Insurance Marketplace Realities

2022

Willis Towers Watson

Contents

Marketplace old and new: Supply and demand, data and analytics

The hard commercial insurance market continues, but as a steady, gradual softening brings a welcome deceleration in premium rate increases, we are reminded of one of the oldest and most fundamental marketplace principles: the law of supply and demand. Supply, in the form of additional capacity provided by insurance carriers, is up, and a rise in supply is doing what it does best: lowers prices.

What brought about this rise in supply? A leading factor is of course the hard market. Higher rates offer improved rate adequacy and the opportunity for greater return on capital committed by insurers and other investors in the insurance marketplace. After several annual cycles with steep, often relentless increases, the marketplace has taken significant steps toward “correcting” itself – “correcting” from the point of view of the insurers. The forces that led to the hard market – systemic rises in risk from heightened cat losses likely driven by climate change, social inflation, rising exposures in areas ranging from cyber to liability – have not gone away. But one of the words that appears consistently through this publication, in our line-by-line predictions and commentaries on what we see ahead in 2022, is stability.

Two exceptions to the general trend are in cyber liability and fiduciary liability insurance. Rates have been going up steeply, and in the case of cyber, the increases we are forecasting for 2022 are even steeper. This does not contradict the rule, however. Losses are rising and capacity is tightening. Supply down, prices up.

So, for the most part, we are moving toward stability as we watch the workings of a simple economic law. That does not mean, however, that this is a simple marketplace. The two-tiered marketplace we highlighted in our last issue remains a reality in many lines of business: conditions are better for better risks and tougher – sometimes quite a bit tougher – for less attractive risks. The risk manager’s job of distinguishing his or her organization’s risks in the marketplace is more demanding than ever. More data and better data are required and expected, and the information must be presented in a way that is clear and compelling. Fortunately for insurance buyers, the tools to help analyze and present that data are getting better, too.

Most buyers will be paying more, but marketplace results should be less painful.

Here is where the idea of the new marketplace comes in. The new insurance marketplace is underpinned by risk analytics. It's based on the unique and expanding insight available about perils across the spectrum and the greater amount of data that insureds have access to about their own exposures in particular. Then there are the analytics pertaining to the financing of risk, which involve taking business input, such as risk tolerance and strategic goals, and overlaying actuarial analysis across multiple lines of business to identify the optimal balance in terms of risk retention and risk transfer.

Another aspect of the new insurance marketplace has been brought on by COVID-19. We've discovered we can do our work remotely, most of it anyway, and that the virtual world has some advantages. It's easier to bring people together for meetings; and for insurance buyers, bringing the C-suite to the negotiating table can have noticeably positive effects. Those meetings are also easier to organize virtually with underwriters sitting across the world and in venues some risk managers may never have had the opportunity to visit. Employees within the industry, be they underwriters, brokers or risk managers, are enjoying the benefits associated with a commute to the living room versus the commute to the office.

However, it's not necessarily all happy days between Zoom meetings and fancy statistics. Far from it. The responsibility of the risk manager is increasingly complex, overseeing the ever-evolving universe of data and analytics. At the same time, nothing will replace the relationships that are at the core of the insurance business – and those relationship benefit from in-person connectivity. Many are reporting an emerging workday that never seems to stop. There are no after-hours – you're just always on. How is the industry responding to talent development in this environment? Today's younger generation certainly faces a different world from what many grew up with in the industry.

To sum up, and to return to the core topic of this publication, the cost of insurance is still going up – for the near term. Most buyers will be paying more, but marketplace results should be less painful. The two-tiered market, which has always been a reality to some degree, is still in effect in many places, but the downside of being in the higher hazard tier is not as bad. For better or worse, our industry will continue to move with the laws of supply and demand. If supply continues to come back as it has in Q2 and Q3 of 2021, we could see rate decreases commence as early as Q2 of 2022. This will not be a wholesale development across all lines, and distressed lines of business, most notably cyber, will remain challenged well into 2022.

Our subject matter experts have assembled excellent insights into the marketplace, and we look forward to helping you navigate the unique challenges of the day.

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Looking forward, looking back

This issue marks the fourth in a row where the number of lines predicting rate decreases has come in at zero. However, the number of lines anticipating flat renewals or a mix of increases and decreases leapt from one to eight. In another good sign for buyers, 18 lines are predicted to produce increases lower than what our experts expected in the spring. In the case of umbrella and excess casualty, the relief from double- and sometimes triple-digit increases is as pronounced as it is welcome. D&O increases are easing and, looking ahead, some D&O buyers may see no increases at all – the first time in a long time.

One notable exception to the trend is in cyber insurance, where again rate increases have jumped – from +10% to +30% a year ago, to +25% to +50% in the spring, and now for 2022, +50% to +150%.

For the most part, however, these numbers and the line-by-line commentary included here tell a simple story: a rise in capacity has lifted supply, and the laws of supply and demand have come to the aid of the insurance buyer.

Here are highlights from our 2022 predictions:

- Property rate increases are decelerating, especially for better risks; those buyers can expect increases of 2% – 10%. For challenged occupancies, rate hikes are forecast at 15% or more, which represents a continuing decline in increases over recent renewal cycles.
- General liability predictions eased modestly: +5% to +12.5% (from +7.5% to +15%).
- Auto rate forecasts similarly dropped slightly: +5% to +15% (from +8% to +15%).
- Casualty excess liability predictions are now +15% to +30% or more for high hazard risks and flat to +15% for low/moderate hazard.
- Workers compensation is one of the lines now looking at a mix of small decreases and increases: -2% to +4%.

In short, the marketplace improvement we saw in the distance in 2021 is coming into focus for 2022, though buyers will still be paying more for their insurance in most cases.

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

MR issue	Decreases	Increases	Mix/flat
2022	0	24	8
Spring 2021	0	30	1
2021	0	29	1
Spring 2020	0	23	5
2020	2	20	5
Spring 2019	2	14	9
2019	2	14	9
Spring 2018	2	10	10
2018	7	7	9
Spring 2017	10	6	7
2017	10	6	7
Spring 2016	9	8	5

* The 2022 edition includes middle market as a separate line of business. The 2021 spring update figures include marine hull/liability and marine cargo as separate lines. The 2021 figures include life sciences and alternative risk transfer predictions for the first time. 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 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 challenging marketplace, contact your local Willis Towers Watson representative.

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 yea r, we also look back at recent price movements 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. (In our experience, insurance rate fluctuations are considerably more pronounced for larger buyers than for smaller buyers.) CLIPS participants represent a cross section of U.S. P&C insurers that includes many of the top 10 commercial line companies and the top 25 insurance groups in the U.S.

According to the most recent CLIPS survey, U.S. commercial insurance prices grew again in the second quarter of 2022. Looking back more than a year for some perspective, the report says the aggregate commercial price change reported by carriers grew by over 6% for the first quarter of 2020, then spiked upward to nearly/above 10% in the second through the fourth quarters of 2020, and then declined to just below 8% in the first quarter of 2021, before settling at just above 6% in the second quarter of 2021. Increases in the lines that have seen the hardest market conditions have eased. For more, review the recent CLIPS report.

Alternative risk transfer (ART)

Rate prediction

Structured programs: Flat

Parametric nat cat weather programs: Flat to +5%

Parametric pandemic programs: Flat to +5%

Portfolio programs: +10% to +25%

Structured and parametric solutions are enjoying popularity as an alternative or adjunct to traditional insurance still facing hard market conditions – conditions that portfolio/integrated risk products cannot avoid.

Overall, ART deals (simple or innovative) supported by robust analytics and negotiated over realistic timeframes are faring better.

- The parametric market is particularly competitive, with new market entrants and technology disrupting established deals and pricing. This is also driving innovation.
- Portfolio/integrated risk products are attracting less attention as they face the same pressures as traditional lines: rate increases, capacity reduction/withdrawal and team disruption.

Structured solutions

- Insureds with challenging risks or large risk appetites are increasingly looking to structured solutions.
- While the greatest activity continues to be in the property and casualty sectors, we are seeing more participation across other lines. These solutions are also attracting interest as reinsurance of captives.
- Structured solutions offer distinct advantages.
  - Managing the cash flow impact of large losses while allowing insureds to stay within their risk tolerance and secure risk transfer capacity for remote loss scenarios
  - Replacing monoline layers where insurers are demanding rates-on-line (premium/limit) of 40%+
  - Creating a bridge between increased retentions and higher traditional market attachment points
  - Providing coverage for hard-to-insure risk classes for three to five years
  - Offering significant pre-loss financing that helps align the insured's risk tolerance with that of the insurers

Parametric solutions

- Natural catastrophe risks
  - Parametric hurricane and earthquake programs increased in popularity again in 2021 due to the continuing hard property market and a greater understanding by insureds of the limitations of traditional property policies.
  - Deployment also increased for hail, flood (water height) and wildfire, with new products emerging for tornadoes and network outage.
  - These solutions complement property placements by in-filling deductibles, topping up sub-limits or covering uninsured risks (such as non-damage business interruption risk).
  - Their simple structure, use of independent data and quick settlement appeal to those insureds exasperated by long, drawn-out claim adjustment processes on prior catastrophe events.
  - While few see parametric solutions completely replacing traditional insurance, parametric programs can provide an immediate source of liquidity in the event of a catastrophe while the insured gathers the data for their traditional insurance claim.
  - This market continues to attract new capacity, and technology continues to drive product refinement.
- Weather risks
  - Parametric weather index products that address extremes of precipitation, temperature, humidity, snowfall, etc. are increasingly being adopted by insureds to hedge against non-damage business interruption events, especially with growing concern over climate change.
  - Activity is highest in the agriculture, construction, transportation, leisure and hospitality sectors, and buyers range from public entities to corporations of all sizes.

- In the renewable energy sector, these products support the revenue generation of wind and solar assets over 10- to 15-year periods.
- Insurers are keen to expand this sector to diversify the natural catastrophe concentration in their portfolios and protect against loss resulting from warm northern hemisphere winters.

- Pandemic solutions
  - Parametric pandemic solutions offer protection for lost revenue, lost gross profit and an increase in expenses from a non-COVID-19 pandemic event. These programs respond on a dual trigger basis, requiring: 1) a World Health Organization notice (PHEIC or pandemic) and 2) either a breach of a pre-agreed level of cases or deaths in particular geographies, or a civil authority action by a federal or state government in particular geographies.
  - These programs can help manage the cash-flow impact of a future wave of COVID-19 through a multiyear structured (pre/post loss funding) component (not risk transfer).
  - One leading reinsurer continues to "make the market" with others now publicly supporting this approach.
- Emerging solutions and indexes
  - Broad non-damage business interruption solutions are emerging, using various economic and industry or risk indexes.
  - Multiperil policies are being written using generic industry indexes (REVPar, Footfall) that are correlated to multiple risks.
  - Insureds' own production data is also being used where it is robust, has sufficient history and has insurer approval.
- Analytics
  - Parametric contracts are data-driven, with claims being settled entirely on the value of the agreed data set. As such, they rely completely on a thorough analytical understanding of a risk and its correlation to a selected index.
  - Basis risk continues to be the key challenge and needs to be clearly understood by potential buyers.

Portfolio solutions

- Capacity for multiyear portfolio solutions (or integrated risk programs) has diminished significantly as ART units are forced to adopt the same underwriting restrictions imposed on their traditional monoline colleagues.
- These markets increasingly focus on structured solutions or multiline stop-loss protection for captives or for a portfolio of deductibles/self-insured retentions.
- That said, those clients who previously established multiyear integrated programs are benefiting significantly by being insulated from market volatility and rate increases, at least until such programs renew.

Catastrophe bonds

- Alternative capital assets under management (AUM) have grown significantly in 2021 with strong net inflows. Willis Re Securities projected $94 billion of non-life insurance-linked securities (ILS) AUM at 6/30/2021, up from $90 billion at 12/31/2020. Life, accident, and health insurance and mortgage insurance ILS AUM excluded from the $94 billion figure have also grown significantly in 2021.
- Net inflows and investor activity have gravitated to more liquid risk-remote products such as cat bonds; 2021 will likely prove to be a record year for cat bond issuance. This is in part because some believe that a more risk-remote approach with well-structured and liquid products insulates investors from modeling and reserving issues highlighted during the last few years in other products.
- Lower cat bond spreads have attracted new sponsors but are also now starting to cause some modest portfolio repositioning toward less liquid strategies with higher risk-return profiles.
- Environmental, social and governance (ESG) investing have been an increasing area of focus. ILS have arguably favorable ESG characteristics, though the specifics can prove challenging as ESG frameworks were initially developed with public debt and equity in mind.
- A minority of investors continue to explore expanding coverage to new types of risks and clients. This trend should continue in 2022.

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Captive insurance

Areas such as climate/weather risks, cyber, non-damage business interruption and D&O are increasingly being structured around a captive as the corporate focal point for managing risk financing.

- We believe that this emerging shift in captive deployment not only tracks insurance market conditions but is further enabled by better data and analytics capabilities.
  - These tools are facilitating advances in quantification of both individual risks and portfolios of risks, including multiple lines of business.
  - In some cases, captives may be able to assume emerging risks based on sound data analysis before traditional insurance markets have an opportunity to develop their own products or set their standards for pricing.
  - We anticipated an increase in the use of analytics to support decision making and to optimize cost of risk transfer in market negotiations. We have seen particular interest among existing captive owners wishing to optimize their use of capital and tolerance for risk.
- We expect captives to continue to play an expanding strategic role in risk financing decisions in the medium to long term.

Interest in traditional property and casualty captive programs remains high during the continuing hard insurance market, but there is increasing consideration being given to emerging risks and those risks not previously managed through captives.

U.S. domiciles

- Many U.S. captive domiciles are reporting increases in new captive licenses and an influx of business plan changes resulting in captives taking on more risk, trends we expect to continue into 2022.
- Expanded captive business plans are trending with ventilated layers and quota-share positions in excess property and casualty lines.
- Several domiciles are also reporting an uptick in number of captive cell formations within sponsored protected cell facilities.

Americas offshore

- The key Atlantic and Caribbean domiciles of Bermuda and the Cayman Islands have seen a modest number of new captive insurance licenses issued during 2021 with eight and 17 respectively (Bermuda Monetary Authority and Cayman Islands Monetary Authority).
- New activity remains largely focused on business from the U.S., but there has been an uptick in enquiries from Latin America. Europe continues to generate activity, while interest from Asia and Australasia remains modest.
- Cayman continues to see new activity in the healthcare sector, which remains its largest generator of captive business.

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Property

Rate prediction

Non-challenged occupancies: +2% to +10%

Challenged occupancies: +15% or more

Rate deceleration continues, but an overall market shift is unlikely in the near term.

The two-tiered market continues. Non-challenged occupancies are seeing a tapering of overall rate increases, while challenged occupancies and loss-affected clients continue to experience a hard market, albeit at a decelerated level, compared to 2020 and early 2021.

- Average rate increases have dipped into single digits for the first time since Q1 2019, and we expect them to stay there into 2022. Increases for challenged occupancies (forest products, metals, waste management, food and beverage, among others) and loss/risk protection-challenged accounts, remain in double-digit territory.
- Profitability and underwriting disciplines remain a key focus for insurers. However, there is increasing pressure for carriers to maintain market share and retain renewal business. Client retention is a top priority for senior leadership.
- We are seeing new business budgets for the first time in 18+ months, which is leading to additional capacity and appetite in the market — for the right risks.
- Focus on risk management, loss control and mitigation efforts are fundamental during the underwriting review process for new business opportunities.
- Non-modeled cat losses are contributing to the sustained, if moderating, upward rate environment.
- Profitability in the property sector continues to underperform due to loss frequency uptick over the past six years.
- Rate and premium increases are likely not keeping pace with increases in property losses. This cycle of unprofitability continues to put pressure on insurers to maintain rate adequacy.
- Increased scrutiny of tornado/hail, winter storms and wildfire exposures will continue, with insurers starting to implement models for these perils and charging premiums to cover expected losses.

Focus on profitability continues to restrict terms and conditions offered.

- Due to large claims, COVID-engendered supply chain disruption/constraints and an inability to properly underwrite the exposure, there is an increased scrutiny on contingent time element sub-limits. We are seeing insurers reduce these sub-limits, look to schedule customers and/or suppliers and reduce or eliminate coverage for all but the top-tier buyers.
- We see a continued push for company policy forms, but cracks in the armor are appearing.
- Communicable disease and cyber exclusions are standard.
- Tornado and hail percentage deductibles, as well as wildfire percentage deductibles, are being socialized but not yet mandated across the board.

Uncertainty from Hurricane Ida, COVID-19 and loss creep is being monitored.

- While it's still too early to tell what the long-term effects of Hurricane Ida will be in the overall market, current insured loss estimates are between $20 billion and $30 billion (though recent estimates from RMS are as high as $40 billion). So far, there has been no discernible rate impact from Ida, but loss creep is beginning to manifest itself for Ida claims and many of the major property carriers are forecasting another year of sub-par profitability.
- Other major cat events, e.g., winter storm Uri in the U.S. and European flood Bernd, have contributed to another likely $100 billion catastrophe year for insurers/reinsurers. This will likely lead to elevated cat reinsurance pricing in 2021 which will percolate through to direct insureds at some point in 2022.

- The impact of paid and expected COVID (property-related) losses has already been baked into rates and, even if insurers suffer courtroom setbacks, the financial impact will not be felt for many years as suits wend their way through appellate courts and perhaps even the Supreme Court.

Buyers need to take control of their insurance renewal with a commitment to broad data collection and data quality.

- Increased information will help buyers more accurately model any changes (e.g., reduction in limit or increased retention) and help assure that risk management strategies reflect organizational risk appetite or corporate philosophy.
- Analytics provide important guidance as buyers align offerings in the marketplace to their rapidly shifting risk transfer needs.
- Buyers need to distinguish themselves from their peers, especially in challenged occupancies. Risk managers must help tell this story and provide the necessary data to satisfy underwriters' insistence on robust underwriting information.
- Underwriter meetings are encouraged; telling a story of mitigation efforts, improved loss control measures and disaster recovery/business interruption plans remains critical in differentiating a buyer's risk.

Risk managers need to manage stakeholder expectations as rate increases continue; they should consider creative solutions and alternative structures to mitigate the total cost of risk.

- Property is a not one-size-fits-all market; carriers are scrutinizing submissions.
- Accessing the global marketplace (London, Bermuda and Asia) may be crucial, especially for shared and layered deals.
- The need to differentiate risk has never been greater.
- Consider alternative structures such as parametric programs to complement a traditional insurance plan. A parametric contract could provide immediate liquidity in the event of a covered in the event of a covered loss while the loss adjustment process for the traditional program is worked through.

