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Insurance Marketplace Realities

2023

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Executive summary

Since 2019, commercial insurance buyers in North America have been searching for a break in the clouds. The second half of 2022 has ushered in a new environment that provides a brighter picture, one with improved pricing conditions, coverage, and capacity for many commercial lines of business. This is not to suggest it is time to celebrate soft conditions, but it does mark demonstrable improvement in the market. That said, one of the lone holdouts for a hard market, commercial property, is facing material headwinds, and the industry as a whole must mind the upward pressure that several macro factors may have on rate.

The first of these factors is inflation in its many forms. The Consumer Price Index and slipping purchasing power may headline the news, but there's also wage inflation, medical inflation, and, as anyone in the casualty world will tell you, social inflation. These factors are raising loss costs. On the property side, every buyer is challenged to accurately assess and present replacement cost values that go up as the cost of labor and materials goes up. Carriers, meanwhile, must recalibrate portfolios based on their growing potential exposure.

On the casualty side, nuclear verdicts fueled by social inflation continue to push tort costs and, subsequently, claims costs higher. But insurers have been dealing with these forces for some time now, and pricing adequacy is beginning to turn the market for buyers—rate reductions are possible and even approaching double digits in the best scenarios.

Property insurers have rekindled their tenacity to drive rate. This retrenchment is not solely driven by inflation but also by the continuing procession of loss events pushed by the extremes of weather. This brings us to the second macro factor we are focused on: Hurricane Ian.

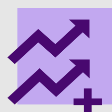
In addition to the personal tragedies that resulted from the punishing landfall, this was a big, albeit unique, loss event. While ultimate economic costs will take some time to play out, there is no doubt that Ian losses lean heavier on the personal lines side than the commercial side. However, the commercial response has been swift and dramatic. With retail insurers making immediate adjustments to catastrophe capacity and rate, reinsurers are telegraphing grim renewal conditions for 2023, which would compound the rate and structural pressures we experience today.

Whatever the fallout from the 2022 hurricane season, natural catastrophes loom large for our industry. Wildfire, not high on our lists a ten years ago, remains on our lists now. Extreme weather of all kinds strikes in places where we haven't seen it before, and places we've seen it all too often.

Here are some highlights from our 2023 predictions:

General liability

- Liberal class action certification and a highly-organized plaintiffs' bar
- Desensitized jury pools and uncertainty around litigation in post-pandemic world
- Those with exposures materially impacted by inflation may find more flexible rate outcomes

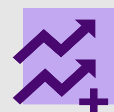


Rate forecast:

- Flat to +10%

Automobile liability

- 2021 AL segment combined ratio is estimated at 101.3
- NHTSA puts the fatality rate for 2021 at 42,915 up 10.5% from 38,829 in 2020
- Large auto verdicts: 300% increase over seven years in trucking claims
- Distracted driving

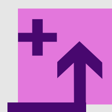


Rate forecast:

- +3% to +10%

Workers' compensation

- Profitable combined ratio for eight years straight
- Opioid addiction
- Aging workforce
- Medical wage inflation
- Medical technology advancements increasing treatment costs and reducing mortality

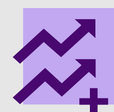


Rate forecast:

- -5% to flat

Umbrella liability

- After the peak in 2020/21, pricing adequacy has attracted greater global capacity
- Risk-specific (two-tiered) underwriting remains, with high hazard risks or lower attachment points yielding worse outcomes
- Uptick in frequency of punitive awards



Rate forecast:

- High hazard/challenged class: Flat to +10%
- Low/moderate hazard: -2% to +5%

Excess liability

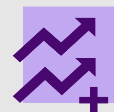
- Even with improving capacity, the industry still faces the impact of nuclear verdicts, catastrophic liability losses and the expansion of litigation funding
- A return at looking at pricing rate relativity between layers has emerged

Rate forecast:

- High hazard/challenged class: Flat to +10%
- Low/moderate hazard: -10% to +5%

Cyber

- An increased level of competition from cyber underwriters eager to write new business following the recalibration of cyber rates last year, has led to more nominal rate increases when organizations can demonstrate good cyber security controls year over year



