

Insurance Marketplace Realities

2020

Spring update



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A changed world

Last fall in this space we asked, “How long will it last?” and everyone knew what we were referring to: the hard insurance market. Today we could ask the same question, and everyone would know what we’re referring to: a global pandemic that has changed the world – drastically for the moment, and perhaps permanently in ways that will only become clear over time. But the question now for us as insurance and risk advisors is this: What impact will COVID-19 have on the P&C industry in both the short and long term?

The quick answer, we can say with confidence even at a time of great fear and obvious uncertainty, is a positive one. The insurance industry will be all right. We have been built to help sustain organizations and people in the worst of times and we will do that now. We will not and have never pretended to be the answer to all problems, and must state up front, to the frustration and disappointment of some, that for the most part a pandemic is not an insured event. But countless insurance policies

will apply, and many billions of dollars will change hands. Policy language will be parsed, tested and litigated. And as governments and businesses look to find ways to mitigate such a crisis in the future, we as an industry will be one of the key participants in the conversation.

The long answer, which we begin to articulate below, is more complicated – perhaps as complicated as the policy language that will be at the heart of determining what coverage applies on a case-by-case basis in the weeks and months ahead. For property insurance, including business interruption (BI), which is the focus of many heated discussions these days, most coverage is dependent on the existence of physical damage. On the liability side, there are many open questions and more arising every day. The various lines of business discussed in this report will be impacted to a lesser or greater extent, but all will likely be impacted. An event of this magnitude, an event in many ways unprecedented in modern human history, is going to impact everything.

A reputational moment

Like every great loss event, this will be a reputational moment for the insurance industry. We will be judged by the extent to which we are perceived to have helped organizations weather this terrifying storm, with its unknown duration and its universal reach. As always, much of that help will come from the contracts we sign – the insurance policies – contracts that spell out exactly what help is promised, although not always with the perfect clarity we would like. Debate over interpretation of that contract language is already generating lawsuits. If history is a guide, the courts will decide some for the insureds and some for the insurers – and it will be an expensive process for all.

But at the end of the day (though at this moment it’s looking more like a year than a day), most insurers should be able to live up to their contractual promises to pay. The industry is solvent, well capitalized, and positioned to deliver in times of need. We have seen estimates that insurable losses for the pandemic could easily top \$80B (our current estimate is \$32–\$80B), but insurers (and reinsurers) are ready. More on the insurer situation later; for now, let’s focus on lines of insurance and what insureds can expect.

Commercial lines insurance pricing survey (CLIPS)

Our rate predictions in the following pages of Insurance Marketplace Realities are relevant to the commercial insurance marketplace in which we trade (i.e., the mid-market, national and global segments). When we assemble our forecasts for the coming year, we’re also looking back at recent price movement reported by insurers, grounding us in firm data. CLIPS, Willis Towers Watson’s retrospective look at commercial P&C prices, is based on both new and renewal business figures, across all segments (including small commercial and so-called “main street” business), obtained directly from carriers underwriting P&C business. CLIPS participants represent a cross section of U.S. P&C insurers that includes many of the top 10 commercial lines companies and the top 25 insurance groups in the U.S.

The most recent CLIPS survey showed that Q4 2019 U.S. commercial insurance prices increased over 6%. For more, review the recent [CLIPS report](#).



A line-by-line look

Business interruption (BI)/property: This is the first place most insureds look when assessing the applicability of their policies. For the few with non-physical damage BI extensions, coverage will likely apply. For most others, coverage will be very limited and highly dependent on the specifics of the insured's policy language, the facts of the insured's situation, and, in some cases, the jurisdiction governing the insurance contract. Here are some considerations:

- Is there actual physical damage?
- Is this a covered peril?
- Does the policy provide any coverage for non-physical damage or “special peril” business interruption? Is there a sublimit? Is it site-specific? Does it apply per location?
- How many events is a pandemic?
- Is there an infectious disease exclusion?
- If there is civil authority or ingress/egress coverage – for cases where governments have required businesses to shut their doors – is a covered peril and/or property damage required?

Another overriding question already headed for the courts is whether the presence of the virus constitutes covered property damage. The answer will ultimately stem from the specifics mentioned above. Regardless of the limitations in most BI coverage, insured BI loss estimates are large, ranging from \$5B to \$15B.

Meanwhile, BI is the subject of current legislative action in many states, action we do not believe would survive inevitable challenges in the courts. (More on that below.)

General liability: Fingers are already pointing, and blame is being tossed around. Whether the blame will stick will depend on facts. If it sticks, whether it is covered will again depend on the applicable policy language, particularly whether any form of communicable and/or infectious disease exclusion or other exclusions, such as the pollution exclusion, may apply. Crisis response coverage embedded in some liability policies may already be triggered. We suspect that the liability questions will receive a huge amount of attention in the coming months. One silver lining, however, is that the suspension of the courts will lead to long delays for pending civil actions. When courts reopen, they will deal with criminal matters ahead of civil matters. The resulting delay may lead plaintiffs and their attorneys to be more amenable to negotiated settlements.

Event cancellation: This line may be the most directly impacted. Early estimates pointed to a total payout close to that of a moderate sized cat event: \$7 – 8B.

Workers compensation: Another list of significant questions presents itself, and the answers in this case lie not only in the policy language but in the rules and regulations of each state.

- Will COVID-19 be considered an occupational disease?
- Will quarantines and other pandemic-related workplace responses be deemed compensable?


- Will employees of businesses deemed essential by state governments be treated differently when it comes to compensability?
- Is foreign voluntary comp triggered?
- What will be the workers compensation impact of layoffs and furloughs?

Auto: Here's another silver lining: with lower economic activity and stay-at-home restrictions, auto accidents are down. However, given the number of businesses asking employees to make deliveries directly to customers, issues surrounding non-owned vehicles are on the rise.

Directors and officers (D&O): An intense hard market was in play before the coronavirus struck, and that is certain to continue. If the economy collapses further and executives face blame for decisions related to the pandemic, the market will worsen. Given the extremity of the economic situation and the depth of the impact on businesses, management liability lines could be among the most deeply affected. Bankruptcies yield D&O claims and bankruptcies are coming.

Employment liability: The massive layoffs taking place are likely to lead to claims of unfair treatment in determining who stays and who goes. Claims relating to privacy issues and retaliation could also spike.

Construction: In addition to project delays and cancellations, construction risk managers can expect further market hardening, as significant declines in available labor typically give rise to increased losses in workers compensation and general liability.



Environmental: Those thinking that pollution policies could help with COVID-19 losses are likely to be only partially satisfied, and some may be disappointed. Again, the specific policy language is critical. Some will find affirmative coverage for bacteria and/or virus, but the coverage may likely only apply to disinfection/clean-up costs, since many policies include a bodily injury or “human-to-human” contact exclusion.

Unfortunately, the above list is not exhaustive. Many other lines will be affected by the COVID-19 crisis and the economic shutdown, including trade credit, health care professional liability, personal lines and of course life and health insurance. We are hard pressed to recall another event that has impacted so many lines of insurance.

Standing tall on shaky ground

We’re not worried about insurers surviving the pandemic. In the wake of the Great Recession, the rules regarding insurer capital tightened, putting carriers and their capital on firmer footing. Conservative investments help as well. That doesn’t mean an economic downturn of this magnitude won’t have balance sheet impact, however. Several factors are at play.

- Given the uncertainties outlined above in many lines of insurance, carriers could be on the hook for more than they may have anticipated when the pandemic first came into view.
- The legal proceedings likely to accompany the many coverage disputes will produce considerable defense costs.

- Decline in economic activity will mean reductions — big reductions — in insurable values. Falling payrolls mean lower workers compensation premiums. Closed facilities and reduced activity mean lower property and BI values, which again cut into premium. Finally, there is the ugly prospect of policyholder bankruptcies, which will reduce aggregate premiums paid to the industry.
- Plummeting interest rates cut into another source of insurer income.
- Rising premium rates, expected in virtually all lines of business, will only make up so much of these potentially large declines.

The big picture

So...how long will the hard market last? Last fall we predicted that property rates would continue to rise throughout 2020 and likely into 2021, although we expected a more orderly property market by mid-2020. For umbrella and public company D&O, we predicted four to six quarters of unpredictable, hard conditions. Unfortunately, our answer today is that the pandemic and the resulting economic downturn will very likely extend the hard market through 2021. It may not expand it — rate increases for most lines may not increase further than they’ve been increasing for the past several months — but market discipline and upward rate pressure will continue as losses from the pandemic materialize and investment income deteriorates.

Rising rates are not the only difficulty insurance buyers will face. Coverage terms and conditions, which had been relatively stable in 2019, are now under scrutiny — in some cases intense scrutiny. The inconsistency of the coverage that we are finding for the

pandemic (i.e., coverage that is not clearly excluded) has highlighted the extent of the broadening of coverage that we saw during the soft market years. As a broker, we applaud the astute negotiation of clients and brokers that led to this broadening, but we know our underwriting partners have a different view. Moves are afoot — moves that began as the soft market ended — to rein in manuscript forms and extensions, particularly in property, and that effort may go beyond coverages relevant to the pandemic. Similarly, underwriters in other lines of insurance are now seeking communicable disease and similar exclusions, albeit with only mixed success, but we expect pressure on coverage to last for the foreseeable future.

Rapidly changing conditions are driving many renewal negotiations down to the wire, but the work is getting done, and along the way we’ve seen some positives worth noting. For the most part, the global insurance market hasn’t missed a beat. Remote underwriting works. Site visits can’t happen; video chats can. Underwriting executives have made themselves accessible — no one’s out to lunch or on a plane or behind closed doors in someone’s office. You may have to listen to their dog barking or their kids yelling in the background, but you can reach them. Most remarkable of all is the sense that despite all the stress and pressure, business is being conducted with an exceptional degree of civility. There’s a strong sense that everyone in our business is in this together. We are seeing consideration granted by underwriters, especially in extenuating circumstances — of which there are plenty. We are seeing accommodations. That spirit is something we hope will last.



The bigger picture

Another exciting and potentially positive development is the discussion of a public/private partnership to address the threats posed by future pandemics. This could take the form of a federal backstop along the lines of the Terrorism Risk Insurance Act (TRIA) that followed 9/11, or it could follow the model of the National Flood Insurance Program (NFIP), which is funded by the government but largely administered by the private insurance industry. We think pandemic risk is different and the exploration of solutions should be robust and involve all stakeholders – public and private. We also think that the discussion should include other potentially catastrophic issues facing the world today – climate risk, for example, as we pointed out to our readers last fall. As the saying goes, we shouldn't let a crisis go to waste.

While we see the discussion about prospective solutions to be positive, we also note a more troublesome intersection of government and insurance in recent legislative efforts to retroactively force insurance companies to pay all business interruption claims – regardless of the contents of signed contracts. While we understand the impetus to help the many businesses suddenly in great need, we expect that, should any of this legislation pass, the courts would acknowledge that such moves would actually undermine the entire foundation of our industry – mutual agreement on the terms of risk transfer. We assume that, in the end, all parties would agree on the importance of upholding the sanctity of a contract, but it is a possible risk.

What to do

The realities of this marketplace are challenging. The personal, social and economic upheaval we're all experiencing now make it only more so. What to do about it? We offer line-by-line suggestions and insight in the pages that follow. Below we offer a list that may contain the obvious but is at least a place to start:

- Comply with all governmental directives to reduce potential harm and mitigate potential liability.
- Gather your policies and have an expert review. Your policies will be the biggest and likely sole factor in determining coverage.
 - Review cancellation clauses, minimum earned premium provisions, collateral positions, etc.
 - Comply with all policy conditions. Note especially warranties, vacancy clauses, etc. and alert your insurers about material changes in your operations so as not to jeopardize coverage.
- Review exposure data, as it is changing rapidly.
- Be careful in dealing with your workforce.
 - Maintain records, especially payrolls, class codes, etc., as workers are furloughed or laid off. These will be critical in an audit.
 - Be wary of actual or inadvertent discrimination based on ethnicity, race, etc. toward employees or customers.
- Be sure to address the risks that may arise in idle or closed facilities.

- Given the challenges with collecting engineering data remotely, be ready to establish protocols for re-establishing inspections and site visits.
- The global insurance market is operating. But there is considerable distraction and uncertainty. Underwriting decisions may take longer than expected. Allow ample time for renewals.
- Accept the switch to video conferencing in lieu of face-to-face meetings. Remember to brush your hair, at least occasionally.

A word of encouragement

Our task here is mostly to talk about the business of insurance. But this is a people business. At a moment like this, we cannot ignore the human toll around us. Our hearts go out to everyone who faces personal loss in whatever form that loss may take.

Perhaps the best encouragement we can offer is a reminder that the hottest fires forge the strongest steel. Together, we will get through this and we will come out stronger.

Joseph C. Peiser

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Looking forward, looking back

Comparing our updated rate predictions for 2020 to those in our initial 2020 issue published last fall, we not only continue to see rates move upward, but for the first time in the history of this publication, not a single line is predicting overall decreases. Three lines (workers compensation, kidnap & ransom and terrorism) are expecting a mix of small decreases and increases, and two lines (surety and international casualty) are expecting flat rates. In every other line, we expect increases. In 11 cases, our experts predict steeper increases than they did in the fall. In the one mitigating trend we can spot, eight lines are likely to see increases no greater – and in some cases smaller – than predicted in our last issue. However, where the upper end of forecast rate increases are predicted to be smaller than we predicted in the fall, it is mostly because some insureds later in the year will be experiencing year-over-year rate increases, which may be moderating. But the overall trend is clear, and the COVID-19 pandemic and ensuing economic disruption could yield further market hardening in many instances.

Here are highlights from our 2020 predictions:

- Property rate increases are edging upward, but overall not accelerating.
- The commercial liability marketplace, particularly for umbrella/excess liability, has become dramatically more challenging since our autumn report.
- Workers compensation rates remain competitive.
- Forecast auto rate increases continue to hold at +6% to +12%.
- D&O buyers already bracing for significant price hikes could face further upheaval given the overall economic uncertainty.
- In many lines, the ultimate impact of the pandemic and the economic downturn remains to be seen.

Like the times we find ourselves in, these predictions are pushing the envelope of our previous experience. One thing is certain: the insurance marketplace will be challenging throughout 2020.

Overall, 23 lines are expected to see price increases and five will see a mix of both increases and decreases (or flat renewals).

Market trends: lines facing increases, decreases or a mix*

MR issue	Decreases	Increases	Mix/flat
2020 spring update	0	23	5
2020	2	20	5
2019 spring update	2	14	9
2019	2	14	9
2018 spring update	2	10	10
2018	7	7	9
2017 spring update	10	6	7
2017	10	6	7
2016 spring update	9	8	5

*The 2020 spring update figures reflect the addition of managed care errors & omissions as a separate line of business. The 2020 figures reflect the addition of personal lines and financial institutions – FINEX as separate entries. The 2019 figures reflect the addition of marine, cargo and senior living/long-term care as separate lines of business. The 2018 spring update figures reflect the absence of marine in that issue; the 2017 figures reflect the addition of international coverage as a separate line; and the 2018 figures reflect the addition of product recall and the subtraction of employee benefits, which are no longer covered in this report. Casualty lines are discussed in one combined report but are included in this table as separate items (GL, umbrella/excess, auto and workers compensation).

For more insight on how you can prepare for a marketplace in flux, contact your local Willis Towers Watson representative.

Alternative risk transfer (ART)

Overview

ART concepts have been the vanguard of innovation and progress in the insurance industry for decades. Captives, integrated risk, catastrophe bonds, insurance-linked securities and other products that are now widespread started as bespoke solutions for a targeted problem. While the ART market is a steady force throughout traditional market cycles, it is during hard market cycles, like the present, when ART concepts can deliver the most value and receive the most attention from risk managers – deservedly so.

Today turmoil continues to spread across many lines of insurance as insurers struggle to address high combined ratios, low interest rates and now the economic upheaval brought on by the COVID-19 pandemic. The ART marketplace offers insurance buyers alternative risk transfer/financing solutions, which in most cases are customized for each situation. When insurers withdraw coverage, ART solutions allow basic needs to be met, providing evidence of cover, capping per claim volatility or aggregate volatility, obtaining desired limits and deductibles. These alternatives can provide protection that might otherwise be unavailable for catastrophic risk (earthquake, hurricane, etc.) or other hard-to-insure risks (pandemic, weather, reputational risk, product recall) while mitigating the impact of a large loss to corporate financial statements.

Highlights from the ART gallery

Some ART solutions have been on the market for many years, while others are just emerging. All are benefiting from new technologies and increasingly robust analytics, which lay the foundation for many of these products. Here is a list a key ART solutions in order of interest/activity.