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Casualty

Rate prediction

General liability: +5% to +12.5% or more

Automobile liability: +5% to +15% or more

Workers compensation: –2% to +4%

Umbrella liability:
High hazard: +10% to +30% or more
Low/moderate hazard: <+20%

Excess liability:
High hazard: +15% to +30%

Low/moderate hazard: Flat to +15%

The commercial liability marketplace is stabilizing, most notably in lead umbrella and excess liability, helping create opportunities to introduce alternative carrier solutions and competition.

Stabilizing factors include new excess carrier entrants and capacity, increased deployment of available capacity and amended structures and attachment points.

- Buyers have also reduced their costs by procuring less excess coverage and increasing their retentions.
- We continue to see a two-tiered marketplace, where challenged classes and/or lower primary attachment points see greater increases.

Several broad factors continue to drive ongoing casualty rate increases.

- Historical excess pricing methodologies – less applicable as increasing severity compels insurers to reevaluate excess liability rate adequacy
- Carriers questioning and reevaluating reserve adequacy
- Carriers asserting coverage limitations and changes in treatment of defense for high-hazard industries
- A highly organized and heavily funded plaintiffs' bar utilizing third-party litigation financing
- Continuing liberal class action certifications
- Social inflation
- Jury pools desensitized to vast monetary values
- Nuclear verdicts and catastrophic liability losses garnering significant punitive awards

Lead umbrella and excess liability renewals continue to experience year-on-year rate increases, but these increases are decelerating.

- The lead umbrella market has largely "corrected" itself over the last few renewal cycles with respect to pricing and attachment points. Most programs have now been exposed to the challenged market for multiple renewal cycles and, while buyers still face rate increases, pressure to completely overhaul structure has eased, and triple-digit rate increases have become rare.
- The trend toward supported lead umbrella capacity (i.e., primary carriers deploying umbrella capacity on the same programs) continues and, while there is still a strong unsupported lead umbrella market, leveraging the less volatile primary lines, especially workers compensation, is common.
  - The trend may have reached its peak in 2019 and 2020, when the number of supported programs increased by double-digit percentages.
  - In Q2 2021, that percentage fell to single digits. Moving large and complex programs multiple times in a short period is not optimal.
- Capacity is returning to the excess liability market.
  - Total available/advertised global capacity had declined from ~$2.2 billion in 2018 to $1.4 billion in 2021. Actual deployed capacity increased to ~$950 million, up from $690 million in early 2021 (based on WTW data and observations).
  - These increases have brought a new level of competition.
  - With more capacity in the high excess space, brokers are often finding capacity excess lines oversubscribed.

- Carriers seeking to participate in the high excess capacity space are being asked to offer needed capacity on mid excess layers on a ventilated basis.
- The more flexible carriers are with respect to attachment and capacity, the more likely they will be to secure lines in the more attractive capacity layers.
- Carriers unwilling to participate in the lower layers have offered additional capacity or lowered their price.

- Carriers reluctant to deploy their advertised capacity have begun to participate on various excess towers by offering larger limits.
  - While the jumbo layers of the past (i.e., $50 million – $75 million) are still uncommon, some carriers are beginning to deploy capacity throughout a tower, albeit in two to three tranches.
  - The net result has been reduced rate volatility in excess layers and, in some limited cases, rate reductions.
- In 2020 and 2021, excess layers saw dramatic rate increases due to severe restrictions in deployed capacity combined with the higher minimum premium demands from non-incumbent carriers, particularly for buyers purchasing more than $100 million in excess limits. As these restrictions begin to loosen, we expect reduced pricing pressure.
- Volatility within the excess liability space has been driven by significant increases in jury verdicts and, while the pandemic slowed this trend, we have seen verdicts pick up where they left off as courts begin to reopen.
- Higher rate increases are most prevalent on programs with exiting capacity (lead or excess).
- The best pricing and coverage (lead and excess) have often been offered by long-term incumbent carriers. That will likely change once softer market conditions return, and competition becomes more aggressive against incumbents.
- Underwriting and pricing guidelines remain fluid, with carriers continuously reacting to market conditions and, at times, changing their positions over the course of renewal discussions.
- Communicable disease and COVID-19 exclusions are now commonplace but not uniform, creating further challenges in structuring excess liability towers.
- Many clients have explored captive use.

Auto liability has remained unprofitable for insurers as claim payments remain on the rise. Insureds continue to see rate increases, program restrictions and restructuring of deductible thresholds.

- While, in 2020, the commercial auto insurance segment posted its best underwriting result in a decade, a result of continued rate increases and a large drop in driving due to the coronavirus pandemic, the upward pressure on price remains.
- Recently available data illustrates sources of this upward rate pressure:
  - The National Safety Council (NSC) estimate of total motor-vehicle deaths for the first six months of 2021 is 21,450, up 16% from 18,480 in 2020 and up 17% from 18,384 in 2019.
  - Mileage in the first six months of 2021 rebounded 13% from COVID lows in 2020 but still lags 2019 mileage by nearly 6%.
  - NSC's current 2021 estimated rate of death on the roads is 1.43 per 100 million vehicle miles traveled, up 3% from 1.39 in 2020 and up 24% from 1.39 in 2019.
  - $241.9 billion – estimated cost of motor-vehicle deaths, injuries, and property damage in the first half of 2021.
- As a result of increasing claim costs, umbrella carriers continue to demand higher attachment points, resulting in a stretching of primary limits or the introduction of excess buffers.
  - Programs with a minimum $5 million CSL have increased by 15.2% over the past year (WTW data and observations).
- Continued upward rate pressure has pushed insureds to reevaluate deductible thresholds, implement corridor deductibles or explore alternative risk transfer (ART) solutions.
- COVID-19 impact aside, 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 decaying 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 not properly managing fatigue and sleep issues.

- Being awake for at least 24 hours is equal to having a blood alcohol content of 0.10%. This is higher than the legal limit (0.08% BAC) in all states.
- Risk managers recognize that drivers who text while operating a vehicle are 23 times more likely to become involved in a vehicle accident, so they are exploring risk control technology to help manage this exposure.
  - NHTSA data shows that more than 1,000 people are injured daily in accidents in which at least one driver was distracted.
- Repurposing, a buzz word of the pandemic that came into currency as businesses modified job duties to meet changing demand, has impacted auto risks — e.g., in-house restaurant servers who are asked to deliver take-out orders using their own vehicles. Repurposing can raise the non-owned and hired exposure to both restaurant owners and their insurance carriers. Insureds should look at the employee's personal auto policies to ensure that coverage under those policies would not be void in such circumstances.

Workers compensation renewals are beginning to see slight reductions, though many will still pay modest increases. Carriers are still offsetting exposure-driven premium reductions brought on by pandemic-impacted payrolls to fund COVID-19 losses from high-severity employers.

- National Council on Compensation Insurance (NCCI) reports that 2020's net combined ratio for private carriers was 87, up from 85 in 2019 and 83 in 2018, marking the seventh consecutive year of underwriting gain, the fourth consecutive year of results under 90 and the third-lowest combined ratio since the 1930s.
  - Years 2018 to 2020 saw the lowest loss ratios in at least 30 years, with loss adjustment expenses (LAE) at their lowest levels since the early 1990s.
- 2020 net written premium for private carriers and state funds was down 10% from 2019's $47.1 billion.
- Workers compensation continues to be the casualty line with the most COVID-19 claim activity. NCCI's 2021 State of the Line Guide highlights:
  - COVID-19 losses totaled $260 million for accident year 2020.
  - COVID-19 claims had an average severity of $6,000, with approximately 95% incurring losses less than $10,000, and approximately 60% incurring losses of less than $1,500. Most of these claims are indemnity-only or medical-only claims.
  - Claims over $100K accounted for approximately 1% of total COVID-19 claims but represented 60% of total COVID-19 losses.
  - Approximately 75% of COVID-19 claims included an indemnity component and were therefore lost-time claims, compared with approximately 25% of pre-pandemic claims.

- Indemnity-only claims comprised a much larger portion of COVID-19 claims than for non-COVID-19 claims. These claims did not have any reported medical loss component. They probably involved claimants who tested positive but who may have been asymptomatic and therefore required no medical services.
- The most severe claims included both an indemnity and medical component.
- Healthcare and first responders accounted for almost 75% of all COVID-19 claims.
- Other essential workers – mainly workers in restaurants, building operations, distribution systems and retail – accounted for an additional 15% of COVID-19 claims.

- Many excess workers compensation policies were historically designed to include batch language for communicable disease claims. With the advent of COVID-19 this coverage enhancement has been limited and, in many cases, excluded.
- The circumstances around coverage are complex, vary by state, and are impacted by presumptive legislation.
- COVID-19 has led to the deferral of elective treatments and medical care in general for non-acute conditions. This may extend the duration for non-COVID claims, putting upward pressure on costs.
- The pandemic has reduced return-to-work opportunities and light-duty programs, which could also increase claim duration.
- More ergonomic injuries may be expected as a larger percentage of the workforce is working remotely in spaces not designed for that purpose.
- COVID-19 has created greater uncertainty in defining "the course and scope of employment" with many workers now telecommuting. Employers may have to add neighboring states to their policies, modify class codes, and establish guidelines and protocols for working from home.
- A workplace outbreak of a communicable disease, such as COVID-19, is more likely to be covered by workers compensation if several factors are present:
  - Presumptive legislation creating a pathway for designated claims
  - An elevated risk of contracting the disease due to type of employment
  - Ease in identifying the time and place of disease transmission
  - State statutes and case precedents that favor workers compensation claimants
- Telehealth, on the rise since the outbreak of the COVID-19 pandemic, 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 reducing claim severity.
- New medical technology alone can inflate loss costs by 40% to 50% and is a key driver in mega claims.
- NCCI reports:
  - Lost time claim frequency for accident year 2020 will be 7% lower than that of 2019, which was 4% lower than 2018.
  - The average indemnity cost per claim for accident year 2020 increased by 3% from 2019.
  - The average medical lost time claim severity for accident year 2020 will likely be plus or minus 2% compared to 2019.
- While opioid use is declining, the problematic painkillers still account for close to 25% of workers compensation prescription dollars.
- Buyers should focus on differentiating risks with the support of analytics.
- As we continue to navigate this transitioning market, differentiating client risk profiles, exposures and loss experience is more important than ever.
- Analytic tools are crucial to these efforts and to identifying risk financing options as shifts in buying strategies and program structures are more commonplace today than at any time in recent memory. These changes demand risk quantification to help identify optimal program structures.

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International casualty

Rate prediction
Flat

While the international casualty marketplace continues to be affected by a complex global landscape and related insurance markets that continue to see rising rates, market capacity remains stable, and flat renewals are expected for most buyers in 2022.

The return of stability in the U.S. economy is reflected in the growth plans organizations are setting in their 2022 forecasts. A similar confidence can be seen across the portfolio of international programs written from the U.S., as healthy market capacity continues to keep rates stable.

- However, disruptive factors remain prevalent and could negatively impact the global economy and global insurance marketplace.
- Renewal results will continue to depend on a host of factors, including exposures and loss history as well as the timing of the most recent marketing efforts. Most renewals, we expect, will see rates very close to expiring.
- As is commonly the case, insureds that have experienced significant claims and those with higher-risk exposures will be the most vulnerable in this evolving marketplace. We recommend that insureds initiate renewal discussions early and work to identify the key risk drivers and explore all options.

Administration costs represent a significant percentage of total costs compared to other types of coverage, resulting in a certain amount of cost inelasticity even as exposures fluctuate.

- For the past couple years, many global businesses have been reporting reduced global revenues, but given the role of administration costs, many will not see a commensurate reduction in premium. Conversely, when exposures increase, the role of administration can potentially have a stabilizing affect.
- To manage administration costs, carriers that 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.
- Multiyear agreements are available in some instances and can offer coverage and rate certainty as well as relieving the administrative burden of annual renewal negotiations.

Despite a mostly optimistic outlook for COVID-19, most global organizations have not yet resumed much business travel, especially overseas.

- Many workforces remain largely remote, which has meant fewer cars on the road, fewer concentrations of staff in close quarters and lowered exposure to injury or illness for international travelers. For those businesses that require in-person work, however, the risks to employee safety remain prevalent.
- In terms of international casualty coverage, the Foreign Voluntary Workers Compensation component is the main area of focus relative to COVID-19, as it provides coverage for work-related injuries, and coverage commonly extends to endemic disease for employees working outside of their home countries. However, for coverage to apply, their travel needs to be in the course of business.

- Communicable disease and specific COVID-19 exclusions are now commonplace but not yet uniform across all programs. Insureds should read these endorsements carefully and discuss them internally to ensure their business teams are prepared. For a carrier to agree to forgo such an endorsement, an insured will likely be asked to provide details of company-wide processes to help keep employees safe.
- Insureds should continue to anticipate requests for additional underwriting data as a result of COVID-19. This will include questions about staffing concentrations and company policies and procedures which have been instituted as a result of the pandemic.

Depending on corporate objectives, insureds can benefit from the use of alternative structures.

- For insureds with more complex risks who would like to take control of coverage costs and/or arrange preferred policy wording, the use of certain alternative risk structures, including captives, can be attractive.
- Using a captive to reinsure certain portions of a risk can help an insured partner with a carrier that can issue local policies and might encourage the carrier to offer terms and conditions they might not normally accept.
- A captive can also help an insured control and allocate costs within their organization. Those considering alternative structures should note that not every carrier will work with large deductibles or captives, and for those who do, there are collateral requirements.

Combining other P&C coverage into packages with international casualty may have strategic advantages, but buyers need to be aware of the impact the hard property market may have on a combined program – including potentially raising rates even if the casualty exposures are relatively small.

- For insureds who prefer to combine coverages into a package, benefits can include simpler program administration, better carrier access and lower total cost.
- Challenges will persist regarding catastrophe limits on the property side, even when combined with casualty cover. Insureds can minimize the impact by preparing for underwriting questions and delivering consistent data.

Global programs frequently require additional time and administration compared to other types of coverage.

- Insureds should agree and document renewal objectives, begin the renewal processes early and retain a disciplined approach to renewal timelines.
- Insureds should look at issues beyond price, such as the delivery of information and service. The most effective carrier partners are those who deliver accurate and timely policy documents, quality post-binding services around the world, and offer an insured the ability to influence localized policy coverage terms.
- Rather than differentiate purely through price, carriers and brokers are leveraging operational tools and technology and offering underwriting flexibility and/or enhanced transparency around country-specific coverages.
- Pre-renewal timelines should include detailed steps and consideration of how delays can impact subsequent steps.

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Product recall

Rate prediction
Flat to +5%

Keep an eye on regulatory risk. Expect oversight activities and enforcement action to accelerate.

Rising regulatory risk points to greater product recall exposure.

- Whether inspections take the form of remote evaluations or on-site audits, inspectors will be looking broader and deeper – both in terms of reviewing documentation and environmental sampling – for evidence that companies are not only compliant now but have been so over the previous 12 months or more.
- The changes in governmental activity that began in 2021 are expected to continue into 2022.

There have been significant developments in the recall marketplace.

- The underwriting market is seeing value in the MGA model as opposed to the traditional insurer model.
- The specialty focus of the MGA model in a line such as product recall lends itself to long-term relationships that can bring value to insureds.
- One MGA has entered the space and is looking to become the leading recall insurer in the field. They are made up of underwriters and leaders from a major reinsurer that brought in new leadership for the product line.
- Another product recall team has moved from a traditional carrier to a new shop.
- Overall, the market movement has been favorable for buyers: the top end of rate increases is expected to drop from 7% to 5%.

Consumable products

- Due to COVID-19 there is continued focus on the safety of the food supply chain.
- The FDA has increased its focus on baby food and supplements with the Baby Food Safety Act 2021.
- Q1 2021 consumable product recalls impacted 2.4 million units – a 31% increase over Q4 2020.

Automotive

- Recalls in Q1 2021 impacted 13.2 million vehicles – an 82% increase over Q4 2020.
- OEMs are facing a new era of cybersecurity and data privacy risk.
- There has been Senate pressure on the National Highway Traffic Safety Administration (NHTSA) to be more transparent and effective in its dealings with OEMs regarding issues that may result in recall events.

Life science

- Drug fraud due to shortages of raw materials will continue to be a major concern.
- Global regulators are collaborating – not a routine practice.
- The PREP Act (Public Readiness and Emergency Preparedness Act), passed in 2005 as a tort shield for vaccine manufacturers, is at the center of COVID-19 lawsuits involving distribution of vaccines at nursing homes and assisted living facilities.
- When consumers think of pharmaceutical recalls, highly publicized events come to mind – from the historical Tylenol and Vioxx withdrawals to more recent recalls of metformin, ranitidine and valsartan. While these events are old news, the possibility of brand-specific recalls leading to brand agnostic recalls is one the entire industry needs to watch carefully.
- Class II recalls accounted for only 37 recalls in Q1 2021 but they involved eight million units – eight times the units resulting from Class I recalls.

Consumer goods

- The Consumer Products Safety Commission (CPSC) is continuing its hands-off approach, relying on manufacturers to do the right thing. At the same time, this approach is countered with alarming public safety notices, greater individualized investigations and fines.
- CPSC is looking to go beyond enforcement and become more of an e-commerce/information platform.
  - In Q1 2021, CPSC announced only 47 recalls but those impacted 3.4 million products.

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Cyber risk

Rate prediction
+50% to +150%

Cyber markets are continuing to limit their exposure to ransomware losses and other widespread events by deploying co-insurance, sub-limiting certain coverages (most notably cyber extortion), increasing retentions and developing language to further limit their exposure. Organizations that cannot demonstrate strong cyber risk controls, culture and overall cyber hygiene will face the high end of eye-popping increases.

COVID-19 continues to impact the cyber market.

- The work-from-home era, possibly now permanent to at least some degree, may be contributing to an increase in phishing and hacking activity, as certain organizations have been more vulnerable than usual due to employees working remotely on potentially less secure networks with less secure hardware.
- According to the IBM and Ponemon 2021 Cost of a Data Breach Report, the average breach cost was $1.07 million higher in breaches where remote work was a factor.

Primary and excess cyber renewals are now averaging premium increases above anything we've seen: 50% to 150%, and higher.