Rate forecast:

- Flat to +25%

D&O

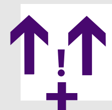
- Increased capacity from newer market entrants and an improved securities litigation environment continues to drive more competitive market dynamics
- Broader market conditions have improved since the peak of the hard market in Q3 2020
- Moderation has been significant and is expected to continue into 2023

Rate forecast:

- Public company – Primary: -7.5% to +2.5%
- Public company – Excess: -15% to flat
- Private, not for profit – Overall: -10% to +7.5%

Terrorism and political violence

- Current political/economic conditions and conflicts around the globe are helping drive up pricing for political violence and terrorism insurance
- The crisis in Ukraine has added another dynamic to a marketplace already in turmoil from the lingering effects of the pandemic and global economic instability
- Captive insurance vehicles continue to provide access to otherwise unavailable or uncompetitive capacity for terrorism risk

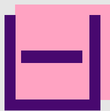


Rate forecast:

- Terrorism and sabotage: +10% to +40%
- Political violence: +20% to +45%

Surety

- Stable loss ratios in 2022
- 96% of surety executives indicating that there are no plans to tighten underwriting in the near future
- Excellent surety capacity with multiple new surety entrants
- Infrastructure spend outweighing dampening residential market decline due to rising interest rates

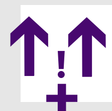


Rate forecast:

- Flat

Property

- Premium increases for most insureds will be driven by inflationary construction costs, heightened reinsurance pressures and possible catastrophe capacity constriction, while valuation of assets will be the key topic of conversation in 2023



Rate forecast:

- Cat-exposed: +15% to +25%
- Cat-free: +10% to +15%

So, while the grip of the hard market is loosening, buyers are not yet free from it. There are opportunities in the marketplace, which puts an increasing emphasis on the importance of analyzing and understanding your risks and being prepared to present them clearly and effectively to underwriters.

Use all the tools available to you, especially the analytic tools that steadily improve in their predictive value and ease of use. Work closely with your risk management partners — carriers and brokers — to make the most of the opportunities that do present themselves. Availing yourself of these resources will help make you and your organization all the more ready to face the ongoing challenges that lie ahead.

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For more insight on how you can prepare for a challenging marketplace, contact your local WTW representative.

Major product lines

Property

Rate predictions

Cat-exposed	+15% to +25%
Cat-free	+10% to +15%

Key takeaway: Premium increases for most insureds will be driven by inflationary construction costs, heightened reinsurance pressures and possible catastrophe capacity constriction, while valuation of assets will be the key topic of conversation in 2023.

The direct property market continues to show rate lift, though the severity varies by industry segment.

- Rate increases will continue to develop into 2023 for most insureds.
- The market remains bifurcated, as underwriters continue to use a discriminating approach to risk selection and pricing.
- Challenged occupancies, such as forest products, metals and minerals, frame habitational, and food and beverage, as well as loss-driven accounts and risks with a heavy catastrophe footprint will continue to see rate increases in the double-digit range.
- Accounts that have performed well from a loss perspective combined with a solid risk management commitment have reached a level of rate adequacy.
- Additionally, accounts that have monetized retentions to rid attritional loss frequency will find themselves in a more advantageous position.
- The biggest hurdle for shared and layered accounts are the buffer or excess layers, where changes in the insurable values have now impacted attachment points, capacity and cost. Larger excess layers are becoming more compressed to ensure completion, thus driving more premium into the lower layers.
- An increase in the number of insurers to complete these excess layers will only serve to keep rate increases afloat. Contradictorily, the primary layers on high quality accounts have become more and more competitive, and there is more capacity needed to complete many of the primaries on property programs.
- CAT capacity may become more commoditized as deployment will be constricted and highly controlled.
- Given the frequency of severe convective storms (SCS) that continue to plague the southern U.S., along with wildfire in the west, carriers will continue to scrutinize these exposures, with greater pressure to implement tornado/SCS/hail and wildfire percentage deductibles — though they are yet to be mandated across the board.

