https://www.ahip.org/resources/ahip-mental-health-survey>





[McGriff.com](https://McGriff.com)

---

©2023 McGriff Insurance Services, LLC. All rights reserved. McGriff Insurance Services, LLC is a subsidiary of Truist Insurance Holdings, LLC.

The information, analyses, opinions and/or recommendations contained herein relating to the impact or the potential impact of coronavirus/COVID-19 on insurance coverage or any insurance policy is not a legal opinion, warranty or guarantee, and should not be relied upon as such. This communication is intended for informational use only. As insurance agents or brokers, we do not have the authority to render legal advice or to make coverage decisions, and you should submit all claims to your insurance carrier for evaluation. Given the on-going and constantly changing situation with respect to the coronavirus/COVID-19 pandemic, this communication does not necessarily reflect the latest information regarding recently-enacted, pending or proposed legislation or guidance that could override, alter or otherwise affect existing insurance coverage. At your discretion, please consult with an attorney at your own expense for specific advice in this regard.