- Heavily exposed industries are likely to see increases on the higher side of our predicted range: healthcare, higher education, public entities, manufacturing, financial institutions, construction and large media and technology companies.
- Cybercriminals are targeting companies in every business segment with ransomware attacks. As these attacks become more sophisticated, threatening a firm's entire electronic infrastructure, ransom demands have increased – often reaching eight figures.
- 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.
- Renewals are taking longer to complete because carriers do not want to quote early for fear of an incident occurring between quoting and binding, and carriers are often unwilling to provide any significant extensions. It is, thus, more important than ever to start the submission process early so materials can be refined for best presentation to underwriters.

Cyber capacity continues to tighten, as losses continue to rise.

- Data breach costs remain highest in the U.S., where the average cost of a data breach in 2021 was $9.05 million, up just under 5% since 2020. For the 11th consecutive year, healthcare data breach costs were the highest, increasing from an average total cost of $7.13 million in 2020 to $9.23 million in 2021, a 29.5% increase.
- Ransomware attacks cost an average of $4.62 million, more expensive than the average data breach ($4.24 million).
- Certain carriers are adjusting their ransomware coverage appetites and considering sub-limits and co-insurance alternatives, while more carriers are requiring ransomware supplemental applications.
- Insureds may need to employ co-insurance or captive options to maintain their current limits and to limit premium increases.

- Certain markets are adding broad Solarwinds exclusions to their policies, making it essential for organizations to report notices of circumstances if either they or one of their vendors use or used the software.
- Certain carriers are relying more heavily on cyber security consultants for technical expertise as well as third-party scanning technologies to highlight potential vulnerabilities.
- Excess carriers are increasingly not aligned with primary coverages and are seeking to benefit from exclusions placed on excess policies below them in a tower.
- Coverage continues to evolve to address regulatory risk and gap exposures.
- Since the E.U. General Data Protection Regulation (GDPR) went into effect in May of 2018 and the subsequent trove of data privacy legislation introduced across the U.S., most notably the California Consumer Privacy Act and New York's copycat legislation, Senate Bill 567, we have seen cyber markets affirmatively address coverage for claims stemming from these regulations. Markets are also offering expanded wrongful collection and compliance coverage largely in response to the new regulatory landscape.
- Business interruption/system failure continues to be a concern for underwriters. Heavily exposed industry classes, such as aviation, manufacturing and transportation, have seen increased underwriting scrutiny. Carriers are implementing longer and sometimes split waiting periods, with system failure coverage having the longest periods.
- 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 concerns over aggregation.

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Directors and officers liability

Rate prediction

Stable risk profiles

Public company – primary: Flat to +25%

Public company – excess layers: Flat to +20%

Private and not-for-profit – overall: +5% to 40%

Side-A /DIC: Case-by-case, with minimums impacting most risks

Challenged risk profiles

Non-U.S. parent, U.S. exposures, IPOs and SPACs, challenged industries, e.g., oil and gas, healthcare, life sciences, higher education: Case-by-case basis; large potential rate and retention increases

Rates, retentions and terms continue to see pressure, but capacity inflow has helped decelerate increases.

The economic environment emerging directly and indirectly from the pandemic continues to impact a profitability-challenged directors and officers (D&O) liability market, fueling underwriter concerns about business re-openings and broader systemic risks; however, new excess capacity has helped offset the impact and stabilize the marketplace.

- Broader market conditions remain challenging, but rate increases are expected to moderate into 2022.
  - Insurers managed their capacity and corrected rate in 2020 and 2021, but many insurers believe the product remains underpriced.
  - Offsetting these challenges is new excess capacity that has yielded a moderation of rate increases versus peak increases we saw in the third quarter of 2020. This capacity inflow has led to additional buyer leverage and an enhanced ability to fill capacity holes.
  - A tale of two markets persists: More favorable risks are the initial beneficiaries of new capacity. More challenged risks continue to experience hard market challenges.
- **Uncertainty:** Economic recovery in the face of a lingering pandemic has begun; however, mutated virus strains and social/political tensions around health and safety measures continue to present issues over the timing and pace of business re-openings and the resurgence of employment and economic growth.
- **D&O underwriter focus:** Financial strength (especially liquidity); industry; claim history; COVID-19 resilience; environmental, social and governance (ESG). Additional concerns include financial pressures, pandemic impact, antitrust allegations, regulatory uncertainty, loss-cost escalation, cyber and privacy, social inflation, event-driven claims and systemic exposures.
- **Initial public offerings (IPOs) and special purpose acquisition companies (SPACs):** SEC statements on the accounting treatment of SPAC warrants slowed activity around SPAC formations and follow-on business combinations in the second and third quarters of 2021. Nevertheless, the sustained growth in traditional public offerings, as well as ongoing SPAC-related activity, continues to manifest in heightened underwriter uncertainty. We anticipate underwriter scrutiny, high retentions, hard-market pricing and conservative terms for the foreseeable future. Conferring with D&O coverage specialists should be a critical part of any IPO, SPAC and de-SPAC transaction.
- **Private and non-profit companies:** Last year's accelerated rate increases have levelled off, transitioning into the tale of two markets. The contrast in renewals for stable risk profiles and industries and high-risk profiles and challenged industries is notable. Changes in market conditions can occur quickly.
  - **Primary:** Insureds with low and stable risk profiles are seeing enhanced competition, even flat renewals or decreases in select instances, with the tradeoff being higher retentions. The market for high and/or distressed risk profiles remains challenging.

- **Excess:** For larger risks, excess markets have recalibrated increased limit factors (ILFs). For challenging risks, inverted pricing may occur, where higher excess layer pricing may exceed those layers beneath it.
- **Retentions:** Carriers continue to press for higher retentions. Even for smaller risks, minimum retentions are being scrutinized and regularly increased.
- **Conservative deployment:** The discipline demonstrated by leading insurers has been taken up broadly and for the most part consistently across D&O markets.
- **New capacity has been hard to find:** Except for preferred risks, finding new capacity can be particularly challenging. Many carriers are not willing to deploy capacity, even for additional premium.

- **Side A:** Predictions on across-the-board rate changes for Side A placements remain less reliable. Instead, we continue to see lead Side A minimum premiums, regardless of expiring rate. Pricing changes may, therefore, be more or less severe depending on the insured's expiring premium.

Underwriting: D&O portfolio adjustments will continue into 2022.

- Excess pricing recalibration has fallen off, a trend we expect to continue into 2022.
- The tightening of terms we saw in the first half of 2021 has moderated and is expected to continue moderating into 2022.
- Some buyers will be particularly challenged.
  - Non-U.S. parent, U.S. D&O exposures: Complexities of compliance across jurisdictions, internal controls and varying carrier appetites for U.S. and non-U.S. D&O risks
  - SPACs: Slowed activity around SPAC formation and de-SPAC business combinations, but remaining heightened risk and underwriter scrutiny
  - Higher risk industries: Oil and gas, healthcare, life sciences, cryptocurrency, cannabis, retail, travel and hospitality, and higher education
  - Liquidity challenged and pre-restructuring/bankruptcy risks

Several trends and exposures bear watching.

- **Securities class actions:** The frequency of federal and state securities class action filings was down 25% in the first half of 2021 over the second half of 2020 which, prorated, would reflect the fewest annual filings since 2015. Fewer M&A-related class actions accounted for much of overall decrease. In the first half of 2021, securities class action settlements totaled $2.32 billion, an 11.5% increase over the same period in 2020; however, the average settlement value in the same period ($39.3 million) was almost 17% lower year-on-year ($47.3 million first half of 2020).
- **Duty of oversight claims:** In shareholder derivative lawsuits brought in Delaware alleging that directors breached their duty of oversight, plaintiffs are surviving motions to dismiss with more regularity, despite high pleading standards under Delaware law. It is possible that, rather than revealing a weakening of the pleading standards, that plaintiffs may be making effective use of Delaware General Corporation Law section 220 "books and records demands" as a pre-litigation discovery tool. The plaintiffs' success in overcoming the motions may be driven by evidence secured through these statutory demands.
- **IPOs, SPACs:** IPO filings have increased significantly in 2021, with more than 700 filings through August alone. More than half of filings, 419, were SPAC IPOs. Litigation frequency around SPACs and business combinations (de-SPACs) remains relatively low but has accelerated significantly on a percentage basis in 2021 over 2020. Plaintiffs' firms forming task forces to investigate potential SPAC and business combination claims also enhances risk.
- **Restructuring/bankruptcy/insolvency:** Chapter 11 filings in the first half of 2021 trended below historical averages and particularly below increased filing levels in 2020 following the crises created by the COVID-19 pandemic (Reorg Research, Inc., *First Day by Reorg: 2021 Midyear Review*).

- Nevertheless, bankruptcy claims, which impact both private and public companies, can be among the most severe, and with economic uncertainties surrounding emerging coronavirus variants and public health response measures, it is difficult to discern whether the pandemic is entirely behind us. Companies facing restructuring or bankruptcy should seek expert D&O insurance advice in advance of any filing, where possible, as policy wordings unique to the risk can impact the extent of policy recovery.
- **ESG, inclusion & diversity (I&D):** Organizations face increasing pressures from regulators and investors to address ESG concerns from operational and investment perspectives. SEC-mandated climate risk disclosures create both regulatory and shareholder exposures. In addition, mandatory board diversity has been the subject of legislation and proposed legislation in several U.S. states, and both board diversity and corporate I&D programs have been the subject of shareholder litigation against several high-profile companies. The heightened exposures have resulted in increased underwriter scrutiny into ESG practices more broadly.
- **Influence of social media on stock value fluctuation:** The influence of social media in the manipulation of stock valuation and trading emerged like a tidal wave in early 2021, leading to swift and significant volatility in the stock prices of several high-profile companies. The phenomenon did not develop into a trend through the rest of the year, but we continue to monitor the potential impact of social media campaigns on stock value fluctuation and D&O risk.

United State Supreme Court decisions will continue to impact the D&O liability landscape.

- **Shareholder class certification:** (*Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System*): The Supreme Court sided with Goldman Sachs in allowing the lower court to consider whether alleged misrepresentations were merely generic statements on which market reliance was unlikely – and to do so at the earlier class certification phase of litigation. The Court held that such considerations should be allowed, even though the factual issue of materiality is still reserved for the later merits stage of litigation.
- The decision is viewed as a win for defendants in securities litigation; however, by not allowing for the materiality of statements to be determined more broadly at the class certification stage, and by not addressing other related issues, the impact of the Goldman Sachs case may be more limited than defendants may have hoped.

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Employment practices liability

Rate prediction

Primary (domestic markets): +10% to +30%

Bermuda markets: +10% to +20% with minimum retentions of $1M

While the employment practices liability (EPL) rate environment is slightly improving, it is still a challenging market driven by the uncertainty regarding COVID-19 and vaccine mandates and by lack of new competition.

We expect the EPL market to continue to be challenging into 2022.

- The extent of rate increases will be determined by many factors, particularly industry, loss history and location of employees. Assuming no change in risk profile and no losses, rate increases are more likely to be at the lower end of the range provided above. California continues to be the most problematic jurisdiction, with New Jersey, New York and Florida not far behind.
- *Retentions*: Expect continued pressure on primary retentions, especially in California. Expect separate retentions for California claims and for highly compensated employees (particularly in healthcare and financial institutions).
- *Limits*: Many domestic markets are looking to reduce their limits to $5 million.
- *Excess*: As in other lines, excess EPL markets are following primary increases in addition to looking to correct increased limit factors (ILFs).
- *Capacity*: Overall capacity in the EPL market is stable, but it is becoming more limited for the industries that have been stressed (healthcare, retail, hospitality and leisure) as a result of COVID-19 and for first-time EPL buyers overall. Lack of competition for these risks is contributing to rate increases.
- *Underwriting*: Expect a significant number of questions related to COVID-19 return-to-office plans and vaccine mandates.
- *Coverage*: Coverage is intact, with limited COVID-19 exclusions added on a case-by-case basis. Many carriers continue to add privacy/biometrics exclusions.

COVID-19 employment-related litigation is expected to keep trending upward.

- More than 3,000 employment-related complaints have been filed thus far. Disability, leave, accommodation claims lead the way for single-plaintiff claims, but wage and hour claims lead the way for class actions.
- California, New Jersey and New York lead in number of complaints filed.
- Hardest hit industries are healthcare and retail.
- As offices reopen and vaccine mandates are implemented, we expect claim numbers will increase.

Vaccine mandates are top of mind for employers and underwriters.

- The EEOC has provided guidance stating that employers may mandate vaccination in order to enter the workplace, but must do so within the legal confines of the Americans with Disabilities Act and Title VII.
- President Biden's COVID-19 plan requires all employers with 100 or more employees to ensure their workforce is fully vaccinated or require unvaccinated workers to produce a negative test result at least weekly before coming to work. The Department of Labor's Occupational Safety and Health Administration will issue further guidance to implement this requirement.
- Various states have their own laws regarding mandates, so it is imperative to consult with employment counsel to ensure compliance with all relevant laws.
- Be prepared to discuss vaccine mandate plans with your EPL underwriters.

Socially driven movements like #MeToo, Pay Equity and Black Lives Matter impact employment practices liability litigation and legislation.

- While #MeToo claims are still coming in, there has been a shift to employee activism, with employees pushing their employers to take stances on social issues.
- Inclusion, diversity and equity continue to be in focus in many organizations — continue to expect more questions from underwriters about your organization's inclusion, diversity and equity initiatives.

- Many states continue to pass state-specific legislation regarding pay equity, wage discrimination and sexual harassment.

Increased privacy protections and increased potential for employee privacy violations are other drivers of market conditions.

- The Illinois Biometric Information Privacy Act (BIPA) has been the subject of many class action claims against organizations with employees in the state of Illinois. Losses for BIPA class action claims are in the millions of dollars. Recently, New York City and Portland, OR passed similar legislation with a private right of action.
- Many EPL policies now have an exclusion for BIPA claims, with some having language broad enough to exclude all confidential information claims. Other coverage lines, like cyber and general liability, may offer some coverage for these exposures.
- As offices reopen, many employers are collecting more information about employees (as part of symptom checking, contact tracing, temperature checking, COVID-19 testing, vaccine questions, etc.), which may lead to more employee privacy claims and ADA claims.

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Errors and omissions

Rate prediction

Large law firms: +5% to +10%

Mid-size law firms: +5% to +10%

Management consulting firms: +15% to +20%

Accountants: +10% to +20%

Because consulting firms, accounting firms and smaller law firms can often buy combined professional liability and cyber policies, underwriters are putting significantly more weight on cyber exposure, particularly with regard to the risk of breach of confidential client information. This has led to increased premiums on the entire E&O-related package.

Errors and omissions (E&O), 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

The overlap of professional liability and cyber continues to be a focus in the E&O marketplace.

- As ransomware attacks have hit professional firms across all industries, insurers are increasingly concerned about silent cyber exposure.
- There is an increased emphasis by underwriters on coordinating cyber and professional liability coverages.
- London markets now require silent cyber exclusions. While this adjustment has not yet been widely seen in the U.S. and Bermuda, given the fact that LLoyd's participates on most large law firm programs, we believe it is only a matter of time.

Lawyers

- Capacity is being carefully managed, especially on primary layers where insurers continue to prefer smaller deals. More ventilation is being sought between layers for multilayer participation, with most insurers demanding higher increased limit factors (ILFs) to provide capacity, especially on first and second excess layers.
- Although insurers have become less inclined to make policy wording enhancements, recent new market entrants could create increased competition, especially in excess layers, giving buyers more leverage when negotiating coverages.
- COVID-19 continues to impact insurance renewals, with carriers often requesting completion of COVID-19 questionnaires for existing policyholders and for new business. Professionals can expect questions on the ongoing impact on operations, financials, information security and even legal advice and contract provisions in the work-from-home era – which may outlast the pandemic.
- Rate increases increasingly vary firm to firm. Firms with poor loss experience, areas of risk management weakness or historically low rates will see higher rate increases. Better risks paying what insurers deem to be adequate rates will see lower rate increases. Increases may be in the 5% range for some firms.

Accountants

- Accounting firms are continuing to see increased rate pressure, and firms with losses are seeing premium increases in the 15% to 20% range. London markets are seeking higher premiums than domestics.

Consulting firms

- Underwriters are worried about the scope of services provided by consulting firms. There may be a pricing penalty for firms that offer a very broad scope of services.

Technology

- Evolving product and service delivery technologies are pushing the edges of technology E&O into other coverages, including general liability, cyber and other types of professional liability.
- Internet of Things (IoT) devices, in particular, are interacting with people, property and equipment in ways that can create new exposures.
- New property damage and bodily injury liabilities have arisen from the use of monitoring services that run on IoT technology and connected networks. These new liabilities have led to further focus on contract requirements and interactions between insurance policies.
- Carriers continue to be more reluctant to offer excess technology coverage on blended technology-cyber programs.