Parametric solutions

These programs offer risk transfer based on indexes, or numerical measures of perils, such as rainfall, that are both objective and highly correlated to loss. Growing out of the agricultural sector, parametric solutions address adverse weather (e.g., too much/too little rain, temperature extremes, snow fall) and natural catastrophes (e.g., hurricanes, earthquakes, hail, tidal surge). Composite indexes are used where multiple risks are addressed. New indexes (hail, flood) are emerging as the industry embraces new technologies or indeed an insured's own data where it is robust and collected regularly (e.g., units of manufacturing production).

Who is it for

- Organizations exposed to uninsured natural catastrophes or large aggregations of risk within cat deductibles
- Industries impacted by weather generally
- Businesses with non-damage and potentially uninsurable business interruption risks, such as failures in their supply chain

Benefits

These programs can complement property policies, cap deductibles, address uninsured risks and provide additional limit. They avoid most of the headaches of claims adjustment and review – claims generally settle *within days*, avoiding long loss adjustment periods.

Challenges

Basis risk is a key challenge, arising from a lack of alignment between the index/structure selected and the ultimate loss. Improved technology is addressing basis risk, refining marketplace responses and pricing.

Pandemic and COVID-19

Parametric options to address the non-damage business interruption impact of pandemic are available (for new policies in 2020, COVID-19 will, of course, be excluded). Industries of particular interest to insurers include hospitality, leisure and mining, although these can be applied to many others.

Structured solutions

These multiyear programs incorporate structural financing elements to create attractive risk transfer financing approaches. Risk financing may take the form of pre- or post-loss funding, or in corridor retentions. Structured solutions allow the insured to participate in the payment of losses while accessing some risk transfer to mitigate the timing and aggregate severity of losses.

Who is it for

- Organizations with challenging risk classes (e.g., large auto fleets and property in high hazard industries)
- Situations where the premium charged is getting close to the limit offered
- Risks that the traditional market has excluded

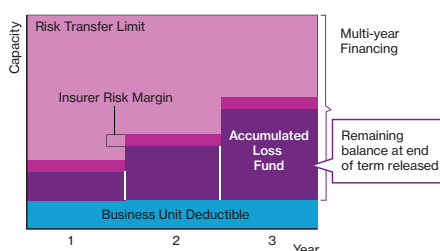
Benefits

These solutions allow an insured to evidence cover while leveraging its risk tolerance to take a longer-term view of risk, while still transferring volatility to an insurer. In low-loss scenarios, an insured could achieve a more cost-effective outcome than if they had remained in the traditional market. In high-loss scenarios, they could secure risk transfer that would not have been otherwise available.

Challenges

Internal hurdles can take time to surmount, achieving buy-in from key stakeholders (CFO, treasurer), establishing a clear understanding of policy operation and determining levels of embedded risk transfer.

Example: Structured Solution



Other ART solutions

Portfolio solutions

These multiline and multiyear programs apply portfolio theory to the purchase of insurance to achieve certainty in rate and coverage while creating efficiencies in use of insurance market capacity and administration. With sophisticated modeling now available, these solutions are gaining attention as a way to optimize the value of an insurance portfolio through the best mix of limits of retentions.

Multiline/multiyear stop loss

Insureds may wish to leverage their risk tolerance to assume greater risk in a controlled way. By raising retentions, companies can reduce their dependence on the traditional markets while at the same time managing volatility. A stop loss program can cap volatility and create certainty in earnings. This allows the insured to assume a controlled amount of risk.

Catastrophe bonds

Most often used by insurers as an alternative to reinsurance, these products are also offered by capital markets interested in large, single corporate risks that can be robustly quantified. Businesses outside of the insurance industry typically access this market when seeking otherwise unavailable capacity.

State of the ART market

We see significant growth in interest in parametric solutions, where both capacity and demand are increasing. Interest is being driven by restrictions in the traditional market, while second generation parametric products provide more refined solutions. For insurers, robust independent data, vetted analytical models, new technology and greater client awareness are leading to favorable combined ratios. We see insurers continuing to allocate more capacity to parametric solutions.

Other sectors of the ART market, however, are challenged or indeed contracting. Portfolio programs (or integrated risk programs) are attracting less capacity, driven by carrier uncertainty, coverage limitations, increased deal committee conservatism and long processing times. These markets are moving toward structured programs where they can limit downside risk.

For those buyers who face limited traditional options and can absorb significant risk, a captive insurance company can be a strategic alternative used in conjunction with other ART solutions to provide efficient fronting, or to control volatility and protect capital and surplus.

To assess the applicability of ART solutions, risk managers should approach the renewal process with robust analytics and clear risk tolerance analysis. This will allow them to effectively determine the value of these products in minimizing total cost of risk escalation in this challenging insurance market.

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Property

Key takeaway

In the social and economic upheaval of the COVID-19 pandemic, steep rate increases are continuing and may begin accelerating; what is already accelerating is carrier scrutiny of policy forms in order to limit or reduce coverage.

Rate predictions

Non-cat: +10% to +20%

Cat-exposed: +15% to +25% or more

Cat-exposed with losses: +30% or more

Spotlight on COVID-19

- The economic slowdown brought on by the pandemic could have deep and broad impact on property risk and coverage.
- On the risk side, exposures are temporarily decreasing – businesses are not operating, so business interruption (BI) values are down.
- For businesses that have drastically reduced or suspended operation, losses should be declining commensurately.
- On the coverage side, multiple states are proposing legislation to force insurers to provide pandemic BI cover, both prospectively and retroactively, and an increasing number of percolating lawsuits argue that pandemic coverage is inherent in property policies.
- Accordingly, there is a vast cloud of uncertainty hanging over the insurers as to what their current and future liabilities might be.
- As a result, some underwriters are reducing their appetite or even withdrawing from property business. This may lead to rate increase acceleration unless and until the clouds lift.
- *For more detail, read on.*

The pandemic is materially changing the risk profile of most buyers of insurance.

- The economic status of many organizations is now in a state of flux.
- An emerging issue is protection for vacant and/or unoccupied locations. With that comes the potential for an increase in moral hazard. Insureds should review the vacancy clauses in their property policies for potential restrictions or warranties.
- Many businesses are now projecting reductions in business interruption values, which will change the limits they may want to purchase. Attaining agreement upfront with insurers on how to address value fluctuations is critical as the overall impact to the buyer is unpredictable.

The pandemic is changing, for now, the conduct of insurance placement.

- Underwriters are overwhelmed with submission activity; this increased volume allows underwriters to be more selective.

- Most insurers are now working remotely, and underwriting meetings are taking place through video conferencing or conference calls. This doesn't make the underwriting faster or more efficient and, in the current environment, underwriting is under considerable time pressure. Even initial quotes are coming down to the wire.
- Buyers may struggle to obtain multiple options as underwriter bandwidth is low.
- Loss control inspections may be difficult or impossible for the time being.
- We are seeing reduced appetite for new opportunities where plant inspections are required.
- Insurers and insureds are working together to sort out the new, if temporary, world of work from home.
- Carriers appear to understand the challenges presented by premium payment deadlines and have been accommodating when there have been truly extenuating circumstances. Insureds may want to consider premium financing as an alternative. Dynamics of premium financing could change, however, given the fluid economic situation.

Meanwhile, the hard property market continues.

- Two years of combined ratios exceeding 100% have forced underwriters to push for profitability.
- Programs below technical pricing or facing a loss of key capacity are seeing the largest rate corrections.
- While the extent and impact of the current economic downturn on insurers is unclear, capital has remained available. Nevertheless, insurers have been reducing overall line size and repositioning deployed lines based on profitability – meaning that capacity, at least so far, is available – but at a price.
- The price, however, may be very steep for buyers with cat exposures and cat losses.
 - In some micro markets, (e.g., manufacturing, life sciences, retail), we are seeing increases ranging from 50% to 300% – and sometimes higher.
- Shared and layered placements have seen an increase in the number of markets needed to fill the program – making renewal negotiations more complex and longer to finalize.

Along with raising rates, underwriters continue to take a more critical look at exposures, restricting many coverage terms previously offered.

- Coverage is tightening on contingent business interruption (CBI) and service interruption; we are seeing underwriters scrutinize property schedule valuations.
- First-party cyber exclusions are common.
- Many industries are facing heightened challenges: manufacturing, dealers open lot, food/beverage, life sciences, hospitality, primary hab/multifamily, woodworking, metal processing, senior living, waste management and any organization with significant cat exposure.
- Loss control is still being heavily scrutinized, and buyers should be prepared to address open recommendations prior to renewal. The lack of a response to open recs will have a negative impact on negotiations and on limits available.
- Insurers are continuing to press for increased deductibles in order to eliminate attritional losses, e.g., water damage and hail percentage deductibles.
- To sum up the marketplace: capacity restrictions + technical underwriting = continued hardening in 2020.

Insurance buyers can take steps to get the most out of a difficult marketplace.

- Be ready for constant change in guidelines and rate expectations.
- Be ready to await approval from senior management, not underwriters.
- Prepare for heavy scrutiny on engineering.
- Provide accurate and complete data in submissions (full SOV, loss info, business continuity planning, etc.).
- Be proactive – and get ahead of the timeline delays that can be expected to grow with the length of the pandemic crisis.

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Casualty

Key takeaway

The commercial liability marketplace, particularly for umbrella/excess liability, has become dramatically more challenging since our fall 2019 report, as deteriorating loss trends continue to hurt underwriting profitability. Workers compensation rates remain stable but development of presumptive legislation could pose material profitability issues.

Rate predictions

General liability: +2.5% to +7.5%

Automobile liability: +6% to +12%

Workers compensation: -2% to +2%

Umbrella liability:

High hazard: +40% or more

Low/moderate hazard: +25% or more

Excess liability:

High hazard: +150% or more

Low/moderate hazard: +50% or more

Spotlight on COVID-19

- The insurable impact of COVID-19 on the casualty market remains uncharted as insurance commissioners, legislators and other influential regulators are developing new legal policies that will impact compensability, assignment of liability and coverage.
- Various shelter-in-place demands have dramatically slowed the economy, which in turn has reduced automobile accidents. While insurers will be pressured to return premium with dropping exposures, the reduction in accidents could lead to profitability in this distressed line of business.
- Many insureds have found themselves with policies that have over-stated exposure values. It may be prudent for buyers to revisit policies and address issues, e.g. minimum premium provisions, before inception of a new program.

The umbrella/excess liability marketplace continues to experience significant disruption, with carriers increasing rates significantly, amending underwriting appetites, reevaluating coverage grants and requiring changes to program structures, i.e., reducing available capacity and requiring higher attachment points.

- The North American liability marketplace continues to be impacted by significant catastrophic liability losses stemming from many sources, including wildfire, active shooter events, concussion/traumatic brain injury (TBI) litigation, auto accidents, opioids and sexual assault and molestation (SAM) claims. The result is unsustainable loss ratios industry-wide – a primary driver of hardening rates.
- Loss severity is increasing along with the percentage of litigated claims. The median value of the top 50 U.S. verdicts has almost doubled since 2014 (from \$27.7M in 2014 to \$54.33M in 2018). These numbers have become the benchmark for future claims. They are the result of aggressive litigation, litigation financing, the impact of changing attitudes toward corporate accountability among juries, and a numbness to stratospheric awards in

an age of nine-figure pay packages among celebrities, sports figures, and even CEOs. All of this has become known as “social inflation.” Nuclear verdicts and large settlements, even in jurisdictions perceived as conservative, are another major driver of the current market.

- Underwriting and pricing guidelines remain fluid, with carriers continuously reacting to market conditions and, at times, changing their positions over the course of the renewal process with insureds.
- Several key insurance carriers have removed their capacity entirely or reduced their offerings for the largest insureds (Fortune 500) and those in high-hazard risk classes. This drop in supply has led to a material uptick in premium, and the most distressed industries (e.g., heavy auto, sexual molestation exposure, Fortune 50 manufacturers) have struggled to maintain limits regardless of premium.
- The global market hubs, including London and Bermuda, are more important than ever, and buyers are often re-engaging carriers that may have been previously uncompetitive. These carriers have struggled to post sustainable profits, however, and have increased minimum premiums dramatically.

- Program restructuring, including stretching primary limits, has generated market interest, mitigating rate increases on the umbrella.
- Some competing umbrella underwriters have coordinated their quotes with their primary casualty underwriters to offer an overall package or to leverage and/or protect their position on either the primary or umbrella programs or both. This has included higher primary casualty limits and use of corridor retentions to manage price and limit deployment in the lead umbrella. In some cases, insurers who have not historically offered umbrella programs are doing so to protect their primary casualty position.
- Carriers are capping per-project/per-location aggregates and thoroughly scrutinizing or excluding construction/contingent coverages.
- Claimants will struggle to establish third-party liability for COVID-19-related damages as there will be a vast array of community factors and exposures in play as well. The scope of potential exposure to casualty insurers from COVID-19 will depend on the creativity and entrepreneurial activity of the plaintiff's bar.
- There has been an uptick in communicable disease exclusions. For certain exposed industries, e.g., hospitality, retail and health care, it will be difficult to negotiate these exclusions away.
- One silver lining of COVID-19 is that the state judicial system in the U.S. has ground to a halt. When it resumes, criminal trials will take priority due to "speedy trial" statutes. Pending personal injury matters could face long delays that may incent plaintiffs and their attorneys to settle out of court

Auto liability continues to be unprofitable for insurers, as claim payments remain on the rise. Insureds are experiencing continued rate increases and potential program restrictions.

- Numbers are still under review, but 2019 is poised to be the ninth consecutive year with a combined ratio over 100 for auto liability. Loss costs for bodily injury and personal injury protection have increased by 6.7% and 4.8%, respectively.
- Rate pressure is causing some insureds to reevaluate higher deductible thresholds or implement corridor deductibles. Increasing primary limits has also become a necessary consideration to help offset umbrella/excess pricing demands.
- For the past five years, underwriting focus has been on fleets with heavy vehicles. That same scrutiny now falls on any corporate fleet, regardless of make, model or weight of the underlying power units.
- Increased frequency and severity of losses are the result of a multitude of factors, including more vehicles on the road covering more miles, distracted driving, rising medical expenses, commercial trucking driver shortages, legal climate changes and decay of public infrastructure.
- Sleep apnea/deprivation continues to be a key factor in accidents, with over 43% of the workforce indicating they are sleep deprived. This is a major issue for risk managers as employers have been found legally liable for damages by not properly managing fatigue and sleep issues.
- Many newly manufactured vehicles include advanced driver assistance systems, such as automatic emergency braking, lane departure warning systems, backup cameras and adaptive headlights. This advanced technology, while proven to reduce the severity of crashes or prevent them altogether, comes at a cost: it's expensive to repair and replace.
- With shelter-in-place demands, businesses have been challenged to modify job duties to generate revenue. This has led to an uptick in hired and non-owned exposure. Companies should work with their insurers to report evolving exposures and be mindful of personal auto insurance exclusions.
- Complex coverage questions may also apply to public livery risks. Since an auto policy requires an accident to trigger coverage, insurers may be asked to address the question as to whether transmission of a communicable disease in an auto constitutes an accident.
- Due to the COVID-19 pandemic and subsequent stay at home orders, the decreased auto traffic has led to an immediate reduction in traffic accidents.
- The National Safety Council reports a steady decline in fatal crashes. According to council estimates, in 2019, 38,800 people lost their lives in car crashes, a 2% decline from 2018 (39,404 deaths) and a 4% decline from 2017 (40,231 deaths).

Workers compensation (WC) rate decreases are flattening, as we are beginning to see slight rate increases in the wake of high severity excess losses.