Valuation of assets continues to be the marquee issue for property insurance buyers.

- There is no doubt that the property landscape remains awash in a world of unprecedented climate change-related natural disasters that have become more frequent and severe.
- As the pandemic tries to wind itself down, we are still faced with a historic global supply chain problem and high inflation that shows little sign of abating. These factors have direct impact on how the insurers view the current property risk landscape and are driving carriers to take a hard look at replacement costs.
- Replacement cost values are the basis of modeling on which property coverage decisions are made. Modeling outputs help risk professionals calculate limits, probable/maximum foreseeable losses, deductibles, business continuity planning, claim adjustment/payment and, ultimately, pricing.
- Given the economic forces at work, buyers may find themselves underfunded for retained risk by not properly purchasing adequate cat cover or by improperly setting sublimits for key coverage elements.
- Insurers are fully focused on ensuring that valuations are correct, as they in turn need to demonstrate to their reinsurers that their portfolio data is robust.

For those buyers perceived by the market as presenting inaccurate or out-of-date values, insurers are pushing intently for the inclusion of potentially claim limiting language, such an occurrence limit of liability clause or a margin clause.

- These clauses are becoming commonplace as insurers address the risk of under valuation. Complicating matters for buyers, the language in these clauses varies across the industry, leading to the potential for misunderstandings and conflicting interpretations.

- As a result, settling claims can become cumbersome. Buyers may wish, or in many cases, be compelled to get an independent appraisal.
- Such appraisals should go a long way toward providing carriers with more confidence regarding value accuracy and a greater comfort level in assessing risk — and possibly removing the clauses mentioned above.

COVID-19 claims continue to be litigated, and a final outcome is still years out for many.

- Insurers appear well reserved for these potential claims. Any further pricing impact on property policies from COVID-related issues appears to be in the rear-view mirror.
- However, communicable disease exclusions have become standard, alongside cyber exclusions.

Contingent business interruption (CBI) exposures continue to concern underwriters due to continuing supply chain/logistics constraints, lack of exposure information and unexpected losses.

- As a result, sublimit reductions are being imposed as well as requirements to fully name key customers and suppliers.
- Better data relating to contingent exposures leads to better outcomes in retaining customary sublimits.
- Underwriters will look for insurance buyers to provide copies of any disaster recovery or business continuity plans for review to understand makeup capability relative to CBI exposure.

Underwriters continue to push for the implementation of company/carrier policy forms in lieu of manuscript policies.

- Carrier forms typically appear to be more standard in the single carrier universe but on large shared and layered accounts, the manuscript remains the most common approach.
- In some cases, carriers will assert that a broader capacity offering can be garnered with a company/carrier form, but cracks in the armor are appearing.

2022 hurricane season update

- Hurricane Ian was the second major hurricane of the 2022 Atlantic hurricane season, but the first to make U.S. landfall.
  - Landfall in Cayo Costa, FL as a Cat-4 hurricane with sustained winds of 150mph
  - Landfall in Georgetown, SC as a Cat-1 hurricane
  - Track shifted south and east, away from Tampa

- Given the wide range of damage it is too early to make accurate determinations on possible loss estimates.
- Building inflation and lack of qualified contractors may push the damages higher as the ability to re-construct will have a long timeline.
- Ian is not expected to be a market changing event but will certainly generate conversation.

Reinsurance

Inflation and increases in exposures are driving increases in reinsurance rates.