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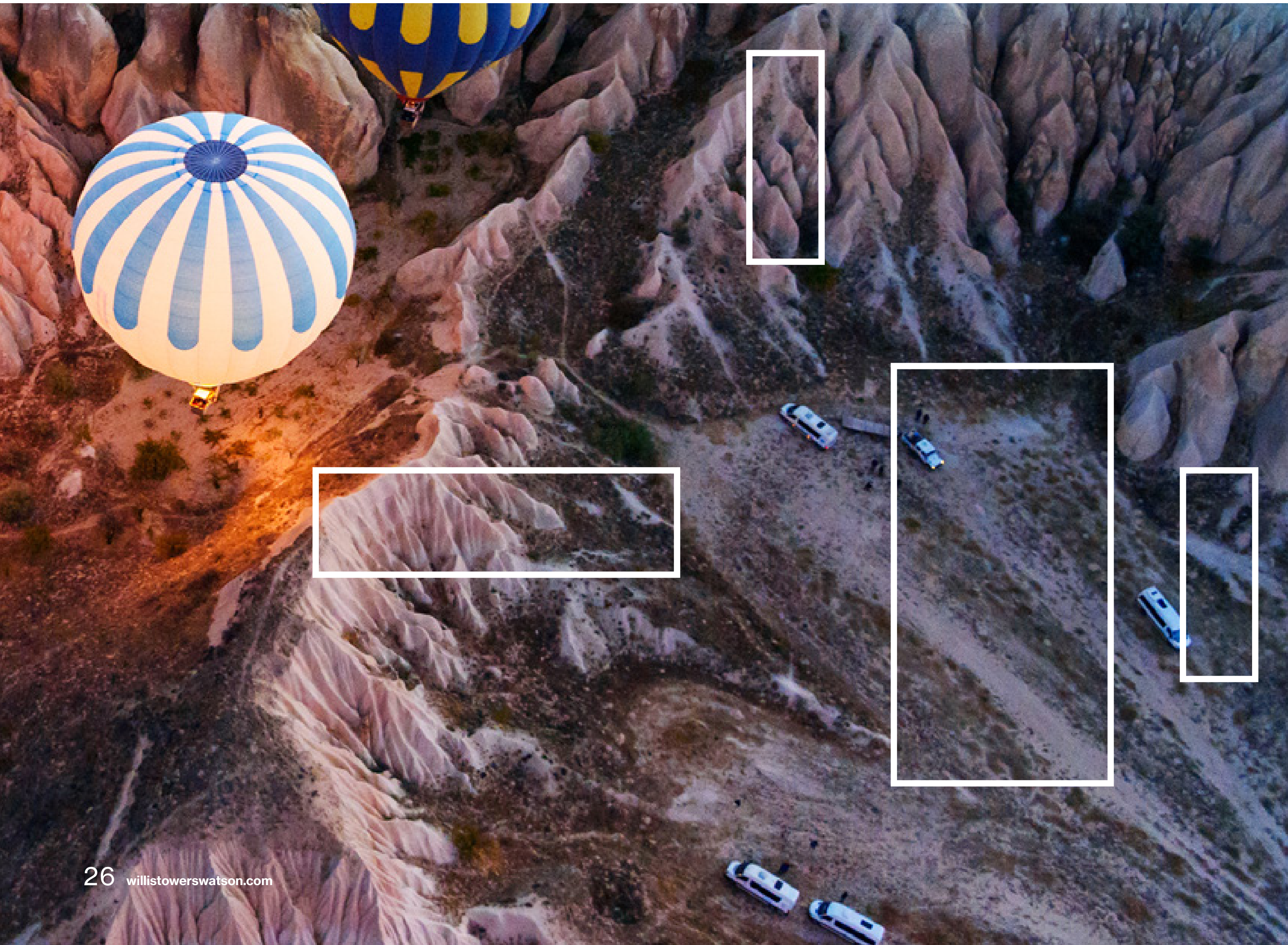

Fidelity/crime

Rate prediction
+5% to +10%

What used to be a benign line of coverage continues to evolve with unique and sophisticated hacking and trickery schemes, though employee dishonesty claims remain the number one driver of crime losses.

Insurers are focused on eliminating coverage that may also be addressed in cyber policies.

- Fidelity/crime underwriters are eliminating destruction of data clauses and relying on equivalent coverage available under cyber policies.
- The few carriers that still provide kidnap and ransom (K&R) and extortion coverage under their FI bonds are determining whether to maintain the coverage, while some have dropped it, arguing that the cyber and/or K&R markets should step in.
- Cyber underwriters are often removing previously afforded crime coverages, including social engineering fraud, suggesting that the crime policy may be better suited to respond.

New exclusions and coverage restrictions are emerging as a result of court decisions, evolving technology and loss trends.

- As courts continue to interpret crime policies in ways that were perhaps not originally intended, insurers have been quick to respond with clarifying endorsements restricting coverage.
- Explicit cryptocurrency and non-fungible token exclusions have started to appear in policies.
- One leading market has recently added a ransomware exclusion, making it clear that the crime policy will not cover ransomware losses. We expect other markets will follow suit.

Social engineering fraud remains a top focus for underwriters.

- Select insurers are pulling back on social engineering limits previously afforded.
- Underwriting diligence remains a top priority, with an emphasis on call-back verification procedures.
- Loss data continues to show that social engineering fraud is generally more of a nuisance/frequency concern than a severity concern.

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Fiduciary

Rate prediction

Commercial/nonprofit (defined contribution pension plan assets up to $50M): +5% to +15%

Commercial/nonprofit (plans asset $50M to $500M): +15% to +45%

Commercial/nonprofit (plan assets above $500M): +25% to +60%

Financial institutions: +15% to +50%

As some carriers effectively leave the space, premiums and retentions have been increasing substantially and are likely to continue to rise well into 2022.

Underwriters continue to step up their scrutiny based on continued loss trends.

- **Underwriting focus:** Although excessive fee litigation has slowed from its high point in 2020, and some recent settlements have been lower, carriers are still concerned about the volume, unpredictability, high costs of defense and substantial number of pending cases. Particularly with commercial and large nonprofit (university and hospital) risks, underwriters are focused on defined contribution pension plans with assets greater than $500 million, where previously the cut-off had been $1 billion. Plans with more than $250 million receive almost as much scrutiny, and even smaller plans cause concern, as plaintiffs have started to target them. Where once formal applications were often not required, insurers are now seeking detailed information, especially about fund fees, record keeping costs and investment performance, and sometimes, plan governance.
- **Retentions/sub-limits:** Insurers are looking sharply at retentions. First-dollar coverage has become almost impossible to obtain. Increased retentions of seven figures are becoming commonplace for specific exposures, e.g., prohibited transactions/excessive fees and mass/class actions, with a couple of carriers seeking retentions up to $25 million. Even the non-class action retentions are generally six figures now (previously five figures). Some insurers may only offer a sub-limit of liability or exclude prohibited transactions/excessive fees coverage. Marketplace results will vary with plan asset size, plan governance and claim history, but it is a challenge to get credit for positive risk factors.
- **Coverage breadth remains steady:** Other than increasing retentions, carriers have not generally been restricting coverage. It should be noted, however, that terms vary more from carrier to carrier than in other financial lines.
- **Blended coverage:** Many organizations, including financial institutions and private/non-profit companies, continue to buy fiduciary liability coverage as part of a package policy, which in some cases has softened the marketplace challenges.
- **Buyers struggle with primary market concentration, but is some relief in sight?** Although a small number of insurers continue to lead most large programs, some traditional financial line markets that have not historically written much fiduciary risk have begun to enter the commercial risk space and may provide limited alternatives on a case-by-case basis (particularly if there are related primary D&O opportunities).
  - However, there are not as many new markets for fiduciary as there are for directors and officers liability, and at least as many markets have intentionally priced themselves out of the sector.
  - Furthermore, it seems that even the carriers with the most appetite for fiduciary liability are closely monitoring the capacity they are putting out, and the most common primary limits have fallen from $10 million to $5 million.
- **Rate prediction qualification:** Rate increases may be higher or lower depending on the insured's existing pricing. Price per million of coverage can vary substantially among risk classifications, notably those involving plans with proprietary funds.

Many accounts are still viewed by carriers as challenged, particularly in certain industries.

- Challenged classes include financial institutions with proprietary funds in their plans, whether currently or in the past, especially if they have not yet been the subject of a prohibited transaction claim. However, financial institutions without proprietary funds in their plans and/or who accept relevant exclusions and/or already have elevated premiums are seeing smaller increases.
- In the nonprofit space, large universities and hospitals are seeing some of the most substantial premium and retention increases and may struggle to find placement. This is the result of a wave of excessive fee cases in this sector in recent years.
- Underwriters are focused on issues such as excessive revenue sharing, uncapped asset-based vendor compensation, expensive retail share class investments, expensive actively managed funds, lack of regular benchmarking and RFP processes. Though it may seem counterintuitive, some carriers will be nervous about potential insureds who have recently improved their processes but might be attractive targets for plaintiff firms who would make allegations about the prior period.
- Any organization may be treated as risky by some carriers, and it can be challenging to get credit for best practices.

Broader economic challenges may be increasing risks.

- Underwriters have been so focused on defined contribution pension plan risks that they have not paid as much attention to other types of plans, especially health and welfare plans. However, this could change if economic uncertainties accelerate these risks.
- Uncertainties include the pace of business re-openings post-pandemic and stubborn unemployment. If the pandemic worsens, for example, with a resurgence of COVID-19 cases as the economy begins to open, the market could harden further.
- Cutbacks in benefits (particularly retiree medical benefits) and/or workforces may lead to claims and potentially large class actions.

Litigation persists, and legislative and regulatory changes create uncertainty.

- **Excessive fee claim frequency rose significantly in 2020 but seems to be slowing in 2021:** Approximately three times more cases were filed in 2020 alleging breaches of fiduciary duty involving excessive fees than were filed in 2019 – substantially more than in prior years as well, but unofficial estimates suggest that the filing rate for 2021 is on pace to be 40% or 50% lower than what it was in 2020. Also, although most settlements have exceeded $10 million, several recent settlements have been under $3 million. Carriers, however, have not at this time acknowledged the frequency drop in their press releases/white papers or tempered their increases accordingly.
- **Excessive fee claims against financial institutions with proprietary funds stand out:** Class actions against financial institutions alleging conflicts of interest and wrongful profits in connection with investments in expensive and/or poorly performing proprietary funds continue to be a common and exceptionally hard-to-defend subcategory of excessive fee claims, resulting in higher-than-average settlements.
- **We are seeing an expansion in the types of claims beyond excessive fee claims:** Recent filing trends include suits alleging reduced benefits due to the use of outdated mortality table assumptions, as well as class actions involving COBRA notice deficiencies.
- **Employer stock class actions against public companies are dying down, while private companies are still targeted:** In the continuing aftermath of the U.S. Supreme Court's decision in *Fifth Third Bank v. Dudenhoeffer,* very few employer stock drop class actions have been filed, and those few continue to be dismissed. Nonetheless, carriers remain concerned about employer stock in plans. They will often exclude employer stock ownership plans or include elevated retentions. Meanwhile, class actions against private companies with employer stock plans mostly arising from valuation issues continue to be filed and seldom dismissed.
- **The U.S. Supreme Court's decision in *Thole v. U.S. Bank* limits some suits:** The Court's decision finding a lack of standing in relation to a defined benefit pension plan with adequate funding that hasn't missed making benefit payments should make it even harder for plaintiffs to bring successful suits in relation to defined benefit plans. Furthermore, some defendant corporations have had success in convincing courts to extend the holding to defined contribution plans when the named plaintiffs weren't invested in the specific questioned investments.
- **The U.S. Department of Labor has launched several plan cyber audits:** In April 2021, the DOL issued guidance providing tips and best practices to help retirement plan sponsors and fiduciaries better manage cybersecurity risks. Not long after, the DOL initiated many audits regarding retirement plan cybersecurity practices.
- **The evolution in regulatory attitude towards environmental, social and governance (ESG) investing continues:** On October 14, 2021 the Department of Labor (DOL) published for comment a new rule which modifies the previous administration's 2020 rule that sought to discourage retirement plans from investing in ESG-related investment options by forcing fiduciaries to justify such investments. The change is "intended to counteract negative perception of the use of climate change and other ESG factors in investment decisions caused by the 2020 Rules, and to clarify that a fiduciary's duty of prudence may often require an evaluation of the effect of climate change and/or government policy changes to address climate change on investments' risks and returns." Pursuant to the new proposed rule, plan fiduciaries would be allowed to consider collateral benefits of ESG investing on a tie-breaking "all things being equal" basis and may also consider that ESG risks can directly affect financial interests as well. The proposed rule would apply the same fiduciary standards to the selection and monitoring of a Qualified Default Investment Alternative (QDIA) as applied to other designated investment alternatives, including permitting consideration of ESG factors notwithstanding that such decisions could be politically controversial.
- **Pooled employer plans (SECURE Act):** The Setting Every Community Up for Retirement Enhancement Act (SECURE Act) amended provisions of federal law, including ERISA, to establish a new form of multiple employer plan (MEP) called a pooled employer plan (PEP), which allows employers to join and delegate both investment and plan administration

fiduciary obligations to pooled plan providers (PPPs). PEPs and PPPs need to ensure that they have sufficient and appropriately tailored fiduciary liability insurance to address emerging exposures contemplated in PPP/PEP arrangements.

- **COVID-19 relief legislation:** In March 2021, the American Rescue Plan Act (the Act) provided pandemic-related financial support to families as well as temporary COBRA and Affordable Care Act subsidies. The Act also extended funding stabilization for single-employer pension plans, modifications to executive compensation rules, as well as financial assistance for certain multi-employer pension plans. We will continue to monitor any impact the uncertainty created by the Act may have on fiduciary liability and the fiduciary liability insurance marketplace.

Buyers should keep on an eye on key loss drivers.

- **Excessive fees:** Excessive fee cases continue to drive loss development. A growing group of plaintiff firms have been suing diverse entities, making a variety of allegations involving excessive investment and/or recordkeeping fees that result in reduced investment principle and reduced returns. Many of these class actions also allege losses due to sustained underperformance in relation to specific investment options. The U.S. Supreme Court will be considering an excessive fee case against Northwestern University in its next term, which could have broad impact, or at least provide some clarity concerning appropriate pleading standards in such cases.
- **Financial institutions**: Excessive fee claims against financial institutions often include allegations that plan participants were disadvantaged due to conflicts of interest that influenced the plan sponsor to include its own overpriced investment options in the plan.
- Although the first excessive fee cases seemed to focus on specific industries and plans whose assets exceeded $1 billion, in recent years it seems no plan is safe. Various public, private, multiple employer and nonprofit entities have been sued, and even plans with assets below $100 million have been targeted (although only one suit against a plan with assets below $1 billion has resulted in an eight-figure settlement).
  - **Have you already been the subject of claim activity?** Incumbent insurers adjusting a claim will push for increases in premium, retention and/or restrictive language, which may necessitate reevaluation of the existing program. Some cautious carriers may not view a potential insured that has already been sued as a better risk, given the possibility that subsequent claims may differ enough from the previous claim to put another limit of liability in play. However, other carriers may evaluate the risk of unrelated subsequent claims as low and be interested in the risk.
  - **No claim yet? Not so fast:** Organizations that have not been the subject of claim activity may also not be viewed as a better risk. Particularly for financial institutions with proprietary funds in their plans, currently or historically, insurers may assume that a proprietary fund-related claim is likely at some point. In general, carriers are aware of ERISA's long statute of limitations (six years) and are therefore more concerned with past practices than they might be in connection with other policies.
- **Limit adequacy:** With excessive fee litigation pushing claim frequency and severity, buyers should be vigilant in reevaluating limit adequacy. With the fiduciary market remaining hard, some insureds have been tempted to cut the size of their towers, but arguably this is the wrong time to take such short-term measures. It might be challenging to add capacity, but opportunities are still available.

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Financial institutions – FINEX

Rate prediction

D&O – Publicly traded financial institutions: +5% to +15%

D&O – Private financial institutions: +5% to +15%

Side-A /DIC: +5% to +15%

D&O/E&O – Asset managers (excluding private equity/general partnership liability): +5% to +10%

Bankers professional liability (BPL): Large: +10% to +20%
Middle market: +5% to +25%

Insurance company professional liability (ICPL): Life: +5% to +20%
P&C: +10% to +30%

Since the peak of the hard market for financial lines in Q3 2020, upward pressure on rates and retentions has eased and we expect further market stabilization and deceleration of increases through 2022.

New market entrants, capital inflow, market expansions and corrective portfolio measures in the financial lines space have yielded a deceleration of rate increases, which is expected to continue in 2022.

- Financial lines coverages, with the exception of fiduciary liability and cyber, have seen a moderation of rate and retention increases. (Refer to the sections of this report specific to these coverages.)
- Insurers continue to focus on aggregation across coverages, related entities and geography, but are now generally more comfortable with capacity and attachment points, thanks to steps taken over the past year and a half to reduce or ventilate capacity.
- Following the significant portfolio corrective actions taken by insurers in 2020 and increased marketplace competition, insurers have shifted their focus to include new business objectives, but with a measured approach.
- Substantial movement of talent in the underwriting community has triggered a portfolio review at some insurers. In some cases, appetites have become more conservative and in other cases more expansive.
- New market entrants are typically utilized for excess capacity, helping fill and replace capacity and increasing competitive pressures.
- Financial institutions are exploring the use of (or expanded use of) captives, alternative program structures, self-insurance and risk financing portfolio analytics to better manage program volatility.
- Key emerging risk trends facing many financial institutions and becoming more top-of-mind for insurers include ESG (with an emphasis on climate, inclusion and diversity), cryptocurrency, return-to-work and vaccination protocols.

The financial institution D&O marketplace continues to see rate increases, but they have trended downwards.

- For year-end 2021 renewals, indications point to low double-digit increases, on average, with slightly better results for increased retentions in a notable change from recent trends.
- There is more alignment in primary, excess and Side A rate increases since the extensive excess rate recalibration in 2020. However, where lower excess layer increased limit factors (ILFs) are below 70%, there is still pressure to move these ILFs to 70% or higher. Aggressively priced Side A DIC layers may also continue to see increased rate pressures.
- In some cases, excess insurers have staggered rate increases (lower rate increases on excess layers), helping to minimize overall program rate increases.
- Private D&O rate trends are slightly more favorable for buyers, but the focus on retentions continues. Private financial institutions were largely spared the pullback in entity coverage seen in the commercial space, but underwriters are adding E&O exclusions, if not currently in place.

- 2021 has been an active year for M&A activity among financial institutions after a pandemic pause, and the deal pipeline continues to be strong. Underwriters are focused on acquisition and divestiture activities and how that changes the risk profile of insureds. Extended reporting period (tail) pricing factors are receiving more attention.

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

- **Asset managers:** Asset managers generally continue to be viewed favorably and are a targeted growth area for most insurers. Across the financial institutions industry, rate increases have come down most for asset management D&O/E&O programs, with single-digit increases being common. Retentions remain stable, unless an insured has seen a substantial increase in exposures.
- **Insurance companies:** The market for ICPL continues to be challenged. There is limited primary capacity, though a couple of insurers are revisiting their appetite and strategy and issuing new policy forms. Some new market entrants will cautiously write excess ICPL. Insurers have added exclusionary language to cap pandemic business interruptions. For life insurers, the issue of "cost of insurance" remains a significant concern. Sales and marketing coverage for life insurers is difficult to obtain, with many markets affording only sub-limits, higher split retentions or excluding cover altogether.
- **Banks:** BPL continues to be challenged by high claim frequency and severity, and as such, primary capacity continues to be limited. That said, there is renewed interest from some insurers targeting banks with $5 billion to $20 billion in assets. BPL rate increases are still in the double digits but have moderated. Many programs experienced upward retention pressures last year and in H1 2021, and we expect there will be less focus on increasing retentions. Blended programs with BPL may face capacity challenges, as some insurers will not write BPL coverage.

We continue to monitor several coverage trends.