- Despite National Council on Compensation Insurance (NCCI) estimates that total medical and indemnity severity has increased 11.5% over the past five years, workers compensation remains profitable, with the most recently reported industry combined ratio of 83 (2019 industry combined ratio still being calculated).
- Recent NCCI estimates indicate that private carrier written premium volume in 2019 decreased 3.9% to \$41.6B, a significant drop from 2018's 9% increase over 2017.
- According to NCCI, the overall reserve position for private carriers at the end of 2018 was at a \$5B redundancy. This is the first time we've seen a redundant WC reserve position in more than 25 years
- While profitable combined ratios and significant reserves will help offset rate spikes that could result from increases in severity and decreases in premium volume, we expect many buyers will see stable rates or modest rate increases in the near term. However, if COVID-19 becomes a major WC/occupational disease event, then the market environment could change rapidly.
- California's Assembly Bill 5, effective January 1, 2020, set a new standard for gig/shared economy workers. Many independent contractors could be reclassified as employees covered by workers compensation and by minimum wage, overtime, unemployment and disability rules. The resulting additional expenses will put pressure on shared economy business models and their insurance programs.
- Medical technology advancements continue to contribute to mega claims, defined by NCCI as claims over \$10M. These high severity claims have become more frequent in recent years, with a significant majority arising from motor vehicle accidents and falls from elevation.
- State supreme courts are challenging insurers who deny reimbursement for medical marijuana. New Hampshire, Connecticut, Maine, Minnesota, New Jersey and New Mexico accept marijuana as a form of treatment for work-related injuries. The courts have found that reimbursement will not cause the insurance carrier to "possess, manufacture, or distribute" a controlled substance, which is against federal law.
- Telemedicine continues to play a key role in workers compensation by providing more efficient access to high-quality medical care, mitigating medical expenses and lost time from work, and ultimately reducing claim severity.
- COVID-19 has caused a substantial percentage of the U.S. workforce to telecommute, creating uncertainty over the definition of "the course and scope of employment." Employers may have to add neighboring states to their policies, modify class codes and establish guidelines and protocols for working at home.
- Compensability of workers compensation claims due to COVID-19 will be influenced by several factors:
 - Whether there is an elevated risk of contracting the disease due to the type of employment
 - How easily identifiable the transmission and the transmitter of the disease may be
 - How identifiable the disease's symptoms are with a specific medical condition ("prevailing factor")
- State statute wording, case precedent and presumptive legislation
- Many states have followed the State of Washington by passing presumptive statutes that create an easier pathway for employees of certain identified front-line industries to make COVID-19 workers compensation claims. Depending on the magnitude of these claims, the workers compensation marketplace could be on the cusp of significant disruption.
- Coverage application for COVID-19 may change rapidly, as seen first in Washington State and subsequently by many other states. New state rules will create an easier pathway for employees of identified front-line industries to secure workers compensation benefits after contracting COVID-19.
- With heightened economic uncertainty, credit officers likely will take a more conservative approach when establishing security needs on large deductible insurance structures.
- In-force policies may now have inflated exposure bases, which should be addressed with carriers before the next renewal. A proactive approach to managing minimum premiums and looming audits will yield the best results.

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International casualty

Key takeaway

When considering the metrics for success with international casualty as well as any other multinational lines, we recommend taking a holistic approach that looks at coverage terms, price and how effectively information and service is delivered.

Rate predictions

Flat

Spotlight on COVID-19

- As in U.S. casualty, we expect international casualty claimants will struggle to establish third-party liability for coronavirus infections, given the array of community exposures through which the virus is spread. The scope of potential exposure will ultimately depend on the creativity and entrepreneurial activity of the plaintiff's bar.
- The area of international casualty where we foresee particular focus relating to COVID-19 is foreign voluntary workers compensation/ employers liability (FVWC).
- Given the situation-specific nuances of casualty cover, the applicability of coverage for COVID-19-related losses is difficult to predict. Insureds are encouraged to review policy language.
- *For more detail, read on.*

The international casualty marketplace remains a competitively priced buyer's market, offering pricing stability and opportunities for improved terms. Buyers who will capitalize most effectively are those who:

- Deliver clear and consistent underwriting data and related documentation.
- Leverage their purchasing with strategic carrier relationships.
- Demonstrate that they have communicated detailed risk management protocols with their various stakeholders.
- Partner with their broker, carriers and internal teams to take a disciplined approach to the renewal timelines, allowing for a thorough review of localized coverages and claims handling plans.

Rate stability generally prevails, and reductions and/or coverage enhancements are available – with certain caveats.

- As organizations look to measure the quality of their global programs, issues beyond price should be a priority. The most effective carrier partners are often those who drive and document accurate and timely policy delivery, deliver quality post-binding services around the world, and offer an insured the ability to influence localized policy coverage terms.
- The overall portfolio of insureds purchasing international casualty coverage continues to grow, particularly in the middle market space.
- Carriers who write global lines of coverage are often able to partner with insureds on other lines, offering the opportunity to reduce overall cost through economies of scale.

Capacity remains available, despite outside pressures.

- The full impact on insurers of the global economic downturn caused by the COVID-19 pandemic is uncertain, but for now, in the aggregate, rates remain stable.
- Reduced interest rates will impact carrier investments and overall profitability, though the extent of the impact will depend on several variables.
- Other P&C lines continue to see rate increases, which may begin to influence underwriters of international programs to follow suit and raise rates.
- So far, these trends have been counteracted by the continued introduction of competing market entrants and a desire by established carriers to maintain market share for a line of business that generally does not experience significant claim activity.
- Certain additional capacity is available from carriers who have historically only written U.S. domestic lines and are looking to expand their offering to include international P&C. For some markets who do not own their own global office network, that means establishing network partners who can issue and service policies around the world. Additional competition emanates from European carriers with experience writing international casualty who are expanding their offerings to include U.S.-domiciled insureds.
- For certain insureds with large and complex international risks, European-based markets can offer distinct benefits by tapping into an alternative access point.
- Higher primary limits and expanded coverage territory may be available.
- Higher or full limits may allow insureds to evidence certain unique coverages, such as pure financial loss and extended products liability.
- These extensions can be evidenced on the master policy, offering wider coverage territory.
- Recent global carrier mergers have yet to reduce the abundant supply of capacity. In many cases, the M&A activity, as well as the development of strategic partnerships in the marketplace, have enhanced market offerings by bolstering underwriting depth, expanding capabilities (in various lines of business, claims, loss control and technology) and broadening international office footprints.
- Multiyear agreements are available in some instances and can offer coverage and rate certainty and decreased administrative burden.
- While the current marketplace offers opportunities, there are also underwriting challenges: Underwriters want clear and consistent exposure information from insureds, limiting or even removing the ability to obtain coverage for “if-any” exposures, as well as excess DIC coverage, without clear details about the primary coverage in local geographies.

Combining P&C into packages may have strategic advantages, but buyers need to be aware of the impact the hardening property market may have on the combined program.

- Impacts range from limited (if any) coverage for catastrophic events to larger minimum deductibles.
- Buyers can take steps to minimize these negative pressures:
 - Deliver clear and consistent underwriting data, values and business interruption data, including construction, occupancy, protection, exposure (COPE) information.
 - Leverage their position with strategic carrier relationships.
 - Demonstrate that they have strong loss controls in place and the resolve to improve their risk profile.

Several COVID-19 questions are being raised with regard to international casualty.

- Within an international casualty program, coverage often includes FVWC, which so far is the most significant target for coverage discussion around COVID-19. This coverage commonly extends to endemic disease with state of hire WC benefits for employees who are working outside of their home countries. However, for coverage to apply, their travel needs to be in the course of business.
- Coverage may also be triggered within a business travel accident policy for someone who contracts the virus while in the course of business – although several carriers are pursuing coverage clarification.

Brexit's approach will require attention.

- As we turn to the implementation of Brexit (scheduled to take effect later this year), carriers and brokers have been preparing by repositioning certain underwriting and/or service functions (e.g., freedom of service (FOS) infrastructure) to alternative European locations (e.g., Luxembourg, Ireland, Spain and Belgium), requiring a fair amount of movement and re-training of staff. Carriers are looking to offer flexibility where they can. However, insureds and brokers are encouraged to seek details where there are unknowns in advance of renewals.
- As a general note, we strongly encourage insureds to partner with their broker and carrier to weigh the pros and cons of an FOS structure for a casualty program. The benefits that are generally available on a property program are often less clear on a casualty program. Programs that replace local policies throughout Europe with an FOS policy may remove those costs but may also remove country-specific terms that are only available in each country.
- Additionally, insureds who may have received an FOS policy from a carrier's U.K. office, also representing local coverage for the U.K., should consider the need and benefits of requesting a separate local policy in the U.K. at renewal.
- When a renewal involves a potential change of where an FOS policy will be issued, we suggest carefully considering the implications of the governing laws of that policy. For example, the U.K. relies on common law whereas other European countries rely on civil law, and there will be differences in how claims are managed.

Changes in market regulation and issues of compliance are crucial.

- State-driven regulation and rising protectionism continue to impact the marketplace. For example, federal agencies in some regions are requiring participation of in-country insurance capacity into global programs, which impacts pricing, exportability, control and renewal timing. Buyers should be aware that any restrictions on the exportability of risk and premium will limit the corresponding amount of underwriting and claim settlement authority that can be centralized.
- Insurance and tax audits as well as requirements for insureds to provide know-your-client (KYC) documentation are evidence that local regulators are actively seeking to ensure that programs are locally compliant. While this has become more common in certain regions, including North America, Central America and Europe, requests have also emerged in the Middle East.
- Enforcement remains prevalent around premium payment warranties (e.g., cash before cover) in some countries, which should encourage buyers and their brokers to be ready to bind 30+ days in advance of renewal.

Global programs of all sizes are becoming more sophisticated.

- Buyers with smaller international risks may have opportunities to impact their total costs and ensure compliance by taking a centralized approach to certain functions, starting with a focus on the safety of their traveling employees through a global approach to FVWC, kidnap, travel assistance and health coverages.
- For companies with existing global programs, opportunities are available to streamline operations by leveraging relationships with a select number of global carriers, minimizing coverage gaps and ensuring economies of scale.
- For the buyers of large, complex global programs, clarity of coverage will be increasingly important, not just at the master policy level, but also at the locally admitted level. Also contracts with third parties may include specific insurance requirements (e.g., unique local coverages and/or higher limits) that need to be contemplated in the program design.
- Opportunities exist for insureds to expand the breadth of an international casualty program to centralize additional local policies, such as local employers liability and auto, particularly where those risks are significant.
- Global businesses are experiencing complex claims in a widening array of geographies, requiring a close examination of admitted localized coverages as well as claims handling procedures.

- Not all carriers offer the same local policy terms and conditions, even within the same country, and this should be considered when marketing a program.
- One of the ways higher admitted limits can be obtained is by asking the international casualty carrier to raise its master policy limits, enabling flexibility around what limits can be localized. An additional benefit of raising the primary limits is driving pricing relief in the excess layers, an important feature when excess limits are more expensive. Alternatively, an umbrella carrier that has a global network can issue its own local umbrella policy as and where needed. Teams should consider both options and compare associated costs.

Program administration remains an important focus.

- While international casualty losses tend to be low, the administrative costs of running an international casualty programs can still be heavy for everyone involved. As a result, all parties should look for ways to drive value through efficiencies.
- Key to delivering a program that delivers value is a disciplined approach to timelines, with teams beginning the renewal process early, documenting clear objectives and tapping into the expanding expertise and capabilities available.

- International casualty programs require significant administration and collaboration, so rather than differentiate purely through price, carriers and brokers are creating and/or enhancing operational tools, leveraging technology and offering underwriting flexibility and/or enhanced transparency around country-specific coverages.
- The allocation of premium should be a discussion that begins early. Carriers will have unique approaches and internal guidelines, so insureds and brokers should initiate discussions early in the renewal timeline, with consideration of issues such as exportability and taxes and to ensure timely execution.
- The marketplace offers a certain amount of flexibility in terms of where international premium allocations can be collected for most countries, providing insureds the ability to centralize most of the cash flow and administration. However, diligence is increasingly important for insureds to evidence a consistent and defensible premium allocation methodology in the event of a program audit.
- Several carriers supplement the delivery of international programs with online platforms, some of which are made available to insureds and brokers. The ability to reduce friction and improve clarity continues to be a differentiator, so carriers continue to invest in tools that offer transparency into network instructions, posting of policy documents and other improvements in efficiency.
- Shared online access to claims data remains a topic of conversation for future enhancements.

Alternative risk programs remain an option.

- The market for fully fronted programs remains fairly limited; however, they can be popular for insureds who wish to control cost allocations and centralize coverage documentation. Carriers that write programs with significant retentions are often well-established and have the underwriting expertise, global network, technology and cash flow capabilities to handle these programs effectively.
- Programs with a reinsured retention often generate additional administration costs and can attract collateral. Those calculations reflect a number of factors, including the number of local policies, volume of claims, limits issued, etc. Upward pressure on those costs can be mitigated in certain cases by leveraging the relationship with the same carrier across other products.

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Product recall

Key takeaway

A business-friendly administration does not necessarily reduce liability. Product recall risk may in some ways be rising.

Rate predictions

Flat to +5%

Spotlight on COVID-19

- Little impact so far on the product recall marketplace, as we see no evidence that the virus is a food-borne pathogen
- *For more detail, read on.*

Product safety is flying a bit under the radar these days, but at a time when many sectors are seeing increases in consumer demands, it's essential that companies safeguard their production processes.

- The FDA has decided to temporarily cease supplier verification onsite audits.
- Manufacturers have less management oversight due to the implementation of teleworking.
- Many manufacturers are looking to diversify their scope of products to fill gaps in consumer needs caused by the current pandemic, but new products come with new risks. These companies should not let their quality control guard down.

We do not expect the product recall marketplace to be significantly impacted by COVID-19, although much still needs to be learned.

- Presently, there is no evidence to suggest that COVID-19 is a food-borne pathogen. It's also unlikely that the virus could withstand the rigors and time frames involved in most food and non-food supply chains.
- There is, however, no testing available to detect this virus in food products.
- Environmental contamination is a main concern as details emerge regarding the virus's ability to survive on contact surfaces for up to three days.

Overall, the number of products recalled has decreased over the past year, although this varies by industry.

- The food and beverage space has seen a steady pace of recalls, although the average units per recall have decreased. Supply chain ingredient contaminations continue to disrupt the recall market.
- Watchdog organizations are having greater influence with the Consumer Product Safety Commission. That influence may become further amplified by social media.

- There has been an uptick in software-related recalls in the durable goods sectors.
- Airbags continue to give angst to automotive manufacturers.

The recall insurance marketplace appears to be taking a flexible underwriting approach during this chaotic time.

- While early 2020 was shaping up to be a hardening market, in the early days of the COVID-19 crisis many carriers communicated a willingness to consider clean risks and simplify the data collection process.
- Having ample time to market renewal submissions is more crucial in this climate.
- While one major reinsurer has made significant changes to its casualty outlook, they have "doubled down" on their commitment to the recall market.
- There have been no major changes to capacity.

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Cyber risk

Key takeaway

Given the dramatic increase in ransomware incidents, both in frequency and magnitude across all industries over the past year, organizations should be proactive in assessing their cyber resilience and be able to demonstrate this resilience to underwriters.

Rate predictions

+10% to +15%

Spotlight on COVID-19

- The increase in phishing and hacking activity has been one of the main business stories of the work-from-home era that has suddenly emerged as a reality for much of the U.S. workforce.
- Despite the potential rise in risk for many buyers of cyber coverage, the marketplace has yet to react strongly. We'll be keeping an eye out for any movement.

Primary and excess cyber renewals are now averaging premium increases in the mid- to upper-single digits.

- Heavily exposed industries are likely to see increases on the higher side of our predicted 10% – 15% range: health care, higher education, public entities, manufacturing, financial institutions, construction, and large media and technology companies.
- The explosion of ransomware losses in 2019 has had a direct impact on premiums. The severity has jumped from \$500,000 or less per loss to well over \$1,000,000 per loss.

- As incidents and losses mount, carriers have been reevaluating their positions in large towers and looking more closely at rates in perceived burn layers.
- Carrier strategy regarding excess layers revolves around obtaining adequate premium for perceived risk. There is less competition to get on excess towers, especially if pricing is considered too thin.
- While some cyber towers may still maintain a rate per million under \$10K/M, the excess markets are looking to increase their rate per million to \$8K to \$13K, but that could fluctuate up or down based on attachment point and risk.

Cyber capacity is starting to tighten, as losses continue to rise.

- According to the 2019 Cost of a Data Breach Study from the Ponemon Institute and IBM Security, the average cost of a data breach is now \$3.92M, a 1.5% increase over 2018 and a 12% increase over the last five years. Costs remain highest in the U.S., where the average price tag for a data breach was \$8.19M, more than twice the global average. Health care was again the most expensive industry, with data breach costs in 2019 averaging \$6.45M.

- The human element continues to be the leading cause of cyber loss, contributing to 63% of the claims included in our 2019 Reported Claims Index.
- Given some recent high-profile breaches, clients need to be aware of potential issues related to M&A activity. Companies should engage their IT staff early in the acquisition process to evaluate risks. The potential for reputational and financial harm from an incident could undermine the true value of a deal
- Certain carriers are adjusting their ransomware coverage appetites and considering sublimits and co-insurance alternatives.
- Claims and losses related to the coronavirus pandemic are expected, as malicious cyber infections disguised as documents related to the health crisis have been reported in the U.S. and Canada. Organizations may be more vulnerable than usual, as employees work remotely through potentially less secure networks with less secure hardware.

Coverage continues to evolve and expand to cover regulatory risk, reputational damage, forensic accounting and gap exposures.

- The E.U. General Data Protection Regulation (GDPR) went into effect in May 2018, and the California Consumer Privacy Act will go into effect this year. We have seen cyber markets more affirmatively address coverage for claims stemming from these regulations. Markets are also offering expanded wrongful collection and compliance coverage largely in response to these rules.
- Other coverage expansions include forensic accounting coverage, reputational damage coverage and invoice manipulation provisions in certain industries.