- The reinsurance marketplace direction is clear: rate firming, withdrawal of capacity from catastrophe lines and many insurers having to take on more net positions than in previous years. Recent results have produced these estimates:
  - **Property fac:** +5% to +15% depending on historical and recent loss activity. Little to no new capacity but markets remain generally stable as respects aggregate deployment.
  - **Property cat (occurrence):** +5% to +20% (loss free), +20% to +40% (loss impacted); capacity exiting the market; reinsurers unwilling to do deals at market terms and overall lack of capacity to fill programs "at any price."
  - **Property cat (agg):** +10% to +20% (loss free), +20% to +40% or more (loss impacted). Expiring capacity will continue to be tough to renew. Best-in-class clients are seeing aggregate limits shrink.
  - **Property risk:** +5% to +10% (loss free), +10 to +25% (loss impacted). The most stable piece of the market but continuing to harden, with reinsurers pushing on terms and conditions (lowering occurrence limits, removal of cat coverage, etc.).

Worldwide dedicated reinsurance capital declined about $40 billion in the past year ($475 billion in 2021 to $435 billion in 2022) as modeled loss costs increased by some 20%.

- The reinsurance market has created its own inflection point similar to what we saw around 2017. We expect higher treaty costs to be passed from insurers to their insureds as investors continue to push for profitability.
- The industry-wide consensus is that this prolonged hardening of the market will continue for the next 12 to 18 months before leveling off.
- Reinsurers will continue to steer away from cat volatility toward more risk-focused business that is diversified and stable.
- Likewise, secondary perils and attritional cat have caused headaches for reinsurers and impacted profitability and earnings in recent years.
- The retrocessional market has seen significant rate increases primarily due to a lack of capacity as demand clearly outweighs supply — adding further pressure on the re/insurance marketplace.
- Major retrocession capital retreat has been occurring over the past quarter, which is expected to disrupt January 1 treaty renewals.
- Many major reinsurers are signaling a hold on additional aggregate deployment in their 2023 plans. Given inflationary concerns and the current rating environment, there will be natural growth to their existing portfolio. This will exacerbate the flight to quality within the greater marketplace.
- Significant flight to quality – meaning that insurers are using the hardening market to housekeep existing portfolios prior to focusing on new business. The flight to quality is also being seen in the MGA space, as (re) insurers are trimming delegated authority exposure. This is especially being felt in the regional MGA space.
- The general sentiment of all this was discussed at the Monte Carlo Rendezvous which occurred in mid-September, and Baden-Baden which occurred in late October.

As a result, insurance buyers with loss-affected cat exposure should expect double-digit rate increases, though outcomes still vary by territory, occupancy, claim history and strength of trading relationship.

- Increased submission flow into the market means underwriters have more ability to be selective on deals. Hence, we are seeing a flight to quality, where carriers are using the hardening market to housekeep existing portfolios prior to focusing on new business.
- If values are perceived as being inadequate, pricing will be more punitive.
- Terms and conditions are being reviewed with scrutiny.
- Non-cat business that is loss-free can expect low to mid-single digit rate increases, driven by market competition.

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Domestic casualty

Rate predictions

General liability	Flat to +10%
Auto liability	+3% to +10%
Workers compensation	-5% to flat
Umbrella — High hazard	Flat to +10%
Umbrella — Low/moderate hazard	-2% to +5%
Excess liability — High hazard	Flat to +10%
Excess liability — Low/ moderate hazard	-10% to +5%

Key takeaway: Workers compensation continues to provide underwriting profit, maintaining a steady primary casualty marketplace. Increased capacity and pricing adequacy have started a shift in pricing competition for umbrella and excess liability; however, high hazard risks are still seeing modest increases and coverage restrictions. Lower hazard risks attract excess capacity from incumbents and new markets causing rate reductions. PFAS/PFOA and other forever chemicals are driving underwriting concerns and therefore additional questions and potential limitations of coverage across a wide array of businesses.

Events outside of buyer control continue to drive casualty rate increases.

- Inflation
  - Social inflation
  - Medical inflation
  - Wage inflation
  - Consumer Price Index inflation (driving revenues, but arguably not exposure)
- Third-party litigation funding
- Continued nuclear verdicts, especially with large punitive damage components

Factors leading to the deceleration of rate increases have become more prevalent and have drastically moderated rate over the course of 2022.

- Workers compensation continuing as most profitable line of business for carriers.
- Return of excess capacity with approximately $300 million additional limit available versus 2020.
- Pricing adequacy of smaller lines within excess liability.