- **Boundary cyber risk:** Cyber and privacy exclusions continue to be applied to non-cyber lines (e.g., E&O, EPL) in an effort to eliminate ambiguity and clarify coverage. D&O insurers are asking more cyber-related underwriting questions. As insurers continue to assess their silent cyber exposures and the cyber threat landscape evolves, we recommend reviewing all cyber-related coverage to be sure it is appropriate and to create better alignment and integration between programs.
- **Extended reporting periods (ERP):** Some insurers are removing pre-determined ERP options where allowable by law. Strategies can be deployed to address this trend, and not all insurers are taking this approach.
- **Shareholder derivative demand investigation (SDDI) costs:** Some insurers are reducing or removing coverage for SDDI costs due to increased losses. Insureds may be able to maintain meaningful SDDI coverage by securing drop-down sub-limits higher up the tower, increasing excess drop-down sub-limits, applying a retention or moving the primary to an insurer who will provide SDDI costs coverage.

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Aerospace

Rate prediction

Airlines: Flat to +10%

Aircraft lessors/banks: +5% to +20%

Product manufacturers and service providers: +5% to +20% or more

Airports & municipalities: +10% to +15%

General aviation: +5% to +20%

Space: Rate changes (plus, minus or flat) dependent on risk and limit; percentage range not applicable

Rate increases are starting to plateau — and in the case of airlines, increases have eased considerably, as the industry has seen a replenishment of the global premium base with the return to air travel; however, it remains to be seen if the global premium base will support an acceptable level of profitability for underwriters.

Airlines

Despite the downturn in exposure for the 2020 calendar year, underwriters were able to eke out a small profit — thanks to significant rate increases and application of minimum premiums to protect their premium base. In the bigger picture, underwriters have still lost money over the last five years.

- Global traffic has still not recovered, but domestic traffic is up significantly. For U.S. airlines, this will mean a significant premium increase on expiring rates. While underwriters may continue to look for rate increases on their global book, they will be hard pressed to get them with the domestic airlines given the exposure growth from the lows of the pandemic.
- Capacity has not been an issue, and we are still seeing some new capacity enter the market and some markets looking to increase their lines.
- We still expect underwriters to apply minimum premiums, but these may start to come under pressure, and the percentages could be reduced.

Aircraft lessors/banks

Hard market conditions continue, and insurer appetite remains strong in this segment. We are seeing greater emphasis on insurer differentiation for loss-sensitive risks.

- While we expect steady rate increases to continue into 2022, hull war rates are likely to taper off.
- Increased claim activity has continued to develop, involving repossession expenses and technical records. Losses may exceed the contingent premium base due to the large number of repossessions.
- Significant premium adjustment based on these developments makes overall sector profitability difficult to measure.
- Ground accumulation totals of leased assets globally are presently estimated to be in excess of $20 billion, producing unprecedented primary exposures.
- Overall market capacity remains adequate, especially for those profitable insureds with a growing fleet.
- Continued underwriting oversight from insurer senior management continues, with heightened focus on technical records, repossession expenses and ground accumulation exposures.

Products manufacturers and service providers

Modest rate increases are still expected on relatively clean renewal business with continued selectivity when it comes to new business and loss-active accounts. However, we have seen an easing of underwriter resolve to push for higher rate increases thanks to improved overall pricing in this class — despite large loss awards/settlements and increased reinsurance costs.

- Underwriters continue to restrict some elements of non-core coverage and clarify their positions on others (i.e., excess non-aviation liability, electronic data event exclusions, and software clauses), but not to the extent they have done in the past.

- A developing appetite has slowed premium increases and restrictions in coverage.
- Long-term relationships with insurers continue to benefit buyers; this could lead to the return of long-term deals for preferential portfolio segments.
- The expected upturn in passenger traffic post-pandemic, although welcomed by the industry, raises concern for attrition loss levels, particularly following an extended period of reduced activity for the industry.

Airports and municipalities

Rate corrections are to be anticipated, as hard market conditions continue.

- Horizontal programs with limits in excess of $250 million continue to be evaluated closely by the carriers and may end up being placed vertically due to reductions in capacity and/or appetite.
- Creative structuring is more prevalent, with excess layers becoming increasingly more attractive to insurers.
- Marketing remains necessary if municipal boards want competitive options – assuming any can be found.
- Insureds can expect non-aviation excess limit reductions, such as excess employer's liability and excess auto, as well as more clarified exclusions, such as cyber.
- COVID-19 exclusions are also being added to excess employer's liability, when applicable.

General aviation

This sector continues to experience rate increases, but the level of increase is decelerating.

- Insurers are taking a two-pronged approach to underwriting: first, applying rate increases and second, imposing coverage reductions and/or restrictions, especially pertaining to non-aviation coverages and extra expenses.
- Insurer upper management continues to enforce strict underwriting guidelines, enforcing minimum premium parameters and requiring detailed underwriting information, specifically regarding pilot experience and simulator-based training.
- Insurers are generally looking to maintain their line shares and limits on existing business, and they remain selective on new business.
- Buyers are contemplating limit layering and non-conventional structures as insurer appetites continue to vary.
- Broad policy provisions remain a thing of the soft-market past, with excess non-aviation coverages being reduced or eliminated, hull deductibles being reintroduced or increased, and credit opportunities – such as lay-up returns, profit commissions and good experience returns – being amended or removed altogether.

Space

Since the rate corrections of 2019 – 2020, this sector has stabilized.

- Risk differentiation is based on limit requirements and technology-based risk variations.
- The market's annual premium income target remains $750 million; once achieved, the sector should enjoy profitability.
- Market income has been hampered by pandemic-related project delays in addition to several large market-wide claims.
- New insurers/capacity have come into the market to replace some exited/decreased capacity.

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Construction

Rate prediction

General liability: +5% to +15%

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

Workers compensation: Flat to +5%

Umbrella (lead): +15% to +25%

Excess +25% to 50% (or more – depending on operations, geography, risk profile)

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

Master builders risk/contractors block programs (renewable business): +10% to +20%

Professional liability: Flat to +10%

Professional liability with losses: +10% or more

Contractors pollution liability: Flat to +10%

Project-specific/controlled insurance programs: +5% to +15%; +10% to +40% for excess

Subcontractor default insurance: +5% to +10%

After almost two years of the hardest market cycle in decades, the overall market appears to have corrected itself and the rate of price increases is decelerating. While rates are not expected to decrease any time soon, barring any unforeseen circumstances, the worst of the hard market is behind us.

In the second half of 2020 and through the first half of 2021, additional capital came into the overall insurance market. While only a limited amount of this capital will be allocated to construction risks, it may be a harbinger of a changing (improving) market.

- While we do expect prices to continue to rise across most North American geographies, it should be noted that rate predictions are national averages and are not predictive of an individual program renewal or the insurance cost attributable to a specific project.
- Many factors, including operational exposures, historical loss experience, risk management protocols implemented by the contractor, geography and historical pricing can significantly impact renewals or individual project pricing.

The passage of the infrastructure bill could have dramatic impact not only on the construction industry but on the insurance industry in general.

- Infrastructure work, the construction of roads, bridges, etc., is generally considered higher hazard construction. With increased activity, carriers may see an uptick in losses, which would likely result in additional pricing pressure.
- The Insurance Institute for Highway Safety (IIHS) and the Highway Loss Data Institute (HLDI) have lobbied successfully for several initiatives in the bill:
  - Mandates for automatic emergency braking in all passenger cars and large trucks, potentially preventing nearly 50% of rear end collisions
  - Improvements in truck underride guards
  - Updates to headlight regulations within two years to allow for adaptive driving beams
  - Research into driver alcohol detection system for safety (DADSS)
- GlobalData forecasts coupled with expected spend from the infrastructure bill would boost the infrastructure construction sector to an average of 5.3% annual growth between 2021 and 2025, up from a previous forecast of 1.5%, and would lift the overall industry to annual growth over the same period of 3.3%, up from 2.2%

Based on data compiled by ConstructConnect that looks ahead through 2025, residential construction will be by far the largest growth segment with $1.8 trillion in new starts followed by infrastructure/ engineering with $1.0 trillion. Construction spending is expected to increase outside of the geographies where it is typically concentrated.

- Presently one in three Americans lives in New York, Florida, Texas or California, but none of these states is predicted to be in the top 10 for growth. Perhaps as a result of COVID, Americans are fleeing densely populated areas and turning toward states like Wyoming (first), North Carolina (second) and Montana (third).
- There is similar movement within states, according to 2020 data from the Home Building Geography Index (HBGI).
  - Outlying counties of smaller metro areas grew 20.7%
  - Small metro core areas, 15.7%
  - Large metro suburbs, 15.1%
  - Large metro core areas, only 9.1%
- This trend holds both promise and inherent challenges as both the residential and infrastructure marketplaces are plagued by a shortage of carriers, and among those carriers many are diminishing capacity, leading to extreme pricing increases. To exacerbate matters, these growth areas are also facing supply chain disruptions, labor shortages and escalating material costs.

The adage "necessity is the mother of invention" may be appropriate here: insurance professionals need to seek out ways to distinguish risks from peer groups.

- Review the content of websites and social media posts. Underwriters will often review all available information on a particular risk and will assume that any information on a contractor's website is 100% accurate – though often that content is aspirational. Remove any confusing or misleading information that could give an underwriter a reason to decline a submission.
- Proactively present full, detailed explanations of older claims that remain open. Why are they open? What is the strategy for closing them? Without accurate and detailed loss information, underwriters will take a conservative stance and assume the worst.
- In addition to explaining large losses, include commentary on lessons learned. Losses happen to all contractors, but specifying the improvements implemented in safety or QA/QC protocols will illustrate to the underwriting community a strong desire to improve your overall risk profile.
- Keep employee handbooks, safety, QA & QC manuals current.
- Lean in on loss analytics, telematics and safety technology (AEB).
- Face-to-face carrier meetings are best, but a virtual meeting is better than no meeting. It's harder to say no face to face. Engage senior leadership of your firm, president, owner, CFO, etc., in these meetings; this significantly increases the credibility of the discussions.
- Start the renewal process as early as possible and allow ample time for setbacks, additional information requests and, often, mandatory risk engineering reviews.

General liability (GL)

While general liability rates in the construction industry continue to moderately climb, some classes of business have recently begun to experience a flattening of increases on recent renewals. In some circumstances, driven by operations, risk profile, geography and competition, rate *decreases* are being obtained.

- The global market for modular and prefabricated construction will almost double by 2027 to $173 billion. This presents unique product liability risks for contractors, in addition to the completed operations risks traditionally observed on projects. Modular elements may also be excluded from traditional wrap-up programs, leaving the exposure to be addressed by contractors' GL programs.
  - Contractors should document all modular and prefabricated work, including a breakout in values for a project, and keep their brokers apprised of these operations to ensure proper coverage is in place.
- The federal American Rescue Plan, along with many state governments, is providing aid to schools to improve indoor air quality. This includes repairing windows and doors and repairing/replacing HVAC systems. These grants will increase the demand for HVAC and repair work.
  - Hospitals and elderly care facilities are also continuing to evaluate the need for new ventilation as well as adding or retrofitting existing spaces with COVID in mind.

- Risks with challenging exposures, such as wildfire, street and road construction, and residential, as well as insureds with historically adverse loss experience, will continue to suffer steep rate increases.
- Primary net lines are getting smaller, and with more reliance on reinsurance, pricing is often determined outside of the primary underwriting discussion. On tougher classes of business this might require contractors to take on higher deductibles or utilize a corridor deductible to achieve best results. When considering significant structural program changes, use all available analytical tools to assure the development of an optimal program.
- Additional underwriting information and longer lead times are being requested more frequently than in years past, particularly when submitting to potential new carriers. Clean submission data and proper risk differentiation will lead to fewer follow-up questions and quicker turnaround times – and potentially better marketplace outcomes.
  - Analytical tools are becoming increasingly vital in determining strategy and support in negotiating positions.
  - Proactive monitoring of revenue and payroll forecasts that may be fluctuating due to economic and COVID-19 recovery is important to ensure premiums are appropriately calculated at renewal. This will help alleviate year-end policy audit challenges.
- As carriers add additional capacity, the marketplace for best-in-class risks has become more competitive.
- The ease of virtual meetings allows for multiple stakeholders, such as the owner, president, CFO, etc., to positively engage with carrier partners. The likelihood of obtaining competitive terms with new carriers increases with a deeper understanding of the insured and its business operations.
- Despite new capacity entering the market, incumbent relationships in many cases remain the most viable option. Recently, incumbents have been more willing to compete to maintain accounts. However, when potentially facing a challenging renewal, beginning the dialogue early in the process helps solidify partnerships between the carrier and insured.
- Requests for risk engineering surveys are becoming more frequent due to continued underwriting scrutiny and the increasing ease of holding these meetings in virtual settings. Insureds should coordinate with their brokers to assure proper preparation.

Auto liability

Auto rates continue to rise, particularly for insureds with large or heavy fleets. Large deductibles may be utilized to obtain better terms and limit rate increases. Jurisdictions (e.g., Cook County, IL, Southern California, Florida) can also impact pricing.

- Recent automobile liability renewals have experienced an average rate lift of +9.2%. While Q2 2021 was the second consecutive quarter that yielded an average under double digits, it marked the 20th consecutive quarter of rate upturn (WTW's State of Casualty Marketplace, available through the WTW Casualty Practice).
- Fewer drivers on the road during the pandemic led to unprecedented decreases in commercial auto claim frequency. Statutory filings show a 26% decline in reported liability claims in 2020, according to Fitch Ratings.
  - The Fitch Ratings report estimates the 2020 auto liability combined ratio to be 101.6, nearly 8% better than 2019. The commercial auto insurance segment posted its best underwriting result in a decade in 2020, as a result of continued rate increases and a large drop in driving due to the coronavirus pandemic. However, with miles driven approaching pre-pandemic levels, it is unknown whether the improved combined ratio will be reflected in auto liability rates going forward.
- Eight-figure verdicts are becoming more common, attributable to improper driver training and selection, cost of traumatic brain injury treatment, third-party litigation financing and punitive damages relating to distracted driving cases.
  - In August 2021, a $1 billion verdict was handed down to two commercial trucking companies found liable in a 2017 fatal crash, including $900 million in punitive damages. Both companies were found to be negligent due to their lack of background checks on the drivers and for not enforcing safety measures; it was determined that the drivers were distracted, and one had multiple driving infractions and lacked a commercial license.
  - Such nuclear verdicts cannot be ignored when anticipating pricing for auto liability.

- Auto physical damage rates remain on the rise due to the increased value in vehicles, as insureds invest in updating their fleets. Technological advancements make vehicles more costly to replace in the event of a collision.
  - Carriers are pushing for higher deductibles on both light and heavy autos.
  - Higher cost vehicles typically face higher deductible requirements. Autos with price tags over $50,000 may be subject to deductibles as high as $5,000 regardless of their weight class.
- Fleet size is a significant component of underwriting evaluation, attachment point and pricing.
  - Insurance buyers with moderate to large schedules (excess of 500 units) may be forced to increase primary limits to $5 million combined single limit (CSL) or obtain an auto liability buffer to satisfy umbrella attachment requirements.
  - Vehicle usage data (miles driven, location, etc.) is becoming required submission information.
  - Buyers must be proactive regarding fleet safety. Those with robust driver safety programs are generally able to obtain more competitive pricing.
- Portfolio pricing is often considered by underwriters. Poor loss experience on general liability and workers compensation can make it more challenging for buyers to achieve accommodations on challenging auto exposures.

Workers compensation

Overall, the workers compensation (WC) market remains stable, as forecasted payroll exposures are beginning to rebound from the declines brought on by the pandemic, creating economies of scale.

- Workers compensation continues to act as an anchor for the rest of the primary casualty placement, offering opportunities for buyers to offset rate increases on other lines.
- WC payrolls have remained consistent throughout the pandemic, as construction is generally considered an essential industry, allowing for work to continue. To date, impactful COVID-related claims have not materialized.
- Mental health issues are still prevalent in the construction industry and are linked to an increase in the amount of time it takes to heal from physical ailments.
  - Telehealth can increase usage of helpful mental health services, thanks to ease of access, reduced stigma and lower costs. Psychotherapy is the top telehealth claim line nationally. Use of telehealth for mental health conditions is continuing to increase, making up 61.3% of claim lines nationally in June 2021 (FAIR Health).
  - Resources such as text therapy are also becoming more commonplace. Text therapy helps combat mental health concerns without the help (or cost) of a doctor or therapist, offering a 70% improvement in depression and 59% in anxiety (Ginger).
  - 75% of employees require support that fosters mental wellness; the availability of this support helps prevent increasing severity.
- The ongoing labor shortage in the construction industry presents challenges in acquiring and retaining skilled labor. With an influx of infrastructure spending and construction work in the pipeline, construction firms may face a conflict of interest between taking appropriate time to properly train employees and completing projects on time. These issues could result in more claim incidents.
- Increased use of new, expensive medical technology can inflate loss costs by up to 50% and is a key driver in mega claims (WTW's State of Casualty Marketplace, available through the WTW Casualty Practice).
- Markets continue to demonstrate a broad appetite for WC construction opportunities.
- The guaranteed cost monoline WC market is extremely limited. More carriers are willing to entertain the risk when paired with other primary casualty lines.
- Some geographies continue to present challenges for carriers, e.g., California, Florida and New Jersey. Labor laws routinely make obtaining coverage especially difficult in New York.
- Many insureds have started to look at increasing deductibles or retentions to offset rate increases. This should only be done after analyzing expected losses and retentions in each deductible scenario. Aggregate stop losses and clash deductibles are a strategic way to limit an insured's out-of-pocket exposure.
- Investments in risk control and safety strategies may help reduce insurance rates on certain construction projects. For example, sensors on equipment and personnel at jobsites that are shown to combat loss frequency and severity will often lead to reductions in quoted premium.

Umbrella/excess liability

Carriers continue to leverage lead umbrella capacity to secure positions on primary programs. More carriers are leveraging their umbrella to protect their primary counterparts from competition.