- Business interruption/system failure continues to be an area of concern for underwriters. Heavily exposed industry classes, such as aviation, manufacturing and transportation, have seen increased underwriting scrutiny. While coverage remains available, certain industries face significant premium increases.
- Cyber underwriters are working more closely than ever with their counterparts in other lines to address silent cyber coverage. Carriers are withdrawing or limiting cyber coverage in non-cyber insurance lines due to concern over aggregation.

Carriers are growing increasingly sophisticated in their underwriting.

- Insurers are exploring partnerships with InsurTech and FinTech firms in an effort to gather and optimize exposure data and to enable underwriters to assess how organizations and their employees handle sensitive data. Underwriters want to understand

an organization's cyber culture; this can offer opportunities for buyers to differentiate themselves if they are developing holistic approaches to cyber risk across people, capital and technology.

- Carriers are starting to require ransomware supplemental applications given the spike in ransomware losses and are underwriting wrongful collection coverage more vigorously.

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Directors and officers liability

Key takeaway

Underwriters are laser-focused on (1) liquidity, (2) industry and (3) disclosures specific to COVID-19.

Rate predictions

Our D&O rate predictions assume heightened financial pressure, but no fundamental breakdown in our economy as a result of COVID-19. The COVID-19 impacted business environment could rapidly turn worse — in which case pricing could be much higher and capacity inadequate.

Stable risk profiles (modest COVID-19 exposure)

Public company – primary: +15% to +50% or higher

Public company – excess layers: +25% to +75%

Private and not-for-profit – overall: +7.5% to +50% or higher

Side-A /DIC: +5% to +20% or higher

Challenged risk profiles

High COVID-19 exposure: Case-by-case basis; large potential increases

Challenged industries, e.g., oil: Case-by-case basis; large potential increases

Spotlight on COVID-19

- D&O may be one of the lines most affected by the pandemic and the economic downturn.
- *For more detail, read on.*

The COVID-19 environment is applying more pressure to an already firming D&O marketplace.

- **Unprecedented environment:** The global economy is experiencing unprecedented challenges as a result of the COVID-19 pandemic.
- **Industry:** Certain segments, such as insurance companies (particularly life), airlines, life science, biotech, real estate, oil and gas, hospitality, travel and retail are seeing heightened pressure. Capacity is becoming harder to find to complete some programs.

Renewals are challenging, with the COVID-19 environment heightening underwriting scrutiny of D&O exposures – all in addition to the continued firming of primary and excess rates.

- **Marketplace:** Amid the considerable challenges, we see some good news: very few knee-jerk reactions among North American carriers. The London market seems notably harder, with triple-digit increases becoming more common. In many cases, our pre-COVID-19 rate increase projections are holding up.
- **Capacity:** Even before COVID-19, some carriers had signaled their intent to limit company-specific D&O exposure by reducing capacity and/or layer size. Today's D&O insurance buyers with larger towers will likely find renewing towers challenging. Replacement capacity may be hard to find and may require innovative solutions. Targeted segments may face a hard market – reduced or pulled capacity, increased retentions – especially on private D&O.

- **Underwriting:** Insurers are more focused on exposure to the consequences of the COVID-19 environment. More specifically, carriers are looking at liquidity/solvency, guidance and disclosures, revenue disruption, supply chain and logistical concerns, and changes to business plans. Underwriter questionnaires or question lists are providing some consistency. Carriers are looking to increase retentions and decrease limits – particularly for challenged classes. Generally, they have not pulled quoted or bound terms, but we have seen this happen in extreme circumstances.
- **Terms:** We have seen little in the way of blanket COVID-19 exclusions in D&O in North America, but we have seen one-off attempts based on the particulars of a given risk. Alternatively, we are seeing liquidity-challenged accounts being asked to accept bankruptcy/insolvency/creditor exclusions or sublimits – especially on private D&O.

- *Will pricing history matter?* Pricing history is likely to be a factor in pricing this year, but in this environment, even accounts that had experienced increases in 2018 and 2019 may see more of the same in 2020.
- *Excess recalibration continues:* In the second half of last year, we began seeing underwriters effectively recalibrate how they priced excess relative to underlying layers. That trend often resulted in insurance tower prices increasing even more than the primary pricing, and we expect that to continue through the rest of the year.
- *Competition:* Some insurers have demonstrated effective discipline and are more conservatively deploying capacity in the face of profitability challenges. The U.K. market appetite for D&O (including U.S. publicly traded D&O) has waned. New coverage may be challenging to place.
- *Support of incumbent carriers versus marketing:* While it may be prudent to engage the full marketplace to ensure optimal results and validate incumbent terms, replacement capacity may be hard to find at any price.
- *Bankruptcy/insolvency:* Between COVID-19 economy shut-downs and unsustainable oil prices, the current environment could result in waves of bankruptcies. The plaintiffs' bar and regulators have demonstrated proficiency in pursuing claims against directors and officers within (or apart) from bankruptcy proceedings. For companies facing restructuring or bankruptcy, D&O coverage is especially valuable. Insureds should make sure to seek expert advice in advance of any filing.
- *Side-A/DIC (non-indemnified loss):* Even Side-A, which historically has remained price competitive, is seeing some firming. With heightened bankruptcy risk and a possible mega-derivative settlement trend developing, Side-A pricing pressure could pick up in this firming market.
- *Private and not-for-profit companies:* An insured's financial health and industry classification matter now more than ever. Financially distressed firms, companies in challenged or emerging industries, and firms that have antitrust exposures will likely continue to see premium increases, higher retentions and/or coverage restrictions. Large private companies and portfolio companies of private equity firms may see greater underwriting scrutiny and pressure this year.
- *Securities class actions (SCAs):* Frequency trends remain at historically high levels. The severity of losses could worsen as we see precipitous stock drops from record highs. Nevertheless, we are not expecting COVID-19 to produce a wave of new SCAs.
- *Cyber, M&A and privacy:* Social accountability, social media's impact (e.g., #MeToo), privacy compliance risks and dynamic cyber security risks could put pressure on terms and conditions. Risks may be heightened by the degree to which businesses have shifted to remote workforces in response to COVID-19.
- *IPOs:* Expect high retentions, hard-market pricing and conservative terms to continue for the foreseeable future.

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Employment practices liability

Key takeaway

There is a societal shift in focus on workplace culture. A workplace that promotes inclusion and diversity may minimize exposure to employment-related claims.

Rate predictions

Primary (domestic markets):

+5% to +20%

Excess: Flat to +5%

California: +5% to +20%

(higher for certain industries)

Bermuda markets: +5% to +10%

with minimum retentions of \$1M

Spotlight on COVID-19

- The massive layoffs and furloughs prompted by the COVID-19-related economic slump are likely to result in claims of unfair practices against employers.
- While the impact on the marketplace is still uncertain, many markets are asking COVID-19-related questions, so insureds should exercise extra caution as they consider how they might conduct layoffs and furloughs, and consider how their actions might be perceived.

California exposure continues to be the most difficult to underwrite.

- While overall primary rates are rising in the +5% to +20% range, this can be higher for certain industries, e.g., health care, tech and retail.
- More prominent than rate increases are the increases in retentions and cutting back of limits, with most markets having minimum retentions of \$250,000 for California claims and separate retentions for high-wage earners, particularly in the financial institutions industry.
- California exposure continues to be more difficult to underwrite because of employee-friendly legislation and a plaintiff-friendly judicial system.

Socially driven issues may increase exposure to employment practices liability litigation.

- A few years ago, the start of the #MeToo movement caused a spike in employment claims, specifically, sexual harassment. While those claims continue, they are not coming in as frequently.
- Since then, we have seen a rise in employee activism, where employees are pushing their employers to take a stance on issues such as workplace harassment and pay equity.
- The COVID-19 pandemic may lead to employment claims involving such issues as discrimination, invasion of privacy and retaliation.
- The claims arising out of these global issues are typically covered by EPL policies.

Increased privacy protections lead to significant class action claims.

- The Illinois Biometric Information Privacy Act (BIPA) has been the subject of many class action claims against organizations with employees in the state. BIPA prohibits an entity from collecting, capturing, purchasing or otherwise obtaining a person's "biometric identifier" or "biometric information," unless it satisfies certain notice, consent and data retention requirements. BIPA also provides for a private right of action.

- Losses for BIPA class action claims are in the millions, leading many EPL carriers to reconsider the coverage.
- With other states considering enacting similar legislation (and Florida, Massachusetts and New York contemplating private right of action legislation), many EPL policies now have a conditional exclusion for BIPA claims, with some expanding even further than BIPA.

State legislation is providing more protection for employees.

- As society focuses more on inclusion and diversity, states are implementing laws that provide broader protections to employees.
- For example, some states have new hairstyle discrimination laws, some have loosened the standard for sexual harassment claims, and some have extended the statute of limitations for harassment and discrimination claims.
- These changes are driving some of the upward rate movement in the market and putting pressure on retentions and limits.

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Errors and omissions

Key takeaway

Professional and technology service organizations should pay particular attention to the language in their indemnity agreements with customers and vendors to mitigate the financial impact of potential E&O claims and losses and to be viewed as a better risk to underwriters.

Rate predictions

+5% to +10%

Large law firms: +10% to +20%

Technology: +5% to +10%

Spotlight on COVID-19

- All management liability lines are likely to be affected – some severely – by the economic plunge sparked by the pandemic, though thus far the E&O marketplace has seen little direct impact.
- We will be keeping a close eye on the situation as it develops.

Errors and omissions, or professional liability, is arguably the most complex area of specialized insurance, with several distinct marketplaces:

- Stand-alone E&O for certain professions (lawyers, consultants, accountants).
- Technology E&O, sometimes stand-alone, but often coupled with cyber insurance.
- Miscellaneous professional liability (MPL), including those industries without a specific, dedicated policy form.

Lawyers: the market for large law firms began to harden in the 4th quarter of 2018 in response to mounting losses.

- Insurers and reinsurers have reacted to correct past rating deficiencies, respond to the new loss dynamics and regain long-term profitability.
- For a variety of reasons, including insurer mergers & acquisitions and/or decreased appetite, there has been a reduction in capacity coupled with increased layer ventilation.

Technology: evolving product and service delivery technologies are pushing the edges of technology E&O into other coverages, including CGL, cyber and other types of professional liability.

- Internet of Things (IoT) devices, in particular, are interacting with people, property and equipment in new ways.
- New property damage and bodily injury liabilities have arisen from the use of monitoring services that run on IoT technology and connected networks and hardware/software. These new liabilities have led to further focus on contract requirements and interactions between insurance policies.

Other traditional miscellaneous E&O, or MPL: The marketplace is contracting.

- Two large carriers are retrenching their books.

The overlap of cyber and E&O coverage is a major area of focus.

- When buying cyber, buyers often ask about splitting E&O and cyber. We typically recommend combining all coverage in one policy to minimize coverage gaps, since E&O claims alleging a failure to properly render professional services increasingly overlap with traditional cyber coverages.
- Further, in the conflict between E&O and cyber, cyber is “winning” in that more buyers are including E&O as part of their cyber programs – traditional E&O market capacity continues to erode as carriers focus on underwriting pure cyber risk.

Insureds should be proactive in reviewing their E&O exposures and existing coverage as they determine the best strategy to address growing cyber exposures.

- When insurance is required in a customer contract, the type of insurance (E&O and/or cyber) should be specified.
- Contractual requirements continue to drive requests for E&O coverage.
- Companies should review the limitation of liability and indemnification clauses in their customer contracts, as underwriters are more closely scrutinizing these provisions, especially as they relate to cyber risk.
- Companies should review customer-use policies and guarantees regarding any estimated or guaranteed service availability.
- Technology companies should be cognizant of potential claims that could result from the coronavirus epidemic if there are failures to deliver products or services within

contracted timeframes due to supply chain issues. They should understand how such claims would or would not be covered under their E&O policies.

E&O underwriting is becoming more sophisticated and complex.

- Excess carriers are looking more closely at rates and making sure that they are getting adequate premium for the risk.
- Insurers have tightened pricing and retention guidelines for companies offering just-in-time services or guaranteed uptime or output time in their service contracts.
- Carriers are focusing more on middle market business and being more cautious when it comes to writing technology E&O for companies with over \$1B in annual revenues.
- Certain carriers are limiting or restricting certain classes of business in response to recent large claims.

- Carriers are reviewing and examining their exposure to intellectual property risk and are reviewing insureds' intellectual property clearance procedures to understand the risk of third-party intellectual property claims.
- Although carriers continue to accept manuscript policies to directly address professional services risk, they are beginning to increase premiums for these policies.

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Fidelity/crime

Key takeaway

Computer fraud and social engineering schemes continue to be a significant exposure. Increased reliance on remote work access during the COVID-19 pandemic may result in additional exposure and lead to underwriters further scrutinizing insureds' computer security systems and training.

Rate predictions

+2.5% to +7.5% (higher for the most challenged classes)

Spotlight on COVID-19

- Fidelity/crime risk may well rise during the national lockdown, but for now, the fidelity/crime marketplace itself is expected to harden only slightly more than previously anticipated.
- *For more detail, read on.*

There are no standard exclusions that preclude coverage for a loss related to COVID-19, but during the crisis, insureds should be aware of the following:

- Companies, employees and computer systems may be more susceptible to fraudulent activity during times of uncertainty.
- Also, an organization's technological defenses may be more vulnerable than usual, as more employees are working remotely, potentially through less secure networks with less secure hardware.
- Risk managers should stress the importance of employees following company policies, procedures and verification methods, and that employers remain vigilant about threats from both inside and outside their organizations.

Social engineering continues to be a focus of insureds and insurers.

- As a result of several court decisions that found coverage for social engineering schemes under alternative insuring agreements, namely computer fraud and funds transfer fraud, exclusionary language is being added to clarify that social engineering losses will not be covered under any other insuring agreement in the fidelity policy.
- Social engineering coverage is typically granted on a sublimited basis, whereas computer fraud, funds transfer fraud and other standard insuring agreements are subject to the full limit.
- Insurers may charge additional premium for higher social engineering limits and/or broader coverage. The availability of this coverage will vary on an account-by-account basis.
- Insurers continue to carefully underwrite this exposure.
- We are seeing limited availability of excess social engineering-only coverage.

The hardening market is impacting fidelity/crime, which is generally viewed more favorably than management and professional liability.

- Insurers are pushing for rate and focused on ensuring deductibles are adequate across the fidelity/crime space where pricing has been sitting at or near minimum rate/million for several years.
- The most challenged sectors – gaming, casinos, crypto-related firms, the cannabis industry and ATM risks – are seeing increases beyond the range outlined above. Renewal results will vary on an account-by-account basis, depending upon risk characteristics.
- CRIMEstar (our proprietary all-risk crime form supported primarily out of London) renewals are challenging across the board. London continues to correct pricing and deductibles while reducing capacity. Some markets have pulled out of the crime space entirely.

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Fiduciary

Key takeaway

For now, carriers seem more concerned with fee and mortality-table litigation than they are with the impact of COVID-19.

Rate predictions

Our fiduciary rate predictions assume heightened financial pressure, but no fundamental breakdown in our economy as a result of COVID-19. The business environment could rapidly turn worse — in which case pricing could be much higher and capacity inadequate.

Overall: +5% to +15%

Commercial companies with plan assets exceeding \$500M or large concentrations of company stock in benefit plans: +5% to +20%

Other commercial companies: +5 to +10%

Financial institutions with proprietary fund exposure: +10% to +20%

Financial institutions without proprietary fund exposure: +5% to +10%

Employee (ESOP) owned firms: +5% to +20%

Universities/higher education (already had a fee claim): +5% to +15%

Universities/higher education (otherwise): +10 to +25%

Health care (already had a fee claim): +5% to +15%

Health care (otherwise): +10 to +25%

Other commercial private and not-for-profit (NFP) entities: Flat to +7.5%

Spotlight on COVID-19

- The pandemic is in focus, but we expect relatively steady markets ahead at least for the near term.
- Facing modest pricing pressure: Although not likely the primary cause of fiduciary pricing pressure, the COVID-19 environment is not helping.
- Unprecedented and uncertain environment: The marketplace could change quickly. The economic downturn has put unprecedented stress on our financial system, abruptly changed workforce dynamics and introduced new compliance risks.

COVID-19 raises some specific risk concerns.

- The COVID-19 environment could accentuate risks from company stock in plans, due to volatility in the market and precipitous drops in value.
- Cutbacks in benefits (like 401(k) matches) may yield claims — potentially class action claims.

Even with COVID-19, it looks like relatively stable pricing ahead for most, at least for now — challenged classes excepted.