Auto liability continues to be a driving force behind the unprofitability of casualty insurers. While "forced" program restructuring has curtailed since drastic changes started in 2020, insureds continue to re-evaluate due to the reluctance of excess pricing and capacity.

- Continued rate increases have yet to match the pace of trend/inflation increases needed to stabilize pricing.
- The National Safety Council (NSC) estimate of total motor-vehicle deaths for the first six months of 2022 is 21,340, down 1% from 21,530 in 2021 but up 15% from 18,533 in 2020.
- Mileage in the first six months of 2022 increased 2.8% from 2021 and was up 15.9% from 2020, showing the full rebound from COVID-19.
- The estimated mileage death rate in the first half of 2022 is 1.34 deaths per 100 million vehicle miles traveled, down 3.6% from 1.39 in 2021 and down 0.7% from 1.35 in 2020. However, the mileage death rate is still up 16.5% from pre-COVID normal in 2019 (1.15).
- In 2020 a total of 4,965 people died in large-truck crashes, up 31% since 2011 (71% of which were non-truck occupants).
- Social inflation
  - Casualty Actuarial Society reports the effect of social inflation on commercial auto liability losses alone contributed $20 billion of losses between 2008 and 2019. Of this, $4 billion was an unexpected loss, and therefore not contemplated in loss development factors.
- The increased frequency of oversized auto liability losses has resulted in lead umbrella markets continuing to increase attachment points on larger fleets.
  - While some were driven to take increased retentions or stretch the limits with higher retention in the primary and buffer layers of auto liability, others moved to fully fronted auto programs to maintain higher excess limits for balance sheet protection.

- With reinsurance rates still rising, the increased limits offered by primary carriers to satisfy umbrella attachment demands could be more expensive going forward. The buffer market could be a solution as the surplus lines market loses market share to the direct retail markets.
- Structured placements for larger auto fleets could be a better alternative when pricing approaches 50% or more of the buffer limit.

Workers compensation renewals are experiencing greater price reductions, driven to offset wage inflation, as well as carrier competition for a profitable line of business.

- The National Council on Compensation Insurance (NCCI) reports 2021's net combined ratio for private carriers was 87%, flat to 2020, marking the eighth consecutive year of underwriting gain, and five consecutive years of combined ratio under 90%.
  - 2021 accident-year loss ratio was at 102%, the first time above 100 since 2012, which is an early indication that soft pricing for workers compensation may be nearing an end.
  - 2021 wage inflation contributed 7.1% increase over 2020.
  - Reserves grew to $16 billion redundant at of the end of 2021.
  - Since 2012, the cumulative wage inflation of 35% affected indemnity claim severity.
- COVID-19 claims for 2020 and 2021 have equated to approximately 80,000 claims for $630 million in losses.
  - 1.2% of COVID claims greater than $100,000 accounted for 66% of the losses, and nearly 50% of all COVID claims over $500,000 involved a death.
  - Healthcare and first responders continued to be the largest class of employee affected by COVID losses.

Umbrella and excess liability continue to contribute to a decelerating increase in rate trend.

- With minimal exceptions, namely auto, lead umbrella has been corrected with reduced limits, higher attachment points and increased premiums. However, limited carrier appetite for lead umbrella has tempered competition in the space.
- The 2022 trend of the "supported" umbrella of primary casualty has expanded into property, and other difficult-to-place lines of business.
- Continued return of excess capacity.
  - Typically deployed excess global capacity reached a low of $690 million in 2021, up to $950 million in 2022 and likely approaching $1.2 billion for 2023.
  - Clients are often oversubscribed at the top of programs, driving competition, or allowing for additional limits to be purchased.
  - Carriers are consistently offering additional limits via ventilated structures, taking $5-15 million low in a program, and an additional $10 million or more near the top of a program structure.
  - Carriers unwilling to participate low in a program structure, must price more competitively to remain in a high-attachment-point-only program, as markets are leveraging their down low capacity and expanding into ventilated excess positions.
  - Carriers who entered the market only offering $5 million or $10 million, are being asked to stretch to $10 or $15 million to stave off competition for the layer. Lead limits on lower hazard risks are starting to increase again.
- Re-opening of the courts will be closely monitored throughout 2023, as most expect to see speedy trials and rapid settlements favoring the plaintiff.
- Softer-market conditions are returning, with more aggressive pricing coming from new carrier entrants to a program versus the incumbents.