- The market for unsupported lead umbrella capacity remains scarce, compelling contractors to market their primary programs in order to secure competitive umbrella pricing and terms.
- Attachment points and minimum premiums have increased, leaving contractors with no choice but to consider non-admitted markets lower in their excess towers.
  - Non-admitted markets often have more restrictive coverage than the admitted marketplace, such as anti-stacking limitations, residential and condo conversion exclusions.
- Many excess underwriters are becoming increasingly focused on the relative pricing of their quoted layer rather than writing to the individual risk itself. Underwriting attention is given to the price-per-million of each layer in relation to those layers below and sometimes even higher up in the tower.
- Quota share layers are becoming more commonly explored on certain classes of business, as carriers look to reduce their total limit exposure. Pricing is typically higher in these instances and challenges arise in finding multiple carriers that will agree on pricing and terms.
- Capacity remains limited in lower excess positions, despite recent upward rating trends.
- Terms and conditions once easily obtained, such as excess of wrap and growth margins, have become increasingly challenging and/or expensive to obtain. For excess wrap, the contractor must be able to provide comprehensive data pertaining to historical involvement in wrap-ups to attain even a modicum of coverage. Further, anti-stacking and contractor limitations have become exceedingly difficult to remove. Primary and excess carriers are also limiting overall capacity extended to an individual buyer by capping per-project aggregate limits; some direct umbrella/excess markets are now unwilling to provide per-project aggregates at all.

Controlled insurance programs (CIPs)

Due to social inflation, COVID-19 project delays, drastic cost fluctuations of materials and the continuing trend of nuclear verdicts, CIP pricing is expected to steadily increase through 2022.

Data is the most important factor in pursuing carrier support for CIPs.

- Due to market conditions, submission flow has substantially increased, allowing carriers to be selective in the risks they will consider.
- Data and analytics are key to demonstrating safety and loss control measures.
- Available terms and conditions are dependent upon the quality of underwriting information.
- Capacity continues to be a challenge.
- One primary general liability carrier recently exited the project market completely.
- Unsupported leads are offered only by a handful of carriers, limiting the primary options for project risks.
- Most excess carriers are limited in deployment to less than $25 million. Creativity is often needed to secure large liability towers, including quota-sharing layers that may have previously been supported stand-alone.
- Capacity constraints and varying carrier minimums are driving higher excess pricing.
- Reinsurance treaty negotiations are a driving factor on terms and conditions, rate and needed extensions.
- Communicable disease exclusions have become part of many reinsurance treaties, reducing the ability of buyers to negotiate their removal.
- Due to unforeseen circumstances, e.g., COVID-19 and resulting schedule impacts, project run-off can be complicated by the need for extensions. Treaties can contain restrictive language that limits project term and limit extensions.
- Extension premiums are being heavily underwritten to appropriately price for the additional time on risk.

Rolling programs are becoming more restrictive.

- It is less common to see the general aggregate reinstate on an annual basis. Reinstatements may be accepted once or twice, depending on total project length.
- Per-project general aggregates and per-project products-completed operations aggregates are being capped so carriers can control their total amount of limit deployed.
- New York continues to be a challenge. General liability may only be offered on a very large or matching deductible basis.

Residential and wood frame projects continue to be difficult placements, with a limited marketplace.

- Single family build-to-rent is a rising trend. The potential for such projects to quickly flip to for-sale status, potentially increasing risk, has created a tight marketplace.
- Difficult jurisdictions for residential, such as California and Florida, are seeing larger rate increases, as loss activity for residential continues to be unfavorable.

New York controlled insurance programs (CIPs)

The liability market continues to trend drastically upward with no signs of slowing down.

- Historically, projects in the five boroughs of New York City faced extra underwriting consideration. Now, however, most of the marketplace underwrites New York labor law as a statewide risk, affecting any project in the state.
- Under a CIP, an enrolled contractor that sustains an injury resulting from a fall or from a falling object typically results in a labor law general liability claim in addition to the workers compensation claim.
- Due to inflation, nuclear verdicts and insurance payouts trending upward on labor law claims, payouts are not expected to slow down or level out any time soon.
- New York State courts tend to lean as broadly as possible to favor injured employees.
- Alternative dispute resolution (ADR) has been employed on a major upstate project, resulting in reductions in the frequency and severity of labor law claims. However, such programs require long lead times to initiate and implement properly.

Builders risk

Builders risk continues to be a two-tiered market. Steady capacity has alleviated major rate hikes on new ground-up projects for superior construction classes. Prototypical technologies, unique construction methods and extreme natural catastrophe exposed projects continue to face hesitancy in the marketplace and/or more restrictive terms and conditions.

- Communicable disease exclusions have become commonplace on all new projects, extensions, and renewals.
- Gathering considerable and accurate underwriting information is a prerequisite for obtaining quotes due to the increased scrutiny on placements by underwriters. Highlighting best-in-class supply chain efficiencies and material procurement protocols will help.
- Higher water damage deductibles can be expected, especially on high-rise, residential and wood frame projects. Water mitigation plans are increasingly required in these sectors, among others. To assure contract certainty and potentially avoid non-compliance with construction contract obligations, clients should thoroughly review all contractual requirements pertaining to acceptable water damage deductible levels prior to executing contracts.
- Technical underwriting continues to drive rates up on highly cat-exposed MBRs, as natural catastrophe events attract more scrutiny across the industry.
- Carriers are reluctant to offer coverage extensions such as LEG 3 and damage to existing property on certain projects. If and when such extensions are offered, higher rates and/or deductibles usually apply.

Extensions remain difficult to obtain on all projects, given the unprecedented number of pandemic-related extensions needed.

- Increased rates and deductibles, in addition to possible restrictions in coverage, can be anticipated on all extensions. Projects with losses, heavy cat-exposed locations or those that are backed by reinsurance support can expect more severe restrictions and corrections in rate and overall terms.
- Carriers are continuing to scrutinize underwriting data and seek additional approvals, which is causing overall delays in quote turnaround time.
- Engage with your broker early and often. If an extension is anticipated, provide as much up-to-date and accurate information as possible about the current status of the project and the reasons for the extension.
- Proactively seeking lengthy extensions in some cases can be beneficial. However, we are seeing a shift in the marketplace where carriers prefer providing extension terms closer to expiration.
- The wood frame market continues to be challenging, as several large recent fires will put further pressure on an already tough class of business.
- With lumber prices stabilizing, overall construction material costs will decrease, which should yield a positive correlation in wood frame project premiums.
- Provide adequate lead time for wood frame submissions – turnaround time could be weeks to months depending on project size and complexity.

- Although there is some new capacity, overall market capacity has declined because several carriers have either decreased their appetite or exited the space entirely.
- Site security has become commonplace for most wood frame construction. Risk managers and contractors should consider site security as part of the all-in construction cost and not an additional item. Electronic service monitoring can be costly depending on the scope of work and length of the project, so engaging vendors early is advised.
- As with site security, we are starting to see a push for water detection services on sizeable wood frame projects.
- Due to an increase in crime scores, civil unrest, riots, arson and looting, certain geographies have proven challenging to underwrite. Buyers should anticipate higher rates and even more attention to security capabilities in these locations.
- Due to the proliferation of wildfires in certain areas of the U.S., specific wildfire deductibles or restrictions may appear on new placements.

Professional liability

The construction professional liability market remains relatively competitive, although increased underwriting scrutiny continues, with carriers careful about capacity deployment and retention levels.

- Adequate capacity and continued competition are keeping rate increases manageable compared to other P&C insurance lines. However, we are continuing to see upward pressure on rates and retentions, especially for project-specific capacity.
  - Total U.S. capacity continues to be in excess of $300 million, with additional capacity available through London, Bermuda and other international markets.
  - While there is still significant total 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 leading carriers, but terms and limits can vary considerably, and we are seeing added underwriting scrutiny for these enhancements.
  - Some underwriting authority is being removed from the field, leading to a longer underwriting process.
  - Carriers continue to add COVID-19/communicable disease exclusions, more commonly for programs with combined contractors professional and pollution liability forms. Wording varies greatly from market to market, with some limiting the exclusion specifically to COVID-19, some including broad viral exclusions and some limiting the exclusion to pollution coverage only.
- Project-specific placement solutions vary based on the controlling party (contractor/engineer/owner) procuring the insurance; regardless, we are seeing increased underwriting scrutiny, motivating brokers and underwriters to find innovative solutions for evolving contract structures.
  - Market capacity for architects and engineers (AE) project-specific solutions has contracted, especially for large project-specific placements.
  - Many carriers in the contractor's professional liability market are reserving project-specific capacity for existing clients.
  - Large design-build infrastructure projects continue to produce adverse loss experience for the AE market, creating risk allocation challenges for contractors, particularly when employing design-build contract delivery.
  - Buyers can expect underwriting scrutiny of coverage enhancements, such as rectification/mitigation. Underwriters are also conducting detailed contract reviews related to insurance requirements, limitations of liability and contractor assumption of design responsibilities.
- There is continued interest in owner-procured professional indemnity policies for further protection on project risk.
  - Increasing project values creates a corresponding rise in professional liability risk, yet many contractors and design professionals do not carry limits that adequately address these larger exposures.
  - Traditional project-specific professional liability policies covering all design risk on a project can still be obtained, but many buyers prefer the cost efficiency of professional liability products that offer a protective indemnity coverage approach.
  - Shrinking capacity for architects and engineers and continuing pressure for contractual limitations of liability are driving increased demand for owner-procured protective indemnity (OPPI) for projects.
  - Protective coverage procured in rolling programs by project owners continues to attract interest.

Contractors pollution liability

A continued increase in construction activities is expected well into 2022, as is the demand for contractors pollution liability (CPL) coverage. Recent carrier entries as well as contraction in the site pollution market makes CPL coverage a highly competitive product line, although slight rate increases are to be expected.

- The following exposures continue to fuel the need for practice- and project-specific CPL coverage: 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, beyond-the-boundaries scenarios, and transportation and disposal of construction debris.
- The largest expected rate increases will be associated with monoline habitational, hotel, hospitality and hospital risks – sectors that continue to experience the highest claim activity.
- Mid-term modifications (i.e., policy term) requests to multiyear project policies written before the pandemic are often granted only with accompanying COVID-19 and communicable disease exclusions. Similar exclusions are to be expected on new CPL placements, although coverage for mold and Legionella remains available. Each carrier's form needs to be evaluated for potential coverage.
- Site pollution coverage that may accompany a pollution wrap-up program will require special attention, as this product line continues to experience reductions in capacity and policy terms, as well as appetite with respect to emerging exposures and contaminants of concern, such as per- and polyfluoroalkyl substances (PFAS).
- Claim activity related to redevelopment of brownfield properties continues – although carriers try to limit exposure by adding exclusions associated with historic fill, dewatering and voluntary site investigations. In addition, we are seeing increased claim activity related to stormwater run-off from construction sites. We are seeing claims brought by project owners, citizen action groups and regulatory agencies.

Subcontractor default insurance (SDI)

SDI carriers continue to add capacity in anticipation of continued growth in demand into 2022 and beyond. As delayed projects get back on line, we are seeing steady increases in backlog for 2022. Access to qualified labor will be a key challenge in getting this work done. Owners, developers and general contractors continue to leverage the comprehensive coverage SDI provides to ensure operations and projects are protected against subcontractor default.

- The SDI marketplace now has seven carriers, including five that we consider actively engaged in the product line. Four of those five can offer single limits of $50 million or greater per loss.
- Talent is shifting in the SDI sector. Leaders have changed firms, and there is a new market which is set to open in early 2022 led by ex-leaders of a key SDI player.
- With the introduction of new capacity and choice, buyers should review current policy terms, conditions and pricing.
- Underwriting in the current environment will continue to present challenges. SDI carriers are often skeptical of contractors who are altogether new to SDI, and virtual underwriting meetings may not be sufficient to build trust.
- 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.
- Despite current uncertainties, the SDI marketplace is robust. Markets are responding responsibly with some adjustments to their program offerings. In addition to the overall increase in market capacity, the recent entrance of a new carrier offering significant limits, without legacy exposure, provides an additional option for both the near and long term.

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Energy

Rate prediction

Downstream

Favored programs: +2.5% to +7.5%

Technical rating adequacy yet to be achieved: +10% to +12.5%

Upstream

Offshore fixed: +2.5% to +7.5%

Offshore contractors: +5% to +7.5%

Onshore contractors: +7.5% to +12%

Land E&P: +10%

Midstream: +15%

Downstream

The hardening dynamic has eased, but ESG issues, market discipline and nat-cat losses will enable insurers to control the market – for now.

Upstream

More interest is now being shown for the most highly regarded tier one programs, but losses from the 2021 hurricane season have, as of this writing, yet to be factored into current market dynamics.

Downstream

Positive factors continue to ease the hardening process.

- The recent loss record continues to be much improved.
- Even for programs where technical rating adequacy has yet to be achieved, increases are moderating due to continued profitability.
- The premium pool has increased, in line with values and activity in the aftermath of the 2020-21 COVID-19 lockdowns.
- Previously loss-impacted programs that had been retained/self-insured due to punitive market terms have now returned to the market.
- Market capacity has increased, as once again there have been no major withdrawals.

However, negative factors ensure that the balance of power still lies (just) with the market.

- The impact of the Texas freeze, recent wildfire and Hurricane Ida losses on the general P&C market are having a knock-on effect on downstream market conditions.
- The renewed focus by insurers on ESG issues is challenging buyers, due to a lack of market consistency in approach.
- The leadership panel remains relatively restricted, as insurers are reluctant to provide alternatives to the existing leaders.
- Underwriter management scrutiny of the downstream portfolio remains, restricting opportunities to derive more favorable terms from the market.
- Refining operations, particularly in North America, are under heavy scrutiny, due to named windstorm exposures and the growing ESG factors linked to this part of the business.

Insurers continue to focus on tightening terms and conditions.

- Insurers are imposing their new testing and commissioning clause LMA5197A, which still includes the requirement for 100% testing for 72 hours but also requires the need for more information from the buyer; this ultimately means longer wait times to attach a new asset to the policy. This clause is much tighter than those that preceded it, linking from the construction risk right through to the operational phase.
- The market is generally reverting to the use of the traditional cyber exclusion clause NMA2915A, as the new wording LMA5400 excluded the word "malicious" – this has led to some ambiguity as to the extent of the exclusion. The NMA2915 is mainly being offered to midstream companies, as traditional upstream markets compete for shares and restrict the marketing of these types of risks to the more traditional onshore insurers.

- The new market clause LMA5515 factors in the maximum percentage of the margin of error between actual and declared values, as well as any premium adjustments. In view of the recent increases in commodity prices, it is vital for buyers to keep values up to date and accurate if the full quantum of future business interruption claims is to be paid.

The two-tier market dynamic continues, albeit with smaller increases.

- Tier one consists of well-engineered and perceived clean, well-run risks – insurers have received sufficient payback during last two years. Although most buyers will face small increases (+2.5% to +7.5%), those that can offer a significant premium spend (in excess of say \$20 million) may enjoy flat renewals, as insurers do not want to see any reduction in their premium income levels.
- Tier two consists of programs that are still not at the right benchmarked rating and require harsher treatment (+10% to 12.5%).

Upstream

Positive factors continue to limit the hardening market dynamic.

- Capacity remains at record levels with no sign of withdrawals.
- Resurgent oil prices have led to increased activity and higher loss of production income (LOPI) values, generating much-needed additional premium income.
- Some insurers still have growth targets for the most sought-after business.
- The July 1 reinsurance cost increases were more modest than anticipated, while LLoyd's overall H1 results showed a marked improvement over the previous year.
- The overall benign loss record and profitability have been maintained – for now.

However, negative factors ensure gentle overall hardening conditions will remain.

- Insurers worry over significant incurred but as yet unquantified losses, such as a major Norwegian LNG plant explosion, Hurricane Ida and various offshore construction losses.
- The insurer leadership panel remains basically restricted, with limited opportunities to secure competitive terms from alternative markets.
- LLoyd's PMD and company management are exerting pressure to maintain hardening momentum.

Insurers' increased focus on ESG credentials is a worrying issue for buyers, as the long-term implications are uncertain.

- A few insurers have their own mandates on Arctic drilling/exploration and are not writing applicable new programs – this is leading to some inconsistency in the marketplace.
- There is still no accepted definition of the Arctic Circle, although it is reported that one is being worked on in LLoyd's.
- It is understood that the LLoyd's Joint Rig Committee is considering a standard London market ESG questionnaire.
- Insurers are keen to continue to underwrite this class and simultaneously maintain their own ESG credentials.
- ESG issues are not materially affecting most programs as yet but will become a greater focus in the long term.

Commodity price increases/fluctuations are ensuring that insurers maintain a strong focus on insured values and reactivation warranties.

- Steel prices have significantly increased, affecting the replacement costs of major upstream infrastructure.
- The rise in oil and gas prices will continue to affect LOPI values.
- As many rigs reactivate following an extensive lay-up during the pandemic, there is now an increased focus on reactivation warranties in the market.

The two-tier market continues.

- Tier one consists of major exploration and production programs, smaller lease operators, offshore and onshore contractors (+2.5% to +10%).
- Tier two consists of midstream, offshore construction and smaller/loss-impacted programs (+12.5% to +15%).

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Environmental

Rate prediction

Contractors pollution liability (CPL): +5% to +10%

Site pollution liability (PLL/EIL): +5% to +15%

Combined environmental + casualty/professional/excess: +5% to +20%

The 2022 environmental marketplace will likely face emerging exposures, carrier changes (personnel, products, appetite), a constricting site pollution market, as well as increasing claim activity and costs associated with remediation and defense costs; but we fully expect it to respond to these challenges with dynamic coverage and product innovations that will fuel its further expansion.

We predict a continuation of upper single-digit and low double-digit rate increases for short-term environmental renewals (three-year policy term or less) for an equal policy term – though a slight rise in these increases may be seen across all lines for 2022 as carriers look to keep pace with the increasing costs of remediation and claims.

- Although rate increases have trended lower than other standard casualty lines for renewals with equal policy durations, longer-term environmental policies (greater than three years) are beginning to experience a notable hardening that manifests as a reduction in coverage appetite, policy term, and capacity offered at renewal.
- While a second major market has exited the site pollution market in North America and others look to reduce their capacity exposure, aggressive new entry (and "new to retail") environmental markets are mostly keeping rate increases in check as they attempt to replace capacity (and gain market share) vacated by more established markets.
- The use of analytical tools continues to expand for companies interested in assessing their total cost of environmental risk as well as benchmarking their environmental insurance programs against those of their peers.

Environmental-related issues (including extreme weather, climate change, human environmental disasters, biodiversity loss and natural resource crises) continue to be among the highest exposures identified by the World Economic Forum in terms of impact.

- Discussion and interest in coordinated programs to address resulting remediation and tort exposures (with traditional environmental insurance) and economic damages (with parametric insurance/alternative risk transfer) are expected to increase.
- ESG (environmental, social and governance): Environmental insurers are evaluating their books of business for those industries contributing to climate change. We are seeing a restricting of available markets, as well as higher rate increases, for these insureds. In addition, we are seeing increased regulatory enforcement of certain industries located in communities that are the focus of state and federal environmental justice initiatives. Regulators are filing lawsuits against these companies to enforce cleanup mandates, as well as for natural resource damages.