- **Stable capacity:** The fiduciary market remains conservatively competitive with adequate capacity for most risks. However, financial institutions with proprietary funds in their plans, insureds with significant ESOP exposure and universities may not easily find willing capacity.

- **Underwriting focus:** Expect heightened underwriter focus — and not necessarily on COVID-19. Fee litigation concerns predominate. Carriers are asking about process, policies or procedures for evaluating professional fees or investment options. Supplemental excessive fee questionnaires have become more common.
- **Primary market concentration — large and complex:** A few carriers continue to lead most larger programs, with others occasionally willing to be opportunistic and competitive. This concentration heightens difficulties for risk segments deemed challenged. For example, primary capacity for financial institutions with proprietary funds within sponsored plans are expected to have challenging renewals.

Coverage terms are generally stable as well.

- *Blended coverage — small and medium-sized private and not-for-profit (NFP) enterprises:* Most smaller private/NFP companies continue to buy fiduciary liability coverage as part of an executive risk package policy, which is an option many carriers offer.
- *Challenged classes:* Carriers are looking to either raise attachment points or seek restrictions — or both. Financial institutions, universities and health care organizations will likely face substantive attempts by underwriters to materially restrict coverage in the form of limits, pricing, retentions and/or other terms.

Key loss drivers are creating upward rate pressure.

- *Fees/suitability:* Fee cases continue to drive loss development. These cases allege that fees paid to financial institutions have eroded employee retirement plan assets and less expensive, non-proprietary investment options should have been offered. Potential suit targets are broadening as this cottage industry grows. These suits are no longer limited to large plans. The risks represented by these cases continue to drive loss severity and, correspondingly, available limits. A wave of 403(b) fee cases has carriers looking more cautiously at universities and the health care industry. Plaintiffs are now pushing for jury trials, which could put upward pressure on awards and settlements.
- *Mortality tables:* We are seeing ERISA claims alleging that plans calculate non-single life annuity benefits using unreasonable mortality table assumptions, with the effect of lowering benefits below what ERISA

requires. Plaintiffs in these lawsuits seek the difference between their plan benefits and their benefits calculated using the assumptions set by the Secretary of the Treasury pursuant to Internal Revenue Code sections 417(e)(3) and 430(h)(3).

- *Financial institutions:* Insureds with proprietary funds in their plans will face the most challenging renewals.
 - *Already been sued?* Although it may seem counterintuitive, a financial institution that has already been sued may be seen as a better risk to a new insurer. On the other hand, incumbent insurers adjusting a claim will want a premium increase.
 - *No such claim yet?* Claims-free may NOT be considered a good thing. Insurers believe that, for financial institutions with proprietary funds in their plans, it is only a matter of time before a proprietary fund-related claim will be made. Accordingly, renewal terms from the incumbent will likely look to push rate and restrict terms. Also, there could be very limited interest from other insurers who see a “claim waiting to happen.”
 - At least one leading insurer has been looking to broadly exclude this risk without any premium credit.
- *Law:* Supreme Court rulings have heightened fiduciary risk. For example, in *Intel v. Sulyma*, the U.S. Supreme Court held that a three-year statute of limitations failed to begin to run, since “actual knowledge” was required and the plaintiff “did not remember reviewing” any of the numerous disclosures of the investment allocation that afforded the basis of the claim.

- *Are limits adequate?* In our current COVID-19 environment and with fee litigation driving rising claim frequency and loss severity, buyers may benefit from reconsidering whether their limits are adequate for their exposure. The fiduciary market is firming along with other financial lines markets. The window of opportunity to add capacity may close.
- *Regulation and enforcement uncertainty:* With the DOL’s Fiduciary Rule vacated, the SEC proposed its Best Interests Rule and a new DOL rule once expected before the start of the year is currently in limbo — likely awaiting the outcome of the November election. Until the dust settles, the heightened uncertainty will continue to be a challenge.
- *Governance:* Developments in plan governance have heightened fiduciary exposure to potential sanctions, correction expenses and litigation. IRS determination letters, once extensively relied upon by plan sponsors to ensure that a plan document complied with tax qualification requirements, are no longer issued in most circumstances. Today’s employers must navigate this requirement without IRS validation.

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Financial institutions – FINEX

Key takeaway

The financial lines market for financial institutions (FIs) is firming across the board and at an accelerated rate.

Rate predictions

D&O – Publicly traded financial institutions: +10% to +20%

Side-A/DIC: +5% to +10%

D&O – Private financial institutions: +5% to +10%

D&O/E&O – Asset managers (excluding private equity/general partnership liability):

Large: +5% to +15%

Middle market: +5% to +10%

Bankers professional liability (BPL): +5% to +12.5%

Insurance company professional liability (ICPL): +5% to +12.5%

Note: For employment practices liability (EPL), fiduciary liability and fidelity (crime), please see dedicated sections elsewhere in this report. The above price predictions do not include private equity general partnership liability (GPL).

Spotlight on COVID-19

- The pandemic will have broad impact on the FI exposure and on the insurance marketplace.
- We are monitoring the situation closely.
- *For more detail, read on.*

Overall, rate increases are becoming more significant, with more double-digit increases.

- FI insurers continue to demonstrate pricing discipline in both primary and excess layers.
- Replacement capacity is often not available at a more competitive premium, but marketing programs is recommended to achieve best results, especially if a program has not been marketed in the past few years.
- U.K. and Bermuda markets continue to offer solutions for the right premiums, retentions and attachments.
- Most programs can find adequate capacity, though some insurers have been reducing limits in certain areas and are more closely managing overall aggregation.

The FI public D&O marketplace is seeing lower increases compared to the commercial D&O marketplace, which is experiencing severe increases.

- Lower rate increases are due to public FI D&O rates not dropping as low in the soft market as commercial D&O rates.
- Average rates are in the high single digits, and we are starting to see movement toward double-digit increases.
- Excess insurers are trying to right size increased limit factors (ILFs). Excess insurers are also following underlying increases to avoid added deterioration in their ILFs.
- Insurers continue to push for increased D&O retentions, with insurers indicating that retentions have not kept pace with the growth of insureds and, as a result, we often see no meaningful credit for retention increases.
- There is generally adequate program capacity, but some insurers are reducing or looking to ventilate capacity.

Private D&O insurers are seeking premium increases, as claims continue to be on the rise against a background of historically thin pricing.

- Insurers are seeking increased retentions and looking to tie in limits among previously separate towers, especially between D&O and fiduciary.
- Side C/entity coverage is becoming narrower, with underwriters seeking entity investigations exclusions, broad professional services exclusions, antitrust exclusions and, in some cases, removal of Side C coverage altogether.

Side-A/DIC D&O insurers are increasingly following the underlying D&O ABC increases.

- Side A pricing has deteriorated over the years and, in response to some large Side A losses and increased litigation costs, insurers are now seeking rate.

The professional liability (E&O) marketplace varies by sector.

- *Asset managers:* The market continues to remain stable as an abundance of capacity is keeping rates competitive. Insurers are requiring minimum retentions of \$250K. Middle market asset management continues to be a growth area for underwriters. Larger advisors and funds are experiencing more upward rate pressure.
- *Insurance companies:* There has been continued deterioration in exposure over the last few years, particularly in the life insurance space (notable exposures include universal life/cost of insurance claims and now the impact of COVID-19) and for auto insurers. Primary capacity is limited, but we have seen a few excess-only markets selectively testing the primary market. Overall, carriers are maintaining a conservative appetite and are putting pressure on retentions and pricing.
- *Banks:* Although banking regulatory actions and scrutiny has decreased under the current administration, state attorneys general and regulators have stepped up their scrutiny. The current economic downturn could create added underwriting scrutiny. BPL primary capacity continues to be limited, with some insurers becoming more conservative in appetite, retentions and pricing. BPL insurers often require supporting lines.

Several recent coverage trends bear watching.

- *Silent cyber risk:* Some insurers are adding cyber exclusions to clarify coverage. As insurers continue to assess their silent cyber exposures, we recommend reviewing policies across product lines to identify potential coverage gaps.
- *Extended reporting periods (ERP):* Some insurers are considering removal of ERP options and increased rate factors. There are strategies that can be deployed to mitigate this trend.
- *Excess shareholder derivatives demand investigation (SDDI) coverage:* Some insurers are looking to reduce or remove excess drop-down sublimits due to an increase in losses.

We are closely monitoring the impact COVID-19 will have on underwriting appetite and the current rate environment.

- Regulators are coming out with COVID-19 guidance. Disclosures related to COVID-19 will come under scrutiny.
- Business continuity plans are being put to the test in ways not seen before, and network and trading systems are stressed, causing delays and outages that impact services to clients.
- The present economic volatility may cause an increase in loan defaults and lead to liquidity issues which will make it difficult to maintain capital standards.
- Insurers are closely reviewing financial services companies with large equity portfolios, which have been impacted by the significant market volatility.

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Health care professional liability

Key takeaway

The current health care marketplace is highly fluid; renewals will be challenged by further scrutiny on coverage terms and substantial capacity constraints imposed by cautious insurers.

Rate predictions

By segment:

Hospital medical malpractice:

+3% to +15%

Allied health medical malpractice:

Flat to +10%

Physicians medical malpractice:

+3% to +10%

Loss-affected accounts: highly variable rate increases

Primary med mal: +5% to +10%

Excess med mal: +15%

Spotlight on COVID-19

- Health care providers are on the front lines of the crisis. The ultimate impact on liability and the health care professional liability marketplace will come into view over time.
- *For more detail, read on.*

COVID-19 is the topic of the moment.

- Insurers are gathering underwriting information on the impact of COVID-19 and some have developed applications to help do it. Areas of focus include emergency response and preparedness, infection control/isolation procedures and capacity constraints and the resulting impact on triage protocols.
- Many insurers are taking a cautious approach to new business. Some insurers have placed a moratorium on new business; others will be attaching a COVID exclusion/limitation.
- Buyers should ensure that they explore coverage needs in emerging areas: telehealth, daycare and volunteer providers. They should be conversant in their shifting exposure base caused by curtailed elective procedures and expanded surge capacity.
- Buyers should avail themselves of reliable information on COVID-19 (the CDC, WHO and ECRI Institute) and use the resources that insurer partners can provide.

Coverage will be a key 2020 battleground.

- *Sexual abuse and molestation:* Insurers are paying increased attention to sexual abuse and molestation coverage in their forms. Insurers are concerned about batch exposure of sexual abuse claims and are applying sexual abuse language with per-claimant features that limit the ability to group claims together.
- *Opioids:* As opioid litigation continues to develop (e.g., countersuits filed by pharmacies against physicians) more insurers are seeking to mitigate their opioid exposure through opioid exclusions (and perhaps even controlled substance exclusions) on health care facility accounts.
- *Punitive damages:* We are witnessing a retrenchment in the availability of most favorable venue coverage and punitive damages wrap policies as some U.S. insurers pull back their appetite.

- *Batch coverage:* In an effort to fend off the cumulative negative effects on loss ratios caused by systemic exposures (opioids, COVID-19), social inflation, and capacity over-deployment, we may start to see insurers rethinking their batch coverage strategy in terms of scope of coverage, attachment point, pricing, capacity limitations and perhaps even outright exclusions.

Capacity limitations will continue and pressure on SIR(Self-Insured Retention)s will increase.

- Systemic issues such as opioids and COVID-19 will only reinforce current insurers' strategies to manage aggregation by limiting their capacity deployment for any one client.
- The number of markets that have either exited the health care space or bought books of business continues to outpace new entrants and capacity.
- Vertical pressure on SIRs and deductibles is being driven by the continuing rise in claim severity, social inflation and exposure growth over the last 10 years.

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Managed care errors and omissions

Key takeaway

To cope with a highly volatile marketplace, the renewal process must begin early; high-quality submissions are essential.

Rate predictions

Overall: Firming to hard and changing rapidly

Blue plans: +30% to +50% or more

Public managed care organizations: +10% or more

All other managed care organizations: Flat to +10%

Spotlight on COVID-19

- The impact of the pandemic and the ensuing economic downturn on this marketplace segment is unclear.
- However, the pandemic itself is unlikely in the near future to have a significant impact on rates or coverage terms. The risks associated with managed care entities of all sizes and types are financial/first-party loss related. Such risks are not generally covered under managed care E&O policies.

The managed care E&O market is hardening as insurers strive for profitability.

- Carriers continue to increase rates and segment their business between Blue plans and non-Blue plans.
- Some carriers are strictly managing capacity and exposure between public and non-public business entities.
- One major market's exit last September created a reduction in capacity.
- Other carriers continue to manage capacity by reducing limits they are willing to write across their portfolios.
- No new domestic or offshore capacity has entered the market. Bermuda and London are high excess markets only. Domestic carriers and their offshore counterparts are managing capacity more closely.
- The shrinking market is leading to less favorable terms and conditions.
- Clients can help themselves obtain the best possible terms by hosting carrier renewal meetings and providing submission materials well in advance of the renewal date. These materials should include complete claim information, membership breakdown by type of member and a complete list of managed care core and non-core services.

Insurers are concerned with systemic risk.

- Systemic risk plagues managed care organizations, and managed care E&O carriers are assessing their entire portfolios as they manage their capacity and risk.
- Antitrust class action litigation is a leading challenge for the industry. Carriers are managing this exposure via coverage limitations and sublimits. Although driven by the Blue plan Multi-District Litigation, other class action litigation and competitor and network litigation is a concern for all plans.
- Some carriers are pulling back antitrust coverage and reducing antitrust limits, increasing retentions, applying coinsurance and adding exclusions for risks such as those related to association relationships. Where associations govern business practices or competition between association members (versus just serving as a marketing/lobbying group), there is a substantial likelihood of litigation or regulatory review.

- Opioid class action litigation brought by governments (or putative classes) are driving carriers to add broad opioid or controlled substance exclusions across their entire health care portfolios. This has been manageable, to date, as some carriers place these restrictions/ exclusions on PBM and life sciences operations and not on the traditional payor or health plan operations.

Cyber coverage offered in managed care E&O policies is constantly evolving.

- Some carriers continue to add broad cyber exclusions for third-party losses (first-party coverage is not provided except for very small managed care entities).
- There is sufficiently broad coverage for all managed care entities in the cyber marketplace and it is still reasonably priced – meaning that the reductions in coverage in the E&O forms are not impactful.
- Carriers that continue to offer third-party privacy liability in their policy forms are beginning to exclude hacking and intentional acts of employees.

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Senior living and long-term care

Key takeaway

The senior care industry is ground zero for COVID-19 in an already hard market. Underwriter uncertainty requires strong collaboration and communication between insureds and underwriting partners.

Rate predictions

General and professional liability

Favorable loss experience and venues: +10% to +50%

Adverse loss experience and poor venues: +50% or more

Auto: +15% to +20% or more

Property

Non-cat exposed: +5% to +15%

Cat-exposed without losses:
+10% to +20%

Cat-exposed with losses: +30%

Spotlight on COVID-19

- COVID-19 impact on this already challenged insurance marketplace is uncertain.
- Further deterioration of impacted coverage lines is expected as claims and losses develop.
- Early carrier responses focus on operator infection control processes, and some have announced COVID-19 exclusions.

Carriers are looking at what preventative action is being taken to help drive down incidents and what procedures are implemented after an incident to ensure it does not happen again.

- Carriers are hyper focused on the root causes of claims.
- A robust risk management program is crucial for insureds seeking more favorable terms and conditions.

The general and professional liability marketplace continues to tighten due to insurers' drive for profitability and emerging loss trends.

- Carriers and self-insureds are experiencing significant increases in frequency and severity especially in troubled venues (California, Florida, Kentucky, Tennessee, Oklahoma, New Mexico, New York and Illinois).

- The plaintiffs' bar remains active and creative as it targets this fast-growing industry, driving up claim outcomes.
- Excess capacity has decreased significantly, and price increases are often greater than in the primary layers.
- Clients are taking on higher retentions or reducing the total limits they purchase to mitigate premium increases.
- Ongoing retrenchment in coverage includes addition of class action exclusions, abuse sub-limits and tightening on punitive damage coverage grants.
- A back-to-basics approach requires more detailed submissions, face-to-face meetings with underwriters, thorough supplemental information, clinical and risk analytics and longer lead times to obtain quotes.

The auto market continues to worsen for buyers.

- Fewer insurers are offering monoline auto options as this line of business continues to face profitability issues.
- Brokers are having to become more creative in finding package solutions, e.g., packaging auto with workers compensation or other lines of coverage.
- Increasing claim severity resulting from loading and unloading residents, and distracted drivers is a major concern for underwriters.

Several factors are creating a hardening property market.

- Property market conditions continue to see an acceleration in rate increases as two years of combined ratios exceeding 100 have forced underwriters to push for profitability.
- Capacity is shrinking, especially in catastrophe-prone areas.
- Attritional losses are driving higher retentions, as carriers may push higher retentions as a strategy to keep rate increases at bay.