Claim activity related to redevelopment of brownfield properties continues – although carriers try to limit exposure by adding exclusions associated with historic fill, dewatering and voluntary site investigations.

- We are also seeing increased claim activity relating to stormwater run-off from construction sites, with claims brought by project owners, citizen action groups and regulatory agencies.

- Mid-term modifications (i.e., policy term) requests to multiyear project policies written before the pandemic are often only granted with accompanying COVID-19 and communicable disease exclusions. Similar exclusions are to be expected on new CPL placements, although coverage for mold and Legionella remains available. Each carrier's form needs to be evaluated for potential coverage.
- Indoor air quality coverage (mold and Legionella) has become more difficult to secure and is increasingly subject to sublimits, higher retentions and per bed/door retentions for the healthcare and residential real estate sectors.
- Per- and polyfluoroalkyl substances (PFAS) continue to be a major focus of concern for environmental insurance markets. As businesses with past or current exposure to PFAS risk see increased activity from environmental regulators as well as third-party lawsuits, carriers are all but eliminating coverage for PFAS. We are seeing similar trends with other chemicals of concern, such as ethylene oxide, and we expect carriers to similarly include coverage restrictions for those chemicals in the near future.

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Healthcare professional and general liability

Rate prediction
Primary: +5% to +10%

Excess: +15%

Hospital: +5% to +25%

Allied health: +5% to +15%

Physicians: +5% to +15% (particularly venue dependent)

Loss-affected accounts: Highly variable rate increases

Healthcare professional liability rate increases continue to decelerate, and terms and conditions are stabilizing as well.

The trend toward stabilization may be largely driven by the impact of new entrants; interestingly, however, the new capacity that entered the market in the first half of 2021 did little to offset the capacity gaps created by market exits and the resulting reduction in deployed limits.

- This capacity deficit may create a bifurcated market, wherein larger towers of capacity are subject to slightly more rate pressure and restricted terms and conditions.
- Additionally, continued underwriting discipline will mute, though not eliminate, the competitive impact of the new capacity.

Overall hospital and allied health marketplace

- Rate deceleration is expected to continue into 2022; we may start seeing a reemergence of flat renewals for lower hazard risks with good loss experience.
- Capacity, although substantially reduced since Q1 2020, has started to rise with the entrance of several new carriers. However, the reduction in deployed capacity from $25 million per risk to $10 – $15 million per risk is starting to feel permanent.
- We are seeing markets using ventilation strategies when deploying over $5 – $10 million in capacity on a program – splitting their capacity into two layers.
- Terms and conditions are starting to stabilize; markets have largely addressed COVID-related exposures and silent cyber exclusions. While sexual abuse and molestation exclusions and batch language provisions are percolating concerns, markets address these issues on an account-by-account basis.
- Self-insured retentions and deductibles (per claim and in the aggregate) continue to increase in most healthcare segments, with many clients exploring increased use of captives and other self-insurance mechanisms.
- New insurers entered the market with limited excess offerings for 7/1. Having worked on form and product development over the summer, many offered a broader suite of products (with some primary offerings) as of 10/1. This expansion of appetite and capability will increase competition in the market and positively impact rates and coverage into 2022.

Physician's professional liability market

- Against a backdrop of industry combined ratios over 115, declining investment income and continued increases in claim severity, rate increases continue to be modest (+5% to +15%), although larger accounts may experience much greater increases due to loss history, specialty mix and venue.
- Substantial provider M&A activity continues and has the potential to impact insurance program pricing and structures.
- The negative impact of physician carrier consolidation has been mitigated by continued geographic expansion of many insurers' appetites.

- There is a great deal of uncertainty about increased use of telemedicine, which saw a huge spike driven by the pandemic, as a potential area of litigation.
- Blanket COVID-19 exclusions are not yet commonplace for most carriers.

Healthcare organizations should be sure to consider several key risk issues in 2022.

- Workplace violence: Traditional security measures are no longer sufficient to counter the emerging risks of violence and threats to the safety of patients, visitors and employees regardless of healthcare setting. Healthcare risk managers should develop and implement policies and procedures that address clinical and administrative settings.
- Workforce retention and mental health: In the pandemic, healthcare workers have experienced psychological distress as severe as in war time. Resignations are at an all-time high. Healthcare risk managers need to understand the signs and symptoms of burnout, assist in pointing healthcare professional to helpful resources, acknowledge their own stressors and proactively work toward organizational pandemic preparedness.
- Artificial/augmented intelligence (AI) and clinical decision making: AI is moving beyond predictive analytics and rapidly moving toward real time clinical decision making. Healthcare risk managers need to understand where, when and how AI is being used within their organizations, be familiar with policy, procedure and documentation related to the AI contributions to each medical specialty, and get ready to address the potential risk exposures.

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Special contingency risks – kidnap and ransom

Rate prediction
-5% to +5%

The special risks insurance markets have almost uniformly removed all cyber extortion coverage from their policy forms.

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

- Insurers have now introduced blanket exclusions for cyber extortion, applying the exclusion on all new and renewal business.
- For those few programs that do not have a cyber extortion exclusion, very small limits will apply to crisis response fees and expenses, or they will carry high self-insured retentions coupled with small aggregate limits.

Interest in active assailant coverage continues to grow.

- In addition to the traditional K&R policies, the special risks market continues to develop and promote policies that respond to a broader range of security-related perils.
- We have seen special risks insurers, as well as other specialty insurers, show greater interest in active assailant coverage and offer increasingly customized solutions (either via endorsement or stand-alone policies) with a focus on post-incident crisis management support, legal liability, business interruption (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.

The pandemic has so far not had a direct impact on this insurance sector, but it is changing the nature of the risk.

- As restrictions and lockdowns have eased, the incidence of kidnap activity has returned to pre-COVID-19 levels in several countries. While the decline in international travel has led to a perceived reduction in risk, our data shows an increase in the numbers of local nationals kidnapped.
- Moreover, criminals have continued to invest in schemes, such as virtual kidnaps (victims are tricked into believing a kidnap has occurred and pay a quick ransom), to exploit the current environment and maintain a cashflow to fund further illicit operations.
- Cyber extortion has also continued unabated, as many technology-related crimes are not impacted by lockdowns or reductions in social and business interaction. Indeed, the steep rise in the number of people working from home has presented cyber criminals a wider range of softer targets.
- Many believe that the economic downturn and financial impact of COVID-19 could lead to increased security threats and higher rates of criminality globally as groups/individuals become more desperate.

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Life sciences

Rate prediction
Flat to +10% for favorable risks

The life sciences product/completed operations and errors & omissions marketplace continues to be stable for both the primary and excess layers.

Coverage

- With the explosion of cyber-related claims, life science carriers are adding endorsements to affirmatively exclude cyber coverage. Entities that manufacture cyber-connected medical device products should confirm that their exposures are covered under their cyber program.
- Primary rate increases are in the single digits for most buyers with favorable loss experience, no recalls and no products in multidistrict litigation or class action.
- Excess layers typically follow the primary regarding rate increases.
- Underwriters are hesitant to offer terms and, in some cases, even analyze a submission on programs that are repeatedly marketed year after year. Thorough and detailed submissions remain a critical component of a successful placement.

Capacity

- Overall capacity remains stable for life science risks, with a handful of new markets entering the space over the past several years.
- Some carriers have decreased the limits they will offer on certain classes, including implantable devices and COVID products/clinical trials.
- Select carriers are declining to offer cover for clinical research organizations conducting COVID trials when they are also covering the manufacturer of the product.
- Except for certain high-hazard risks (i.e., orthopedic implants, opioids, mesh and other litigated classes), those insureds with a favorable loss history should find several carriers willing to offer terms.

Claims and litigation

- The suspension of the courts caused delays in the looming opioid litigation, although there has been some movement recently as courts become accustomed to operating virtually.
- Social inflation continues to impact settlement amounts and jury awards, leading to larger payouts.
- The upward trend in third-party litigation funding continues to increase litigation costs and arguably influences outcomes.

Coverage considerations

- Carriers continue to release new policy forms, which should be carefully reviewed for nuances in coverage.
- Standard carriers continue to decline risks containing CBD-related products, while some non-admitted and wholesale-only carriers will offer terms.
- The FDA continues to monitor products for impurities, leading to product recalls (most recently a smoking-cessation drug and various sunscreen products). Recall coverage within product liability programs is very limited and stand-alone cover should be considered.

Subsectors include

- Pharmaceuticals and biotech
- Generic pharmaceuticals
- Medical device and technology
- Nutraceuticals (including CBD products and energy drinks)
- Contract research organizations
- Laboratories offering customized test kits under their label
- Contract manufacturing organizations

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Managed care E&O and D&O

Rate prediction
Overall: Hard market conditions

Public managed care organizations and Blue plans: +25% or more

All other managed care organizations: +15% or more

Hybrid entities (accountable care organizations, third-party administrators, revenue cycle management, etc.): +20%

Insureds must understand that E&O, management liability and cyber are connected and following the same hard road.

The market remains hard. Rates are beginning to stabilize but increases and coverage restrictions are still significant.

- Carriers are insisting on retention increases, sub-limits and exclusionary language, especially related to antitrust and third-party privacy claims.
- Now, more than ever, the management and structure of an entire risk transfer program – analytics, limits, retentions, coverage across all lines, matching of markets to insureds, alternative finances, captives, etc. – must be strategically planned to achieve the best results.

Is new capacity leading us out of a hard market?

- Two carriers have entered the excess managed care E&O and D&O market, including Blue plans. This additional capacity is limited in coverage and appetite, but we are seeing an increase in competition that is opening up more excess options for our clients.
- One of these carriers is considering taking primary managed care E&O and D&O positions in early 2022, which will help fill the gap created by a major carrier's exit from the managed care E&O market. This market departure continues to be disruptive because they historically wrote managed care E&O risks that no other market would consider.
- No new offshore capacity has entered the market. Bermuda and London are high excess markets only.
- Domestic carriers and their offshore counterparts closely coordinate capacity.

Capacity problems (especially for large towers) and coverage restrictions continue. Although the impact is being felt more by for-profit entities than non-profits, non-profit managed care organizations (MCOs) of all types and sizes face similar challenges.

- The hard market has extended to hybrid MCOs, provider-owned MCOs and smaller entities as well as more traditional organizations.
- Carriers continue to segment their business between Blue plans, non-Blue plans, public companies and hybrids.
- Many carriers require managed care E&O participation to write a D&O/management liability package, which creates anti-stacking coverage concerns, as well as issues related to rate and capacity in larger towers.
- Coverage restrictions are rising for all MCOs. Key coverage concerns include antitrust, cyber/third-party privacy claims, regulatory investigations and punitive damages. Political and regulatory uncertainty at the federal and state levels is adding further complexity to the marketplace.
- Reinsurance carriers have increasingly serious issues with antitrust exposures, concerns that are no longer limited to Blue plans. Reinsurance rate increases and capacity in this market are also impacting rate, coverage and capacity.
- Systemic risk plagues MCOs, and managed care E&O and D&O carriers continue to assess their entire portfolios as they manage their capacity and exposure to aggregation risk.
- Buyers can help themselves obtain the best possible terms by hosting carrier renewal meetings and providing submission materials well in advance of renewal dates. 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. Individualized underwriting is key.

- Analytics are another key in responding to the hard market. Broad and reliable analytics can support optimal selection of retentions, limits, captive use and alternative risk transfer options across the entire entity. While product line analytics can help an MCO employ the best program for a specific risk, entity-wide risk analytics can help build the most efficient program for the entity as a whole.
- Alternative risk transfer solutions such as captives must be considered together with commercial market placements to achieve optimal efficiency, effectiveness and return on investment. The availability of a captive and its use as a primary, excess, difference-in-conditions or reinsurance carrier have been very effective for some MCOs.

Buyers should be aware of claim scenarios that can create coverage problems.

- *Antitrust:* Over the last 25+ years, the managed care industry has been involved in many antitrust claims. The ongoing In Re BCBS Antitrust Litigation is but one example. Antitrust claims can take many forms and follow various legal theories and may be prosecuted in state, federal and foreign jurisdictions. They can be filed by members, providers, competitors and governments. They can be class actions, but many are not. They require specialized legal representation and are expensive to defend. The resulting losses are not always 100% covered. Coverage for these claims is tightening significantly. The recent passage of the federal CHIRA legislation, the Biden administration's focus on antitrust in healthcare and state law, and regulatory pressures have and will continue to create disruption.
- *Network security and privacy:* Cyber risk is a top risk for every MCO. MCOs maintain large amounts of protected data on millions of members, send and receive billions of dollars monthly and collect biometric data. Efforts to obtain this information by foreign governments, criminal enterprises and other hackers are an everyday occurrence. Claims related to lost business income, ransomware payments, breach response expenses and first- and third-party losses are all on the rise. While there is capacity in the marketplace, buyers must take note of coverage restrictions, the need to dovetail coverage terms with other lines and the difficulty of determining proper limits. Social engineering, ransomware and technology E&O coverage restrictions are growing. State, federal and foreign exposures based on new and changing legislation and regulatory enactments are also adding to the pressure.
- *Government fines and penalties:* Because MCOs are so tied to government reimbursement, the likelihood is high that plans will be the subject of a government investigation, False Claims Act action, whistleblower lawsuit or administrative fine/penalty. Beyond restitution, damage awards, fines and penalties, defense costs alone can exhaust a risk transfer program. International regulatory compliance is another risk in countries (e.g., the UK, EU, India) where many MCOs now have business operations.

The market impact of COVID-19 is still unclear.

- The impact of the pandemic and the ensuing economic downturn on this segment is still unclear even as we near what all hope are the last chapters of the crisis. Most of the adverse impact will ultimately be financial: medical loss ratio, workers compensation and employee benefit claims as well as those related to remote work and return to office.
- However, the pandemic itself is unlikely in the near future to have a significant impact on rates or coverage terms. The pandemic-related 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.

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Marine cargo

Rate prediction

U.S. market

Transit:
Good loss experience: +5% to +10%
Marginal to poor loss experience: +15% or more

Stock throughput:
Good loss experience: +7.5% to 12.5%
Marginal to poor loss experience: +15% or more

London market

Transit and stock throughput:
Good loss experience: +2.5% to +7.5%
Marginal to poor loss experience: +10% to +20% or more

The hard market continues, but rate increases have decelerated compared to what buyers saw from 2018 through 2020, largely thanks to renewed competition in the marketplace.

Underwriting discipline persists. Insurers remain focused on bottom-line profitability, with continued scrutiny of insuring terms and conditions and capacity deployed.

- Rate movement has stabilized.
- Clients can anticipate a more predictable approach from cargo insurers at renewal. The hard market cycle has inched premiums closer to technical pricing requirements, while also pushing deductibles upward and tightening coverage terms. These actions have had a positive impact on underwriting results, lessening the need for drastic remediating action by carriers.
- Certain business segments and exposures are subject to more scrutiny than others, such as temperature-sensitive products, pharma, automobiles and high-hazard cat exposures.
- Detailed exposure information and differentiation from peers remain crucial for insureds looking to secure favorable terms and conditions.
- Analytical tools should be employed to optimize insuring structures (with a focus on retention, cat limits, aggregates, etc.).
- Once again, most insurers have met or exceeded growth targets heading into Q4, leaving insurers more selective about new opportunities.

Vulnerabilities throughout the supply chain were made more apparent during the COVID-19 pandemic.

- Notable maritime events, such as the blockage of the Suez Canal, have highlighted potential choke points throughout the global supply chain, e.g., the Strait of Gibraltar, Cape of Good Hope and Panama Canal.
- The Suez Canal blockage, while a notable event, was a near miss for cargo & marine insurers. If the Ever Given had suffered damage to its hull the consequences could have been catastrophic.
- A global shortage of available vessels and containers has created an accumulation of values throughout the supply chain. We recommend insureds regularly review the adequacy of policy limits to ensure larger consolidations are accounted for.
  - Vessel scarcity has led to a substantial increase in full containers shipped on a single sailing, leading to several incidents of containers lost overboard.
  - The introduction of autonomous vessels into the shipping lanes will create new challenges for clients and insurers and require innovative solutions to manage new risks.
- Geopolitical instability causes uncertainty when certain trade lanes are used – another risk to keep an eye on.
- Cyber events remain a looming threat to maritime trade.

Cargo and stock throughput markets are challenged by catastrophic losses.

- Large industry losses have occurred as a result of mis-declared cargo, causing concern for insureds and insurers. In some cases, shipowners have declared General Average.
- The 2021 Atlantic hurricane season has been as active as the 2020 season, placing goods in transit and static risks in peril.
- Cat management continues to be of concern for insurers as they seek to increase deductibles and reduce cat limits deployed. Additional attention is being paid to cat definitions, especially regarding occurrence definitions and fire-following buybacks. In addition, insurers continue to seek the inclusion of straight-line wind in the windstorm definition.

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Marine hull liability

Rate prediction

Domestic hull and machinery, good loss records: +7.5% to +10%

Domestic hull and machinery, poor loss records: +20% or more

London/international hull and machinery, good loss records: +10% to +15%

London/international hull and machinery, poor loss records: +20% or more

P&I domestic: +10% to +15%

P&I London/international: +12.5% depending on individual club performance

Domestic primary marine general: +5% to +15%

Domestic excess marine liability: +10% to +20%, greater with underlying crew and towing exposure

London marine liability: 15% or more

USL&H mutual: Flat to +5%

The marine market remains firm, with underwriters still seeking increases on clean business while mandating cyber and communicable disease exclusions — for the first time on many policies.

Underwriting in the current environment is demanding.

- Due to reinsurance restrictions, all markets are mandating disease and cyber exclusions.
- Excess underwriters are seeking to reduce capacity, and quota share placements are the norm.
- Placing of excess coverage over $1 million primary placements is increasingly difficult in the face of reduced carrier appetite.
- Marine bumbershoot underwriters have in the past written policies with underlying non-marine liability exposures, such as auto, employers liability and CGL policies. They are becoming reluctant to do so due to adverse loss experience and the underpricing of these exposures. Marine reinsurers have also increased their scrutiny of extending coverage over non-marine risk.
- **Burdens are increasing on both sides of the negotiating table.** Underwriters are requiring substantially more data for renewals and new business.
- The high number of buyers marketing their business is overwhelming underwriters, whose time to review is limited.
- Underwriters remain under 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.