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Aerospace

Key takeaway

The current economic and travel lockdown introduces unprecedented challenges to an already correcting market.

Rate predictions

Airlines: +25% to +50%

Aircraft lessors/banks: +5% to +15%

Product manufacturers and service providers: +15% to +30%

Airports: +15% to +30%

General aviation: +25% to +50%

Space: Increases to be expected, percentage range not applicable

Spotlight on COVID-19

The near halt of air traffic is a development few would have imagined before the pandemic, throwing into sharp relief just how radical an impact the crisis is having on the industry. The degree to which COVID-19 will impact the insurance marketplace will depend on several factors, but it is important to recognize that rates were already correcting.

International Air Transport Association (IATA) has predicted that the airline sector alone could face losses of well over \$250 billion.

- Prior to the outbreak, insurers continued to look for financial recovery after a long period of market unprofitability. Given these circumstances, however, the market is contemplating various premium relief measures. While positive news during these uncharted times is certainly welcome, the extent and feasibility of such premium relief remains unknown. As of this writing, each client situation is being considered on a case-by-case basis.

- COVID-19 aside, upper management at insurance companies continue to press underwriters on account profitability and to justify writing new business. Long-term profitability is their objective. Now more than ever, relationships are key.
- Buyers who have shopped and changed their program year after year are facing significantly reduced insurer interest. Risk managers should meet with insurer(s) well in advance of renewal dates (whether telephonically or virtually), in addition to providing fully detailed underwriting submissions. In this market, transparency and differentiation are essential.

Airlines: Rates continue to increase as this sector remains unprofitable.

- Attritional claims and large loss reserves continue to erode the global premium, forcing rate increases well into double digits.

- While capacity remains sufficient, merger activity among insurers and market withdrawals pose a threat to future capacity.
- Drastic rate corrections show the sense of urgency felt by underwriters, with many anticipating further consolidations or withdrawals.
- Lead market pricing is no longer relevant, as each insurer operates by its own underwriting standards and protocols.

Aircraft lessors/banks: Overall market conditions have begun to impact this segment, causing conservative rate increases across the board.

- This segment of the aerospace market was the last to harden.
- Capacity remains satisfactory, especially for those with favorable loss histories and fleet growth.
- For the foreseeable future, insureds can anticipate ongoing rate increases and pressure to eliminate program enhancements granted in the soft market.

Aircraft products manufacturers and service providers: Increases should be expected for both non-critical and critical part manufacturers.

- Ongoing aircraft groundings and extensive loss reserves continue to create uncertainty in this sector.
- Premium gains are at the forefront of underwriters' minds, even on those accounts with no loss activity.
- Stricter policy wording is being introduced to clarify coverage, namely limitations on grounding liability as well as cyber liability exclusions.

Airports and municipalities: Shock-losses have put this segment on the radar of insurers' upper management.

- This sector continues to harden, with increases beginning at 15% on profitable accounts.
- Coverages that were once industry-standard add-ons during soft market days, such as excess employer's and auto liability, are being reassessed, with carriers lowering excess limits or deleting them entirely.
- Many horizontal placements are now being placed vertically due to insurer desire to pull back capacity in this sector.
- Creative structuring is more prevalent, with excess layers over working layers becoming increasingly attractive to insurers.

General aviation: This sector is experiencing the highest rate increases across the board, especially in the rotor wing sector.

- Consistent loss activity and high-profile losses continue to erode years of soft-market premiums, which were well below profitable levels.
- Rotor wing operators can anticipate limit reductions from incumbent markets and declinations from new markets as underwriters fear adding helicopter exposures to their books.
- Capacity continues to shrink as notable insurer withdrawals shake the industry and upper management enforces more rigid underwriting guidelines.
- Pilot experience is being closely scrutinized, with insurer appetite for single-pilot operations decreasing significantly and broad pilot-training requirements being a thing of the past.
- Anticipate many enhancement pull-backs and limit reductions, particularly on extra expense coverages and premium credit opportunities, in addition to increased requirements for simulator-based training.

Space: This segment has stabilized following correction in 2019, though increases can still be expected.

- Mispriced policies, not excessive losses, drove this correction.
- The market continues to focus on re-establishing annual market premium income at ~\$800M (currently at ~\$650M).
- Reinsurance treaty renewals were successful despite some decline in total market per-risk capacity.
- More underwriting constraints should be expected, including a focus on loss criteria and policy wording.
- Baseline rates are increasing on all accounts, regardless of loss history.
- While underwriting is more disciplined, capacity is still available and new business still being sought.

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Key takeaway

The market continues to harden due to large claims, and capacity continues to shrink. Starting renewals early is critical, especially for stock throughput programs and higher risk industries. Detailed renewal data is also critical and is impacting terms, conditions and price.

Rate predictions

Transit only:

Good loss experience: +10% to + 12.5%

Marginal to poor loss experience:
+12.5% to +20% and higher

Stock throughputs:

Good loss experience:

+12.5% to + 20%

Marginal to poor loss experience:

+20% to +40% and higher

Spotlight on COVID-19

The ultimate impact of the crisis and resulting economic slowdown is unclear, but for now the pandemic has not had a material effect on the cargo insurance market. We continue to monitor this fluid situation closely.

In conjunction with increased rates, markets are also seeking higher retentions.

- Rate increases vary with loss experience. Retention levels are being assessed on a case-by-case basis.
 - Accounts with catastrophe-exposed storage risks and/or in certain industries segments are seeing higher rate increases. Retention levels on this business are usually going up as well.
 - Accounts with poor loss history may see significant rate increases in addition to severe retention increases and, in certain instances, they may see more restrictive coverage terms.
 - When marketing profitable business, however, we are still securing competitive terms, but virtually no buyers are seeing reductions in price unless they had a multi-year deal in place and the loss experience remains good.
- Capacity is shrinking and is being more carefully deployed.
 - The already limited U.S. market capacity for excess stock has further eroded.
 - Quota sharing risks in many instances has become necessary, especially for catastrophe-exposed storage risks.
 - Terms and conditions for industry segments such as pharma/life science, food/beverage, automobiles and stock throughputs with retail store exposures are being reviewed carefully.
 - Insurers are revisiting their underwriting strategy, risk appetite and underwriting guidelines as they look to return to profitable underwriting.
 - Detailed underwriting information is critical.

Broad manuscript policy terms are still achievable, but underwriting will focus on several factors:

- Catastrophic risk for goods in storage
- Broad wording for spoilage, deterioration and decay
- Broad control of damaged goods cover, including fear of loss
- Coverage for voyage frustration
- Policy deductible clauses
- Catastrophic peril definitions
- Packing on high-tech machinery and equipment, as well as pharmaceutical and life science products
- Security on high theft-risk commodities, such as apparel and accessories, food and beverage commodities and pharmaceuticals
- Review of logistics contract wording
- Coronavirus and possible effects on policy terms

Insurance buyers should be ready for change.

- Most markets have adopted or are in the process of adopting cyber exclusions on marine policies.
- The economic slowdown may have an impact on this insurance marketplace.

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Construction

Key takeaway

In a construction environment made even more complicated by the COVID-19 pandemic, insurance buyers should consider proactive steps to control the narrative in the renewal process, improve their risk profile and open lines of communications with carriers.

Rate predictions

General liability: Flat to +15%

Auto liability and physical damage: +5% to +15

Workers compensation: Flat to +5%

Umbrella (lead): +25% to +50%

Excess umbrella: +50% to +100%

Project specific builders risk: +5% to +15%

Master builders risk/contractors block programs (renewable business): +5% to +20%

Professional liability: Flat to +5%

Contractors pollution liability: Flat to +10%

Project-specific/controlled insurance programs: Flat to +5%; Flat to +5% for excess

Subcontractor default insurance: +5% to +10%

Spotlight on COVID-19

- In the construction insurance marketplace, the rate environment has not materially changed due to the onset of the COVID-19 pandemic. This may change rapidly over the coming months – exacerbating an already hard market.
- The ultimate effect on workers compensation is unclear but could be significant.
- *For more detail, read on.*

Construction risk managers should consider several proactive steps.

- Refresh any project insurance pricing indications/proformas received within the last six months to ensure viability of pricing.
- Review contractual obligations and project schedules that could be impacted by the spread of COVID-19.
- Control your own narrative in the renewal process by supplying more information.
 - Sharing the effectiveness and evolution of safety and quality programs can be a critical differentiator.
 - Be ready to assemble and share projected and historical exposures in greater detail and much earlier in the renewal cycle.
- Consider off-cycle market meetings and loss control visits with potential alternative carriers. Waiting until the throes of a busy renewal date may not allow enough time for effective conversations.
- Review and update (or implement) your driver safety program and document compliance and efficacy.
- Wash your hands.

General liability (GL)

The spread of COVID-19 is expected to exacerbate the hardening market for construction, as significant declines in available labor typically give rise to increased losses in workers compensation and general liability. Carriers are bracing for a flood of inquiries about coverage interpretation, while insurance buyers can expect delays in project placements.

- Future uncertainty aside, submissions to carriers continue to rise as many contractors are seeking alternatives to incumbent programs. Carriers are being highly selective.
- While exercising significant underwriting scrutiny, carriers continue to pursue best-in-class risks, offering more flexible pricing and terms for attractive new business.
- Wildfire exclusions remain prevalent and extremely difficult to remove from primary placements. Contractors have implemented a myriad of strategies, including alternative risk solutions, negotiating lower limits of liability attributable to losses arising from wildfires, and purchasing minimal limits of insurance to satisfy contractual requirements while saving premium. Contractors should be prepared to consider multiple options.

- Adverse combined ratios are top of mind as underwriters analyze rate adequacy. Over the past few years, well-publicized challenges in auto liability have resulted in GL rates being suppressed as underwriters sought ways to offset auto rate hikes and keep total account pricing competitive. At the same time, rising legal expenses and unprecedented, catastrophic plaintiff verdicts are putting pressure on carrier portfolios. The window to discount GL has closed and we can expect greater underwriting scrutiny ahead.
- Rising loss activity from premises and operational risk, historically overshadowed by long-tail completed operations losses, persists. Carriers are requiring extensive underwriting data and engineering information.
- Comprehensive underwriting information is more critical than ever in the renewal process – including thorough descriptions of newly formed and/or acquired entities, loss experience and historical exposures. Carriers are increasingly influenced by predictive modeling to drive underwriting decisions, thus making accurate exposure data imperative.

Auto liability

The market for automobile liability has begun to stabilize. While construction risk managers should still budget for rising costs, annual renewal rate increases are more in line with inflationary loss trend factors.

- Since carriers have right-sized their commercial auto book of business over the past several years, we anticipate fewer extreme rate changes, although results are still challenged.
 - 2019 is the ninth consecutive year with a combined ratio in excess of 100 for commercial auto.
 - For the years prior to COVID-19 the strength of the economy put more vehicles on the road, increasing the frequency of accidents. Low unemployment rates translated into driver shortages, pushing companies to hire less experienced drivers – although the economic downturn sparked by COVID-19 may change some or all of that.
 - More claims are being litigated, with verdict outcomes often in seven or eight figures. Factors such as social inflation, third-party litigation finance, labor shortages and driver quality are all contributing to the explosive verdicts. One silver lining of the COVID-19 crisis is that the halting of state judicial proceedings due to social distancing is likely to delay civil litigation considerably. This may incent plaintiffs and their attorneys to settle cases rather than wait for a trial.
 - These strains are being felt in primary automobile liability markets and umbrella/excess liability capacity. Carriers are concerned when a single unit has the potential to cause a loss of \$100M+. The first \$25M is now a working layer on this line of business.

- Overall, the umbrella marketplace is demanding higher attachment points, resulting in a stretching of primary limits or introduction of excess buffers.
- Auto physical damage pricing continues to rise. Comprehensive and collision claims can escalate quickly due to increased technology in vehicles – a bumper is no longer just a bumper, it's also a sensor and a camera. Auto physical damage deductibles for comprehensive and collision are also climbing; in many cases minimum deductibles for light trucks have risen to \$5,000.
- Looking forward, there is opportunity to differentiate each risk and achieve a better result in the marketplace.
 - Insurers are underwriting on an account-by-account basis. Risks demonstrating robust driver safety programs, telematics, geofencing and other loss control initiatives are faring better than other risks.
 - Formalized fleet safety programs and telematics are becoming minimum expectations for submissions with large fleets (500 power units and above). Carriers will conduct a robust analysis of the technologies deployed, how the data is utilized and managed, and how metrics/results have progressed with deployment. The extent to which this can be captured and showcased in the underwriting stage directly correlates to success in the marketplace.

Workers compensation

Workers compensation remains steady for construction, as it does for other industry segments. However, we are experiencing a plateau in rate reductions and premium offsets against adversely performing lines of coverage. In addition, we expect the COVID-19 crisis will generate questions and likely impact this line of business.

- Workers compensation continues to perform well in the aggregate; however, there are signals that construction could encounter difficulty ahead.
- NCCI's estimate of the 2019 workers compensation combined ratio is 87%, putting the result under 90% for the third year in a row (NAIC Annual Statement Data, January 6, 2020).
- Average wages and overall employment had been increasing for construction, the fastest-growing individual economic sector (NCCI State of the Line 2019). The challenge of attracting and retaining construction workers persists, and the impact of COVID-19 remains to be seen.
- Lost-time claim frequency had been decreasing steadily for nearly 20 years, except during the Great Recession (2008-09). However, accident year 2018 showed a relatively modest 1% decrease in frequency.
- If contractors are forced to rely on less experienced employees, who are more likely to sustain injuries, we could see deterioration in results ahead.
- Markets are still demonstrating a broad appetite for workers compensation construction opportunities, but program complexity continues to grow.
- Carrier interest and competitiveness are markedly increased when worker compensation is included in the submission, particularly with casualty renewals.
- Exceptions remain for certain states: California, Florida, New Jersey and New York. In New York, underwriters are especially guarded due to labor laws.
- The notion of exploring alternatives should not just be about retentions and carriers. Investments in new or emerging pre-loss risk control strategies should be evaluated. Ergonomics, employee wellness, mental health initiatives – these programs can both improve workers compensation results and raise employee satisfaction and retention.
- From a post-loss perspective, there are numerous questions to consider: Should you utilize the carrier's claims handling? Should you consider a third-party administrator? Should the claims handling be structured on a per-claim fee basis, a flat fee or LCF multiplier? Claims mismanagement can impact workers compensation results for years, not to mention the company balance sheet.
- Positive loss trends are mostly attributable to efforts by both the insurers and insureds to manage risk, including use of managed care, enforcement of return-to-work programs, nurse triage, fee schedules and telehealth. Buyers should be considering these options.

Umbrella/excess liability

The umbrella and excess marketplace for construction continues to harden. Contractors are experiencing significant rate increases and restrictions in coverages. We expect these conditions to continue throughout 2020 – likely exacerbated by the COVID-19 pandemic.

- With significant increases in premium over the past year, carriers are now looking to drop down lower in excess towers to obtain a larger portion of premium. While perhaps increasing competition on lower layers, this makes higher layer placements much more challenging due to the reduced number of carriers willing to offer terms.
- The allure of premium, however, has not increased the number of carriers willing to offer lead umbrellas.
- Umbrella carriers continue to require higher attachment points. Primary general liability limits of \$2M are almost mandatory. Primary auto attachment points of \$5M (or more) are becoming increasingly common. Contractors should work closely with their brokers on primary program structure to assure the most competitive umbrella and excess terms are obtained.
- Unsupported umbrella programs (where the umbrella market does not also write the primary casualty program) are particularly challenged.
- Terms and conditions continue to be restricted. Excess wrap, once easily obtained, has become quite expensive. In-depth underwriting data (number of projects, limits obtained, historical carriers, loss experience, etc.) is now required.
- Carriers often now demand anti-stacking endorsements in an attempt to limit their exposure across multiple insureds and projects.

- Wildfire exclusions are prevalent, and capacity for coverage in high hazard areas (i.e., California) is virtually non-existent in the standard market.

Controlled insurance programs (CIPs)

Recent increases in reinsurance rates are driving up CIP pricing, and capacity has begun to diminish. However, markets remain competitive on most commercial business.

- Requests from owners to lock in rates have increased through the first quarter of 2020. Programs that were placed in 2018 or the first half of 2019 likely show rates that are no longer achievable in the current marketplace. Underwriters are looking at all projects with greater scrutiny.
- Negotiating competitive terms for more challenging risks is becoming problematic, particularly for residential projects and for projects in regions such as Florida and the Bay Area of California.
- Clear and complete submissions with comprehensive detail are essential to obtaining competitive terms and conditions. On rolling programs, underwriters are requiring greater detail on the pipeline of projects.
- Capacity is quite fluid. The practice of quota sharing higher excess layers is now being deployed in lower levels in an excess tower. Capacity is restricted in difficult construction defect (CD) states, especially Florida and California (the Bay Area).
- Underwriting is becoming much more stringent. Carriers are changing their requirements and being increasingly inflexible. All subjectivities must be closely reviewed as they are becoming increasingly difficult to negotiate away.

- Dual-line CIPs (GL/WC) remain stable, while general liability-only programs continue to grow in popularity – driven by ease of placement and administration, low retentions and limited (or zero) collateral requirements.
- Extension requests, like subjectivities, are taking more time and attention. The COVID-19 pandemic will negatively impact project scheduling, requiring extensions. Extensions should be discussed with carriers immediately with anticipation of higher costs to the project.
- Coverage remains mostly broad and consistent through the first quarter of 2020. Some changes have occurred specifically in the coverage available for condominium construction projects (i.e., course of construction (COC) exclusions) and how defense costs are handled. This trend began in 2019 and continues to accelerate as terms and conditions tighten.

Builders risk

The builders risk market, while generally competitive with abundant U.S. capacity, has shown signs of hardening in 2020 after many years of soft conditions.

- Rates are incrementally firming for project and renewal business. Moderate increases should be expected for accounts with challenged loss experience or those with less desirable classes of business.
- Wood frame continues to be an extremely difficult class of business, with several large losses in late 2019 and early 2020.
- New entrants over the past couple of years continue to keep the traditional players in check by offering alternatives.

- Carriers are scrutinizing terms and conditions.
 - Restrictive endorsements being sought by carriers include serial loss clauses (especially when LEG 3 is purchased), dewatering, pilings, LEG 3 sub-limits (faulty part), etc.
- Deductibles are rising, but pressure is greatest on water damage. This continues to be a major industry issue, and we are seeing some carriers push for drastic changes, even on clean renewals without loss activity.
- Underwriting information is being more heavily scrutinized in some cases and is having an impact on formal quoting procedures, including longer lead times for approval.
- The reinsurance market has hardened faster than the primary/standard market.
 - This has caused issues for carriers trying to quote outside of their net and treaty guidelines with competitive terms.
 - Fewer 100% options are being quoted for heavy cat-driven placements; quota-share is becoming the norm.
 - Direct carriers that have significant facultative reinsurance on specific projects are being handcuffed on project extensions.

Professional liability

The U.S. construction professional indemnity/liability market remains competitive, though domestic carriers are selectively making upward pricing adjustments.

- The good news: our last rate prediction in October 2019, flat to +5%, may have been slightly ahead of the market. Most rate increases have been coming in less than projected.
 - Total U.S. capacity is now in excess of \$300M with an additional \$150M+ available through London, Bermuda and other international markets.
 - While there is still significant capacity in the market, carriers are generally restricting capacity for any one risk.
 - Protective indemnity and rectification coverages are now included in standard forms offered by key carriers, but terms and limits can vary considerably.
- The bad news: we do see continuing upward rate pressure and expect our prior projections to hold through 2020. Market conditions in London, Australia and the rest of the world remain challenging, with restricted capacity and continued price increases.
 - Capacity is being restricted across the board and subscription placements are increasingly necessary, even for smaller clients. Capacity reductions by individual carriers on individual programs of between 30% and 50% are not unusual.
- We are seeing increased scrutiny by underwriters on excess/SIR levels — insurers expect clients to have more skin in the game.
- Uptick in claim frequency and severity continues. Relatively new coverages are creating increased claim complexity as well.
- Owners' protective project coverages, typically written by the same contractor professional markets, may have a negative impact on carrier loss experience as the market matures and projects reach completion.
- We continue to monitor the impact on U.S. buyers as global carriers try to recoup losses from outside the U.S.
- There is continued interest in owner-procured professional indemnity policies for further protection on project risk.
 - Increasing project values create a corresponding rise in professional liability risk, yet many contractors and design professionals do not carry limits that adequately address these now larger exposures.
 - Traditional project-specific professional liability policies covering all design risk on a job can still be obtained, but typically buyers prefer the cost efficiency that protective products provide.
- We are seeing an increase in protective rolling programs for owners as well.

Contractors pollution liability

With environmental claims on the rise, insuring a possible pollution condition at a job site is now seen as business-critical for contractors, owners and/or projects of all types and sizes. The marketplace continues to offer ample carrier choices supporting a broad appetite for risk; however, rates in 2020 are expected to tick upwards.

- Regarding COVID-19 and contractors pollution liability coverage: Many policies are silent with regard to viruses and bacteria — although they may mention microbial matter with respect to mold and Legionella. Each carrier's form needs to be evaluated for potential coverage.
- It is predominately still a buyers' market with respect to CPL coverage, fueled by more than 40 environmental carriers in competition.
 - These conditions have moved many carriers to differentiate themselves by both expanding coverage and competing on price, although this is abating.
 - Markets have also been thinking both holistically and strategically by joining forces with other lines of business to offer quotes for builders risk, professional, CIP, or even blanket practice programs where appropriate.
 - In addition, site pollution and contractors pollution wrap-up products are being coordinated to address both pre-existing and construction-related exposures of project sites on a more comprehensive basis.

- The CPL market is showing signs of hardening for redevelopment projects (due to the high potential for the discovery or exacerbation of pre-existing pollution conditions) and habitational, hotel, hospitality and hospital risks (due to an increase in indoor air quality, mold, MRSA and Legionella-related claims activity).
- Concern about environmental risk is rising due to several factors: pollution exposures during work and after completion, indoor air quality, Legionella, mold and water-related issues, application of chemicals, installation of building products, excessive siltation, emergency remediation expenses, contractor-owned locations and beyond-the-boundaries scenarios, and transportation and disposal of construction debris.
- New liability exposures are emerging as well. Glyphosate (or other herbicide/pesticides) and polyfluoroalkyl substances (PFAS) are a concern at industrial redevelopment sites, resulting in exclusionary languages.

New York general liability

The market remains difficult, with significant adverse movement in the trade contractor space. Standard markets remain selective on new opportunities, seeking out best-in-class risks, although new capacity continues to enter the excess and surplus lines space for contractors.

- Market activity and submission flow are up heavily as contractors exhaust all potential options.
- New carriers may aim to capitalize on premium increases ranging upward from 50% premium-to-limit. Depending on trade classification, certain carriers are requiring 100% premium-to-limit on primary general liability.
- Rate increases can be significant for contractors forced to restructure their primary and excess programs as incumbent appetites change.
- While new capacity enters the New York marketplace for primary, excess carriers are reluctant to attach above newer players with little or no experience in New York, driving excess pricing further upward.
- Historically, London markets have provided solutions when domestic carriers pull back. Due to poor overall results, however, London has reduced its available capacity and now demands higher rates and attachment points.

New York CIPs

CIPs remain a common solution to effect coverage certainty and unified terms and conditions on larger New York projects.

- The minimum general liability retentions in New York remain in the \$2M – \$5M range, depending on project size and scope.
- The excess space has firmed considerably due to limited global capacity for larger projects. Lead excess pricing (up to \$10M per occurrence) continues to be a challenge with carriers seeking up to 100% premium-to-limit, depending on the project exposures.
- Creative solutions feature pay-as-you-go options for both collateral and premium payments.
 - Bifurcated WC and GL programs offer reduced collateral, limited products-completed operations deductible exposure and potentially a lead excess option.
 - WC CIP placements remain relatively steady, with multiple carriers willing to participate on a stand-alone basis.
- Project extensions have been challenging as underwriters are looking to reprice risk.
- On mid-sized projects (\$50M – \$250M) combined owner-general contractor liability programs remain cost competitive for both commercial and residential projects.

Subcontractor default insurance (SDI)

Work delays and uncertainty resulting from the pandemic are likely to increase subcontractor risk and default. The reactions of SDI carriers have ranged from business as usual to the curtailment of capacity for individual subcontractor exposures and/or program commitment durations.

- The subcontractor default insurance (SDI) market now has seven carriers with active programs, with five that we consider to be actively engaged and invested in the product line. Four of those five are now capable of offering single limits of \$50M or greater per loss.
- Given that SDI programs renew every two or three years, buyers can expect low single-digit annualized increases — which can add up.
- Underwriting in the current environment is challenging; while virtual underwriting meetings may be acceptable for existing relationships, underwriters may be more skeptical of contractors who are altogether new to SDI.
- Carriers will be seeking increased transparency around financial qualifications, operational ability, subcontractor selection criteria and risk mitigation planning.
- The instant recession we are facing is likely to significantly increase subcontractor risk. The extent of default and failure often directly correlates with the steepness of economic downturns and recoveries.
- Subcontractor qualification is especially challenging as 12/31/19 financial statements are in many cases no longer useful. For the near term, contractors will have to make special efforts to confirm a subcontractor's financial, operational and safety capabilities. We expect contractors to consider a balance of SDI and subcontractor bonds to get through this period of uncertainty.
- Before the pandemic, loss activity was moderate, with residential projects (framing subs specifically) being most problematic.
- We suspect that wrongful default/termination decisions could be around the corner. We are advising insureds to proceed cautiously with regard to subcontractor defaults/terminations, making extra effort to observe the spirit of the policy and cut subcontractors some slack.
- Financial interest endorsements may be hard to come by for SDI buyers. Underwriters will more critically assess the current credit quality of the insured.
- Despite current uncertainties, the subcontractor default marketplace is robust. Markets are responding responsibly with some adjustments to their program offerings. The recent entrance of a new carrier offering significant limits, devoid of current market exposure, provides an additional option for both the near and long term.

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Energy

Key takeaway

Downstream

The provision of detailed, accurate business interruption (BI) values will limit the rating upswing facing buyers.

Upstream

Detailed and informative underwriting submissions remain vital for the best deals.

Price predictions

Downstream

Refineries/petrochemicals:

+30% to +40%

LNG plants and midstream assets:

+20% to +30%

Upstream: +2.5 to +10%

Spotlight on COVID-19

Downstream

The pandemic and resulting economic decline have yet to directly impact this already challenging marketplace.

Upstream

The pandemic and resulting economic decline have yet to directly impact this marketplace, though the overall impact on insurers may come into play at some point.

For more on the energy marketplace, read the [Willis Towers Watson Energy Market Review 2020](#).

Downstream

Market conditions are increasingly challenging.

- Overall capacity is down \$0.5B, roughly \$6B from just under \$6.5B in 2019, as the loss record remains poor.
- Management pressure on underwriters to raise rates and reduce line size – mainly mostly the former – is as intense as ever.
- Carriers are moving toward greater centralization of underwriting authority.

Buyers who have maintained their insurer relationships have an advantage.

- Loyalty is being rewarded with less punitive terms.
- Disloyal customers are being penalized, indicating further disadvantages of price-driven strategies.
- Tendering programs in search of new partners can be challenging in a hardening market.

We are seeing increased focus on business interruption values.

- Insurers are paying losses based on different sets of figures than those presented at inception.
- Insurers now favor an annual cap of approximately 110% of inception values and a monthly cap of 125%.
- Insureds should endeavor to forecast more accurate numbers at program inception to avoid coverage disputes and possible underinsurance at the time of loss.

Upstream

The upstream market continues to buck the overall current trend.

- Abundant capacity and benign loss levels offset carrier management pressure to raise rates.

- Market conditions might be softening in the absence of this management pressure.
- Insurers are augmenting their portfolios with midstream business won from the downstream market.

The upstream premium income pool is still depleted, indicating that market conditions could change.

- Overall premium income levels remain low by historical standards.
- Upstream premium income has fallen \$2B in last nine years.
- A small number of major losses could shift existing market dynamics.

Offshore construction is the exception to the rule.

- Losses far outweigh the relatively small premium income pool.
- Subsea issues drive underwriting losses.
- Some market leaders are sensing an opportunity as rates rise significantly.

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Environmental

Key takeaway

As clients assess the potential response of their environmental insurance programs to COVID-19, environmental insurance carriers are simultaneously assessing their current forms and future position relative to bacteria, viruses and communicable diseases. Expectations are that many carriers will either affirmatively exclude coverage altogether or severely limit coverage to a few sectors going forward.

Rate predictions

Contractors pollution liability:

Flat to +10%

Site pollution liability (PLL/EIL):

Flat to +15%

Combined environmental + casualty/ professional: +5% to +15%

Spotlight on COVID-19

- Potential coverage for COVID-19 losses will depend largely on the bespoke wording of each insured's policy. Although claims activity and actual losses surrounding this issue will likely restrict coverage going forward, further upward pressure on rates and significant impact on the overall environmental insurance marketplace are not expected.
- *For more detail, read on.*

Many insureds are looking at their environmental policies as they consider possible insurance remedies for the impact of the COVID-19 pandemic.

- In-force environmental policies may offer affirmative coverage for bacteria and virus risk, with coverage built in or endorsed to their forms.
- When offered, coverage is usually for disinfection costs (similar to cleanup costs) arising from a release event at a facility.
- Most coverage for third-party bodily injury is excluded through a communicable disease/human-to-human contact exclusion.
- Some carriers have begun to exclude COVID-19 in new placements, renewals and mid-term acquisitions.

While the marketplace is stable, rates continue to rise, and buyers should consider several steps to improve renewal results.

- Perform early renewal strategy meetings to understand current market conditions before going to market.
- Deliver carriers the most complete submission information available to provide certainty.
- Where available, negotiate a policy extension or early renewal to reduce the uncertainty of regulatory risk.
- Use analytics to tell a better story about your company's risk profile.
- Build for the future by utilizing multiple carriers, purchasing multiyear programs, and coordinating effective/expiration dates for multiple environmental policies wherever possible.

Hard market conditions in standard lines of insurance have had both positive and negative effects on the environmental insurance market.

- Many clients facing hardening conditions in the property and excess casualty markets are strategically locking in multiyear operational environmental programs (2 – 5 years) where available to mitigate future market uncertainty.
- While longer policy term programs (5+ years) are available for transactional business, carriers are less likely to offer them based on regulatory uncertainty surrounding emerging risks; some clients are less likely to purchase them (when they are offered) due to pricing considerations.
- In 2020 we may see recently merged underwriting units (i.e., as a result of M&A) looking to form a combined underwriting identity that may or may not benefit their insureds depending on the prevailing appetite for risk.
- While there were few market entrants into environmental insurance in 2019, several carriers that had previously offered environmental insurance through wholesalers widened their distribution platform to the retail market. This trend is expected to continue through 2020.

- As buyers seek access to additional capacity, brokers are employing inventive solutions, such as layered, quota-share and captive programs, to address the demand.
- Markets are looking to protect their limits on larger, layered programs by participating at higher levels and on a ventilated basis whenever possible.
- Most buyers can expect rate increases. The only reductions we can foresee are for site pollution liability buyers with expiring policy terms greater than five years or in favorable classes of business – and with excellent loss histories.

Coverage is constantly evolving in light of new understanding of environmental risk.

- The top five global risks identified by the 2020 World Economic Forum are environmental-related (extreme weather events, climate change, human-made environmental disasters, biodiversity loss, natural disasters). As the environmental insurance marketplace continues to struggle with offering affirmative coverage for these conditions, clients are turning to parametric insurance and alternative risk solutions for these exposures.
- Coverage for mold and legionella for the hospital, hospitality, residential and education (K-12 and sometimes colleges and universities) sectors is becoming limited. If carriers do offer coverage, it is subject to higher premiums and more restrictive terms and conditions. Carriers are relying heavily on individual property engineering and multiple deductibles (per door/per bed) at each location for certain exposures, such as mold.
- Perfluoroalkyl/polyfluoroalkyl substances (PFAS) and glyphosate continue to garner attention from regulatory entities as well as from insurers who are in various stages of reacting to potential regulatory changes surrounding these chemicals.

Like coverage, claim trends reflect the changing treatment of environmental risk.

- Product-related claims arising from the application of chemicals or installation of building products are on the rise.
- Construction-related claims continue with great frequency. Exposures arise from indoor air quality, installed building products and excessive siltation.
- To mitigate the risk of multiple claims from a single incident, environmental carriers are relying on other insurance provisions and multiple deductibles to share risk among other lines of coverage (GL, property) and insureds, respectively.

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Special contingency risks: kidnap and ransom

Key takeaway

The special risks insurance markets continue to reduce their exposure to cyber extortion events.

Rate predictions

-5% to +5%

Spotlight on COVID-19

While the decline in international travel has reduced the risk of kidnap and ransom of foreign nationals, the pandemic has not so far had a direct impact on this insurance marketplace.

Insurers are adjusting policy language pertaining to cyber events that could be considered part of a ransom scenario.