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Middle market

Rate prediction

Favorable risks

Property: +5% to +10%

General liability: +2% to +7%

Automobile: +10% to +15%

Workers compensation: Flat to +5%

Umbrella: +15% to +25%

Excess: +15% to +25%

Challenging risks

Property: +15% to +25%

General liability: +15% to +25%

Automobile: +15% to +25%

Workers compensation: +5% to +10%

Umbrella: +25% to +50%

Excess: +25% to +50%

The middle market sector continues to see a two-tiered marketplace, though the number of insurance buyers facing challenging conditions has shrunk, as marketplace corrections on rates, structure and/or capacity have already been implemented.

Favorable accounts have begun to see single-digit increases or even flat rates on renewals as well as competitive alternatives in the marketplace – though many buyers will still face double-digit increases.

- Favorable accounts are softer in occupancies, with low cat exposures, favorable loss experience, strong risk control procedures in place and lower risk of liability claims. These risks tend to have holistic, one-carrier solutions (e.g., package policies).
- Favorable classes of business include financial institutions, professional service firms, wholesale/distribution and some manufacturing.

Challenging risks include those with lax risk management, heavy cat exposure, adverse loss experience and/or are in a class that is considered challenged, including habitational, transportation, healthcare, social services, hospitality, food and foundries.

- These risks are usually mono-line placements with multiple carriers on various lines of the program.
- Challenging risks are continuing to see significant rate increases, structure changes and reductions in capacity and coverage as carriers continue to reevaluate their books of business.

Property

- Property limits, including business interruption, are being closely evaluated by underwriters to ensure proper valuation.
- Contingent business income continues to see tighter underwriting guidelines and reduced limits.
- Cat exposures are harder to place (coastal, earthquake, flood, wildfires, wind). Capacity is being reduced and deductibles increased.
- Additional exclusions for civil commotion and riots are being seen on some hospitality, public entity, retail and real estate accounts.
- Water damage coverage is experiencing higher deductibles and lowered sub-limits, particularly in the real estate industry.
- Convective storm deductibles are being added in states that previously did not have them, and elsewhere these deductibles are being increased.
- Loss control visits are more frequently required prior to quoting.
- Affirmative cyber peril exclusions and communicable disease exclusions are being applied on property policies.

General liability

- Underwriters are showing heightened concern surrounding human trafficking exposures for hospitality and real estate accounts.
- Sexual abuse and molestation coverage continues to see reduced capacity and increased underwriting scrutiny.
- Carriers are reevaluating current crisis management limits.
- Most markets are no longer considering uncapped per-location aggregates.

Automobile

- Mono-line auto risks are extremely challenging to place and should always be leveraged with other lines of business.
- Livery and ride-share exposures have become mandatory exclusions.
- Hired and non-owned auto coverage continues to be heavily underwritten, and insureds with higher exposures are not seeing market interest.

Workers compensation

- Infectious disease-related exposures are closely underwritten.
- Remote working has created questions surrounding accurate payroll reporting, especially in monopolistic states where coverage needs to be purchased through the state pools.

Umbrella and excess liability

- Higher attachment points are being required by lead markets on both general liability and auto policies. These are most often seen on real estate, healthcare, manufacturing, distributors and hospitality accounts.
- Umbrella capacity is being reduced across the board, especially unsupported leads.
- Capacity for lead umbrellas has been reduced significantly. Typical limits being deployed are $5 million to $10 million.
- Carriers who write both primary and umbrella are leveraging those capabilities. The resulting packages are often attractive and in some cases are required.
- Risk purchasing groups are still viable, but underwriting guidelines are being tightened and additional time is required for underwriting. Capacity is being reduced and insurers/reinsurers are changing frequently.
- Buyers are deciding to purchase lower limits due to pricing hikes and may buy only what is necessary to meet contractual requirements.
- Carriers are less willing to provide certain coverages, such as professional and sexual abuse and molestation.
- Minimum premiums have increased significantly, driving pricing higher for excess layers.

COVID-19

- Removal of communicable disease exclusions can be negotiated on certain classes of business if proper COVID protocols are in place.
- Carriers have begun to offer carve-backs to the communicable disease exclusion, providing coverage for non-pandemic-related communicable diseases.
- An increase in companies repurposing their locations or operations to accommodate COVID risks continues.
- Buyers continue to seek premium relief if they face decreases in operations/revenues due to government directives.
- Carriers remain concerned with workers compensation exposures in states with presumptive rules.
- As organizations return to in-person business, scrutiny is on increased exposures and the potential for increased loss activity.

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Personal lines

Rate prediction

Homes under $1,000,000: +6% to +8%

Homes over $1,000,000: +8% to +10%

Cat-exposed: +20% to +50% with limitations or non-renewal

Cat-exposed and/or losses: +50% or non-renewal

While massive rate increases for cat-exposed properties have been expected, the number of insurance buyers facing non-renewal action has been unprecedented, predominately in cat-prone states of California and Florida.

Thousands of policies are not being renewed at any cost, leaving many buyers with few options for coverage and often complete dependence on the excess and surplus (E&S) market.

- Catastrophic modeling is struggling to accurately predict frequency and severity of events.
- Unpredictable natural disasters will likely sustain a frustrating market into 2022.

The property insurance market for personal lines will remain hard for the foreseeable future.

- Most carriers are enforcing strict underwriting conditions, compelling clients to make mandated corrective actions or risk non-renewal.
- Insurance regulators are limiting rate actions requested by carriers, forcing them to abandon admitted terms and conditions and focus on E&S offerings instead. We predict carriers will soon completely abandon certain markets.
- We are witnessing new mandatory deductibles for wildfire and hail along with increasing deductibles for wind and earthquake.
- We predict a refocus on flood insurance coverage, as many storms seem to be delivering more damage from excessive rainfall than from wind.
- Material and labor costs have skyrocketed during the pandemic, leaving clients with bloated repair bills and delayed projects.

After a short-lived reduction in auto rates, post-pandemic, rates are set to increase.

- We are assuming a full reversal in auto rates and predict a slight increase in claim frequency as well.
- Claim severity did not decrease during the pandemic and we expect serious accidents to increase due to higher speeds and distracted driving.
- A spike in used car prices along with shortages in workers has led to an increase in repairs. Meanwhile, computer chip supply issues continue to make buying new cars more difficult as well.

Large judgements continue to pressure liability rates upward.

- Courts have broadened the definitions of liability, ballooning the size of compensatory jury awards.
- Average cost per claim is rising due to increased medical costs as well as the size of settlements, judgments and jury awards to plaintiffs.
- The pandemic coincided with the bloodiest year for driving in over a decade: 38,680 people died in vehicle crashes in 2020, despite a 13% drop in driving.

Shift to a remote work environment has led to an increase in ransomware and targeted cyberattacks.

- A more digitally connected environment has increased cyber risks. Cyber criminals have exploited COVID-19 concerns as a way to entice internet browsers to click bad links and open the door to sensitive information.
- IOT (Internet of Things) products have inundated our lives, creating an additional entry point for potential hackers.
- In this evolving threat landscape, homeowners should protect themselves with either a cyber insurance endorsement on their homeowner's policy or a stand-alone cyber policy.

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Political risk

Rate prediction
Flat to +20%

The global economy continues to experience uncertainty stemming from the COVID-19 pandemic, as pandemic-related aftershocks impact both economic and political institutions, particularly in emerging markets, amplifying political risk.

The pandemic has been costly in financial and social terms, adding to political risk exposures.

- Soaring costs to combat the spread of COVID-19 have drained resources from many emerging market economies, most notably Africa, where the UN has called for over $200 billion in monetary infusions to combat capital flight.
- Important emerging markets in South America, including Argentina and Colombia, have begun to call for the restructuring of their foreign loan obligations, warning of possible default if no such action is taken.
- Currency inconvertibility and non-transfer coverage remain popular, particularly in commodity-dependent countries, but also in nations that continue to face economic consequences, including inflation and rising debt, stemming from the pandemic-related slowdown in the global economy.
- Other nations around the globe are beginning to experience political unrest as populations grapple with poor economic circumstances amid the added pressure of restrictive policies established to combat the spread of COVID-19.

Political instability has continued to escalate in many countries and multinational corporations will need to navigate social unrest and political volatility.

- The U.S. withdrawal from Afghanistan and takeover by the Taliban have forced many companies and organizations operating in the country to abandon operations or reassess their presence.
- Peru has elected a leftist president, Pedro Castillo, whose campaign rhetoric included nationalization and renegotiating mining agreements with multinationals. Some analysts attribute his election to the high death toll of COVID (the highest per capita in the world) and to increasing inequality.
- In the mining-rich country of Guinea, a military coup displaced the democratically elected government, causing some commodity prices (e.g., for aluminum) to soar. So far, the new government has left mining concessions alone, but uncertainty remains.
- A spate of recent coup attempts in West Africa also rocked Mali, Chad and Niger (with varying success). Root causes cited by observers include increased poverty, unemployment, corrupt leadership and a youth bulge welcoming promises of radical change. Many are concerned about a return to the rampant upheaval of the early postcolonial era.
- Tensions between the U.S and China remain high.
  - Under the Biden administration the two nations continue to exchange heated rhetoric and clash over trade and other foreign policy issues.
  - China has passed a law intended to implement retaliatory sanctions in response to foreign sanctions toward it, including import and other restrictions.

We are following several trends in the political risk insurance marketplace.

- The marketplace continues to experience rate increases.
- Property carriers are increasingly excluding strikes, riots and civil commotion from their policies; the resulting gap in coverage can be addressed through political risk insurance.
- Capacity for China, Brazil, Turkey, Peru, Argentina, Chile and Belarus appears to be tightening.
- Market conditions are also more challenging in certain sectors, such as technology and retail.
- Carriers are maintaining a selective approach, insisting on increased due diligence.
- We advise multinational companies to maintain a proactive approach to their global portfolio.
- For more detail on political risks in specific industry sectors, please see our recently published reports in collaboration with Oxford Analytica:
  - The top political risk for renewables in 2021
  - Managing the new political risks in the technology sector
  - Political risk in the natural resources sector

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Senior living and long-term care

Rate prediction

General and professional liability: Flat to +25% (higher for adverse loss experience and/or poor venue)

Property:

Non-challenged occupancies: +5% to +15%

Challenged occupancies +20% or more

Workers compensation: -2% to +4%

Auto: +8% to +15%

While many coverage, program structure and capacity challenges remain, rate increases are stabilizing, and the emergence of new capacity will drive future competition.

Professional liability and general liability

- Capacity reductions of 2020 and increasing claim severities drove deterioration in rates and terms into 2021. Conditions are easing, as market entrants increase. While cautious, more carriers are stepping into the senior living space, a trend we expect to continue into 2022.
- While the new capacity has not filled the gap created by the market constriction of 2020, the continued interest in senior living by commercial carriers has helped to level out rate increases and moderate premiums.
- Underwriters continue to carefully evaluate issues that have been problematic from a severity perspective, including class actions, punitive damages, and sexual abuse and misconduct. Exclusions, limitations and reductions in sub-limits are the most common methods employed to address these exposures. Puni-wraps are becoming harder to find and the attachment of silent cyber exclusions is on the rise
- Nearly all carriers are attaching COVID-19-related exclusions – typically referring to communicable diseases or pandemics to further the reach of the exclusions.
- To reduce their total cost of risk, many insureds are assuming larger deductibles or self-insured retentions. Buyers need to be proactive in securing lender waivers when retentions exceed those allowed in standard loan covenants or when captives are used without acceptable fronting arrangements.
- We are seeing a significant uptick in the use of captive programs for primary layers.
- Renewal timelines continue to be longer than usual due to substantially increased submission flow and less underwriting authority at the desk level.
- Underwriters are seeking more detailed data and information for the renewal process. In particular, information requests may focus on vaccine protocols, staffing adequacy and virus statistics.
- Buyers seeking to differentiate their risks must focus on incident reporting, claim mitigation, policies and procedures. Emphasis on clinical program management will also have a positive impact, particularly when insureds demonstrate a focus on fall management, elopement, medical management and infection prevention and control.

Property

- The recent increase in capacity is causing a deceleration of rate increase for non-challenged occupancies. However, challenged occupancies (i.e., senior living) and certain geographic locations continue to see sharp rate hikes.
- Capacity remains constrained for accounts not considered technically priced or where engineering visits are required for underwriting.

- Insurers continue to restrict many coverages previously offered, such as communicable disease and cyber. Additional coverage tightening is occurring on CBI (contingent business interruption), service interruptions, deductibles for convective storms and increased waiting periods.
- We are seeing continued pressure on insureds to move from manuscript to insurer forms.
- Valuations are being heavily scrutinized, and submissions require ample data to attract new markets.
- Due to the array of occupancy classifications that can apply to this sector, accurate occupancy classifications are an imperative to ensure the most competitive pricing.

Workers compensation

- Six consecutive years of profitable results have allowed rates to level off more quickly in workers compensation than in other lines of insurance.
- Underwriting concerns continue regarding opioids, the aging workforce, regulatory reform and medical bill inflation.
- Carriers (including incumbents) are taking an in-depth look at insureds' COVID-19 and infection control protocols and asking more questions about policies and procedures.

Auto

- 2020 appears to be the auto liability segment's best accident year in 10 years due to the limited number of vehicles on the road. However, combined ratios are still over 100 and the volume of vehicles on the road is increasing as the pandemic subsides.
- In 2020, the estimated rate of death spiked 24% despite the reduced number of miles traveled.
- Distracted driving remains a significant issue and communities with high numbers of drivers using their own vehicles will find more underwriting scrutiny and higher pricing.
- Similarly, higher occupancy vehicles are also viewed less favorably and may add rate to a community's auto premium if their fleet involves multiple vans and/or buses.

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Surety

Rate prediction
Flat

Post-COVID economic issues will challenge companies significantly in 2021. Adverse conditions created by labor shortages and supply chain instability will impact both top- and bottom-line results. Surety programs offer options for companies to respond to these challenges, adjust operations and prepare for an inevitable inflationary marketplace.

U.S. marketplace

- The electronically executed bond acceptance rate continues to increase due to the surety industry's efforts to get federal, state and local entities comfortable with the process and product. Ongoing changes in the way work is done provide strong supporting logic.
- Rates have stabilized across industries. Damaged industries (travel and hospitality, etc.) are seeing rapid improvement. Private equity is becoming a significant component in recovery and growth.
- As surety and brokerage companies face talent crises, the rise of the work-from-home culture may help the industry attract and retain high-performing employees.
- Industry consolidation continues in the broker space while the competition for talent remains high. Top level moves as well as aggressive pursuit of experienced industry professionals should reach a fever pitch in Q2 2022 as the economy emerges from COVID-choked conditions.
- Low-to-moderate uptick in claim activities due to the pandemic has fueled competition for business. The surety industry has done a good job at managing claim fall out, and while certain areas will have ongoing litigation (force majeure, delay impacts, cost increase drivers), the industry outlook appears positive.
- Significant infrastructure investment is near certain; however, the timing is unclear, and the actual application of the funding to traditional projects has yet to come into focus. A shift of funding to new project categories, such as technology and social outreach, could impact long-anticipated projects.

Global surety

- The construction sector globally is beginning to rebound, which should yield project restarts well into 2022. Labor and material shortages will continue to plague the recovery, while the looming specter of inflation could create havoc with schedules and timelines.
- Cashflow and liquidity management will take a different course in 2022 as cost management faces labor and material inflation challenges. Credit costs appear to be stable at near all-time lows.
- Bonding for subcontractors on private and public projects is expected to remain active. General contractors will continue to use subcontractor bonding as evidence of the subcontractor's financial qualifications.

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Terrorism and political violence

Rate prediction

Terrorism and sabotage: -5% to +5%

Political violence: +10% to +15%

Active assailant: Flat to +5%

Despite prolonged periods of civil unrest and elevated levels of threat from organized domestic extremists and lone-wolf shooters, the market continues to attract new entrants.

Domestic extremism is now the greatest domestic threat...

- In a significant shift in stance from their predecessors, the new U.S. attorney general, the homeland security secretary and the FBI have warned that the greatest domestic threat now comes from "racially or ethnically motivated violent extremists."

...yet the potential for international terrorist attacks remains.

- The recent withdrawal of troops from Afghanistan and the reestablishment of the Islamic Emirate of Afghanistan has raised concerns about the potential reemergence there of a terrorist hub and launchpad for future attacks.

We are seeing a renewed focus on cyberattacks.

- In the wake of regular cyberattacks targeting high profile organizations and infrastructure assets, risk managers are renewing their focus on exposure to first-party physical damage and resulting business interruption from malicious cyber events. New products in the marketplace offer broad coverage triggers that reflect the difficulty in determining motive and/or culprit in such attacks.
- Notwithstanding these market innovations, the capacity requirements of many organizations can still only be met through the deployment of captives to access TRIA protections.

The market holds steady.

- Despite the exposures, market capacity for terrorism and political violence risks continues to expand, which helps suppress upward price pressures put forward by incumbent carriers.

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Trade credit

Rate prediction
Better risks: –5% to –10%

Poor risks: Flat to +10%

The trade credit market is softening. Given the lack of forecasted COVID-19 losses, rates are dropping an average of 5% to 10% and in some cases more for pristine deals.

The tsunami of pandemic-related losses never arrived.

- The predicted trade credit losses never occurred, though insurers remain concerned that the discontinuation of government stimulus could result in increased claims.
- Insurer loss ratios are much lower after loss reserve releases, which has created a strong bottom-line position for many insurers.
- Premium rates are softening thanks to not only negligible losses but also lower policy retentions due to self-insurance.

Key carriers have exited the trade credit marketplace.

- The impact of two major departures in particular will impact market capacity, but the extent of that impact remains to be seen. Over $20 billion of credit limit capacity is being removed from the market, so pricing may ultimately be affected significantly.
- Remaining insurers are jockeying for the portfolios of these markets.
- The movement of bank programs will depend on the capacity and appetite of new prospective insurers.

The collapse of Greensill Capital will impact monetization programs.

- The rapid failure of the supply chain financial services company is almost certain to result in regulatory changes on disclosure and insurer retraction against asset managers.

Conditions are improving.

- Rates are softening and will likely continue in this direction into 2022.
- Insurer appetite for most sectors has returned to pre-COVID positions.
- Insurers are still conservative, however, in their approach to sectors most heavily impacted by COVID (i.e., airlines).

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