- Most insurers have now introduced blanket exclusions for cyber extortion, applying the exclusion on virtually all new business and renewal quotes.
- Those still offering cover for cyber extortion are selectively applying strong restrictions to industries deemed more susceptible to cyber extortion threats. These restrictions include:
 - Limiting overall policy coverage to reimbursement of ransom (per insured event and in the annual or policy aggregate) and crisis consultancy fees
 - Excluding judgement, settlement and defense costs

- Limiting or excluding reimbursement of expenses
- Amending the “other insurance” clauses to clarify that coverage is to apply in excess of any other valid and collectible insurance
- For those few programs that do not have a cyber extortion exclusion, sublimits will apply to cyber extortion business interruption.

Interest in active assailant coverage is growing.

- Kidnap and ransom (K&R) insurers, as well as insurers underwriting crisis management risks, have shown increased interest in active assailant coverage and have begun offering customized solutions (either via endorsement or stand-alone policies) with a focus on post-incident crisis management support, legal liability coverage, business interruption coverage (as a result of both physical and non-physical damage) and indemnification of a variety of incident-related expenses.
- These solutions go beyond traditional terrorism and/or political violence coverage and are increasingly being used to complement traditional policies.

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Marine

Key takeaway

The marine market continues to harden, with underwriters looking to quickly recover historical market losses without regard to individual loss records. Early renewal discussions and a willingness to potentially end long-term underwriter relationships are a must to achieve optimal results.

Rate predictions

Hull and machinery, good loss

records: +5% to +10%

Hull and machinery, poor loss

records: +20% to +30%

Primary marine general liabilities:

+5% to +10%

Excess marine liabilities: Flat to +10%

USL&H: Flat to +5%

Spotlight on COVID-19

- Some of the losses being sustained by the cruise ship market may be covered by P&I clubs.
- Stock throughput cover could be challenging, given loss-by-delay exclusions, which likely will be enforced by insurers as cargo is in storage longer than usual.
- Some marine underwriters are looking to introduce COVID-19 exclusions in policies that are renewing.

Changes in capacity are impacting the U.S. market.

- One major player has stopped writing hull and liability policies and two major players are reducing participation on many accounts.
- Fewer underwriters are offering cover for certificates of financial responsibility (COFR) business.

Underwriting in the current environment will be more demanding.

- Underwriters are requiring substantially more data for renewals as they are subject to in-house, computer-driven review of quotes.
- Underwriters on subscription policies are much more sensitive to fellow market underwriters' criticism. As a result, we see reduced willingness by underwriters to act independently and aggressively.
- Underwriters are subject to closer scrutiny by their senior management, who have become much more involved in the process. This negatively impacts the renewal process from the buyer's perspective.

More rough waters are ahead.

- Most large U.S. marine insurers are part of property underwriting units and thus under pressure to deliver premium increases, albeit to a lesser extent than property underwriters. Underwriting capacities are also being reduced.
- Cyber exclusions are becoming more prevalent and must be looked at closely in conjunction with primary and excess placements.
- The cruise ship industry has clearly been impacted by the COVID-19 pandemic. Most cruise vessels are insured by the International Group of P&I Clubs for legal liability to crew and passengers for illnesses on board. It is still premature to predict the effect on U.S. marine insurers who provide similar cover, particularly for crews on vessels, but increases in premiums or limits could be coming.

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Personal lines

Key takeaway

Carriers are actively looking to shed unwanted risks. Homeowners should be vigilant about paying their premiums as well as strictly adhering to all underwriting requirements to prevent non-renewals.

Rate predictions

Most risks:

Homes under \$1,000,000: +3 to +5%

Homes over \$1,000,000: +5 to +7%

Cat-exposed: +20% to +50% or non-renewed

Cat-exposed with losses: +50% to +100% or non-renewed

Spotlight on COVID-19

- The pandemic has had limited impact on personal lines so far.
- Almost all insurance carriers/ state governments have allowed payment extensions of at least 60 days.
- With fewer autos on the roads, many insurance carriers have begun to credit back auto premiums.
- Overall insurer losses could trigger further property rate increases.

Homeowners rates continue to rise due to increasing risk.

- While plumbing failures remain the number one source of residential water-related loss, 2019 was the one of the wettest years on record, another significant contributing factor.
- Wildfires have burned nearly 70 million acres in the past decade in the U.S.
- Climate change will remain a focus, as cat losses continue to increase in frequency and severity.

Replacement costs for home and auto losses are higher.

- The cost of building materials has ballooned, due to increased demand by the housing industry as well as new tariffs.
- Skilled labor shortages will likely continue to be a problem when the housing boom resumes.
- Advanced technologies in new vehicles are driving up repair costs.

Dependence on excess and surplus (E&S) lines has increased.

- Admitted markets have constricted appetite, most prevalent in cat-prone areas.
- E&S carriers have more flexibility in pricing and coverage.
- E&S wholesalers are struggling to keep up with demand for alternative solutions.
- Price appropriate options are very limited for hard-to-place risks, leaving clients at the mercy of the temperamental E&S market.

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Political risk

Key takeaway

Evaluate your enterprise's preparedness for geopolitical upheavals and unanticipated black swan events with a cross-functional lens involving risk management, legal, government affairs, HR – the broadest set of internal stakeholders.

Rate predictions

Flat to +10%

Spotlight on COVID-19

- While the pandemic and resultant economic downturn may increase risk factors for this line of insurance, we have yet to see a strong marketplace reaction. We will be watching closely.
- The economic shock of the pandemic will be felt globally, although countries with large debt burdens or undiversified economies could be at higher risk of government intervention, political violence and the imposition of capital controls.
- *For more detail, read on.*

Political risks are elevated for multinational businesses in the wake of the COVID-19 pandemic.

- COVID-19 is likely to lead to significant economic distress in many countries, which may result in exchange transfer losses, particularly in small, fragile economies with large foreign debt burdens. If oil prices remain low, resource-exporting economies in sub-Saharan Africa will be among the hardest hit, along with Iran.
- Larger emerging economies that may face significant COVID-19-related challenges include those for which tourism is a significant source of foreign currency earnings, such as Egypt, Morocco and Thailand. In addition, countries that rely heavily on exports to or investments from Europe and China will be affected, as growth in Europe and China slows. Russia, Turkey and Kazakhstan are significantly exposed. Austerity measures may in some cases trigger social unrest, as was the case recently in Chile and Ecuador.

Geopolitical fault lines are prominent in places we would expect and in some we wouldn't.

- *Middle East:* Military exchange between the U.S. and Iran may have ripple effects in the Middle East, further complicated by plunging oil prices and the global pandemic.
- *Political violence is on the rise:* Over the past year, intense protests have resulted in unexpected business losses in Hong Kong and Chile, previously considered to be low-risk jurisdictions. In the first quarter of 2020, disruptive and sometimes violent large-scale protests took place in Algeria, India and Colombia. We expect that civil unrest risk will diminish in the near term as a result of COVID-19. However, once the pandemic eases, citizens of many countries will likely have new grievances to press against their governments.
- *U.S.-China decoupling:* The U.S.-China technology decoupling continues; China ordered its ministries to remove foreign software and hardware from government offices within three years. This may have political risk implications at some point.

- **Oil price collapse:** Falling oil prices, caused by the global economic slowdown and a production quota dispute, will likely threaten economic and political stability in oil-producing countries such as Sudan and Mozambique (with challenging debt burdens), Angola, Algeria and Iraq (with extreme oil dependence), and Oman and Bahrain (with a mixture of both).

Losses are rising.

- Our **2019 Political Risk survey** demonstrated yet again that political risks are impacting global firms. Over two-thirds of firms suffered a political risk loss in 2019.
- Currency inconvertibility and non-transfer continue to be popular political risk coverages — particularly in commodity-dependent countries but also in countries that will continue to face economic consequences from a slowdown in the global economy.

Despite rising geopolitical tension, the influx of capacity to the political risk insurance (PRI) market has kept rates fairly stable. But increased risk may bring about a reduction in capacity and appetite over the coming year.

- Rates are generally flat except in high-risk countries, where rates are rising and/or capacity is decreasing.
- Property carriers may begin to exclude perils such as strikes, riots and civil commotion as a result of some large losses in the last year creating a gap in coverage. These risks can be addressed in the PRI market.
- As a result of COVID-19 disruptions in the economy, we may see restricted appetite for vulnerable sectors, such as aviation, tourism, and commodities, including oil and gas. In the short-term, underwriters may restrict capacity for countries where the economy is not well diversified and economic slowdown from the pandemic may persist.

- To put the market in context, overall 2020 capacity grew from last year, with over \$3.2B notional capacity available per transaction for contract frustration (non-performance by government obligors) and \$3.1B for political risks.
- We advise global companies to take a proactive approach to their global portfolio and seek political risk coverage with urgency

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Key takeaway

With the potential for volatility in certain industries as the COVID-19 economic downturn develops, buyers should be transparent about their financial situation and potential contract uncertainties with brokers and underwriters.

Rate predictions

Flat

Spotlight on COVID-19

- While the impact of the economic downturn caused by the pandemic on buyers of surety products is potentially enormous, the ultimate impact on the surety marketplace is uncertain.
- *For more detail, read on.*

Marketplace

- Early in 2020, a large global carrier exited the surety marketplace, while another top 20 surety carrier was downgraded by AM Best.
- The marketplace is mostly stable and surety continues to be one of the most profitable lines for most insurers.
- Loss and claim activity remain exceptionally low, although pockets of activity exist in retail and other industries.
- Impact from COVID-19 will likely come from financial distress due to economic uncertainty, delayed schedules, reduced access to facilities, workforce reduction and declines in revenue/cash flow. The inability to quickly and accurately quantify the initial impact will lead to conservative management of programs and capacity.

- Long-term impact from COVID-19 in the form of operating losses, slowed or stalled projects, compressed schedules, and overall financial struggle in the economy could have a significant negative effect on the financial structure of municipalities, construction companies and all sizes of businesses, not to mention financial institutions.

Contract Surety

- Ample capacity remains for best-in-class contractors.
- The industry has seen an increase in loss ratio of 2% since 2018, and claim activity is slightly on the rise, according to the Surety and Fidelity Association of America.
- As the construction P&C market hardens, sureties remain cautious but do not expect rates to harden.
- COVID-19 will certainly impact project schedules either through terminated contracts, restricted site access, unavailable labor, and delay or unavailability of equipment, materials and permitting. A contractor's right to make a claim for delays and extension of time will be governed by its contracts.
- Mega construction projects continue to face tightening underwriting conditions.

Commercial Surety

- The availability of excess capacity in the marketplace for most needs will be dependent on the depth and length of the economic slowdown.
- Rates remained soft in the first quarter of 2020. This will likely change due to the impact of the COVID-19 emergency measures on corporate earnings.
- New product development continues to be a focus for sureties.
- The current economic turmoil will be felt in the financial structure of most companies in decreased revenue, slowed cashflow or goods and material availability. The long-term impact will surely depend on organizations' ability to weather long-term depressed markets and the length of the crisis.
- Those industries most affected by the economic downturn will receive increased underwriting scrutiny.

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Terrorism and political violence

Key takeaway

Terrorism and political violence insurance may provide calm in an otherwise stormy marketplace. Risk managers should be ready to investigate the potential benefits of rate stability and innovative product design.

Rate predictions

-5% to +5%

Spotlight on COVID-19

- We are seeing an evolution in terms of events, emerging exposures and divergent market response to the pandemic.
- We are also seeing increased demand for political violence coverage; it has become less and less available in certain areas of the globe, though not yet in the U.S. Even here, however, the situation is quickly evolving.
- *For more detail, read on.*

TRIA is reauthorized, keeping federal support in place.

- A full seven-year reauthorization of the Terrorism Risk Insurance Act (TRIA) in the U.S. will keep the program unchanged through 2027. It continues to provide a backstop to insurers for claims from acts of terrorism under all commercial property and casualty policies.
- The legislation calls for review of the program's scope, including an analysis of the availability and affordability of coverage for places of worship and a report on cyber terrorism.
- Vital to ensuring the continued financial capacity and availability of comprehensive terrorism risk insurance, TRIA helps make coverage accessible and affordable for commercial policyholders.

The marketplace is mostly stable; while cautious and contracting slightly in places, captives are offering alternative solutions.

- The total market capacity for terrorism and political violence risks is expected to decline slightly in 2020 due to M&A activity. New entrants are taking a cautious approach in deploying capacity to emerging market risks due to recent market losses.
- Events in Chile and Hong Kong have focused attention on political violence risk in various global markets, with an emphasis on understanding underlying socio-economic issues.
- With the long-term continuation of TRIA secured, the use of captive insurance companies has reemerged as a cost-effective, alternative solution for terrorism risk transfer, allowing access to virtually unlimited coverage.

**Global instability and terrorism/
political violence risks are increasing
from emerging sources.**

- The COVID-19 pandemic has increased the risk of violence and social unrest. With law enforcement stretched thin and the continuation of a tense global political climate, organizations both public and private need to understand how violence could impact their operations – from a business interruption, crisis management and physical damage perspective. The global reach of the outbreak has presented companies with increased security exposures in terms of:
 - *A workforce mandated to work remotely:* Vacated properties may not be adequately secured or maintained.
- *Outbreaks of violence globally:* As financial stress creates a ticking time bomb for the disenfranchised, incidents have arisen where security forces are deployed elsewhere or are afraid to act.
- *Potential for terrorist activity resurgence:* The crisis may be used as a cover for terrorist mobilization.
- *Biological warfare* has resurfaced as a viable method of attack, particularly as the inadequacy of the global response has been revealed.
- *Domestic violence and shootings* are on the increase. Confinement is leading to a breaking point with individuals already unbalanced or marginalized.
- *Targeting of specific demographics:* Anti-Asian sentiment, etc.
- While the U.S. still faces threats from Islamic extremists, the rise of the militant far right in the U.S. and abroad has seriously expanded the threat of terrorism.

- The outbreak of violence in historically peaceful territories has been aggravated by the global reach of social media employed with increasing success to organize and manage seemingly leaderless public protests.
- Mass shootings in schools, private businesses and public settings increasingly threaten the safety and security of people and organizations across the U.S.

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Trade credit

Key takeaway

The sudden economic contraction due to COVID-19 reminds us that trade credit insurance is a strategic buy, as having a trade credit policy in place now will provide an oasis to insureds who procured the protection in better economic times.

Rate predictions

+10%, higher for some sectors

Spotlight on COVID-19

- Trade credit may be one of the lines of insurance most impacted by the pandemic.
- A spike in losses will create a much more challenging underwriting environment and could lead to considerably harder market conditions.
- *For more detail, read on.*

The COVID-19 outbreak has caused a historic economic downturn with significant trade credit repercussions.

- Supply chain disruptions may lead to missed deliveries, lower sales and lower net profits globally.
- Supply chain finance may also be impacted. On extended term programs, distributors cannot turn their products into cash given the break in the cash conversion cycle; this may raise the number of past-due payments. Banks, sellers and carriers will need to work together to provide relief in these cases.

- Disaster recovery experts may need to focus on spreading supply chain manufacturers into more than one country, as the COVID-19 crisis has exposed geographic supply chain vulnerabilities. We see Vietnam, Taiwan and India absorbing much of the shift.
- Carriers have de-risked over the last 12 months, which should help prepare them for the current economic slowdown/recession.
- Insurance carriers may further de-risk on the weaker credits in the most impacted industry sectors. The carriers are reacting in a much more measured manner than they did in 2008.
- Rates have hardened over the past two months, and we expect continued upward rate pressure given the current global crisis.

Banks and credit insurers are working jointly on a streamlined policy template.

- The financial institutions market has recognized the need for a single policy template, which would be available for use across the markets for the purpose of obtaining capital relief in accordance with local banking regulations.
- Banks and insurance carriers have been working together on this since 2018, and when the work comes to fruition, the expected result is lower overall cost to the insured and expedited deal closings.

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Each applicable policy of insurance must be reviewed to determine the extent, if any, of coverage for COVID-19. Coverage may vary depending on the jurisdiction and circumstances. For global client programs it is critical to consider all local operations and how policies may or may not include COVID-19 coverage. The information contained herein is not intended to constitute legal or other professional advice and should not be relied upon in lieu of consultation with your own legal and/or other professional advisors. Some of the information in this publication may be compiled by third party sources we consider to be reliable, however we do not guarantee and are not responsible for the accuracy of such information. We assume no duty in contract, tort, or otherwise in connection with this publication and expressly disclaim, to the fullest extent permitted by law, any liability in connection with this publication. Willis Towers Watson offers insurance-related services through its appropriately licensed entities in each jurisdiction in which it operates. COVID-19 is a rapidly evolving situation and changes are occurring frequently. Willis Towers Watson does not undertake to update the information included herein after the date of publication. Accordingly, readers should be aware that certain content may have changed since the date of this publication. Please reach out to the author or your Willis Towers Watson contact for more information.

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