Emerging coverage trends

- PFAS/PFOA exposure under close scrutiny-limitations/exclusions is starting to appear higher in towers and some leads/primaries.
- Limitations on Russia/Belarus are beginning to include limitations in Ukraine as well.
- SML is still extremely limited.
- Offshore punitive damages are growing in popularity as high-profile nuclear verdicts contain large punitive components.
  - Frequency of punitive awards have grown from 2% to 5% in the last four years.
  - In cases where punitive damages are sought, and case won, punitive damages are awarded 35.5% of the time.
  - Cases where compensatory exceeds $10 million and punitive damages are sought, they are awarded 82% of the time.

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International casualty

Rate predictions

International casualty	Flat

Key takeaway: The market for international casualty remains healthy and competitive, with ample capacity made available from carriers who continue to invest in tools and resources to deliver solutions to insureds.

Stability in the marketplace continues to be the trend in recent months, with more of the same to be expected as we close out 2022. Capacity remains consistently available from the market with competitive pricing, noting caveats relating to higher-risk exposure and individual loss records.

- Related lines of business will continue to impact international casualty renewals; however, recent data is showing buyers can anticipate a stable landscape benefiting from carrier confidence and healthy competition.
- Insureds seeking to plan for 2023 renewal budgets can achieve those goals by seeking multi-year agreements and/or early commitment to terms from their incumbent carrier.
- Buyers can benefit from economies of scale and overall operational efficiency by partnering with a select number of carriers who may support multiple lines of coverage.

Exposure data remains an item with continued scrutiny from underwriting perspective, so insureds are encouraged to invest effort early in advance of renewal

- Coverage territory limitations — Following federal sanctions imposed in recent months in certain regions of the world, global and regional carriers are restricting or eliminating coverage in Russia and Belarus. Coverage from global programs is also a challenge for buyers' subsidiaries in Ukraine, as the landscape becomes increasingly unstable. In these cases, insureds should seek independent coverage in the local market, which may not benefit from excess/DIC limits.
- PFAS issues (per & poly-fluoroalkyl substances) are becoming increasingly visible, particularly for insureds in the manufacturing and retail space, and certain insureds are being asked to complete coverage questionnaires to avoid exclusionary language.
- Communicable disease exclusions remain fairly common, although the policy language is inconsistent across the market. If provided sufficient detailed information, underwriters may limit or remove the exclusionary language.

Renewal results are often impacted by decisions relating to program structure and connectivity with related lines of coverage.

- Administration forms a significant portion of global program costs, which can offset direct risk-transfer rate movements at renewal. Insureds can consider options to address program administration costs by reviewing program structure and centralizing premium collection where permissible along with the collection of exposure data.
- There are, however, pros and cons to making changes to program limits or how locally admitted policies are issued. For example, reducing limits and/or reducing the number of local policies can save costs; however, insureds should review how those changes might impact obligations to evidence liability limits in the local countries.
- Regardless of the size of the insured's business overseas, the three separate casualty renewals (U.S., umbrella and international) should remain closely connected throughout the renewal process to prevent gaps and to leverage premium spend. Coordination among the renewals is critical, especially on issues such as occurrence and suit locations and coverage territory, as well as attachment strategy regarding excess limits.

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Middle market

Rate predictions

Favorable risks

Favorable risks	
Property	+5% to +10%
General liability	Flat to +5%
Automobile	+5% to +10%
Workers compensation	-5% to flat
Umbrella	Flat to +5%
Excess	Flat to +5%

Challenging risks

Challenging risks	
Property	+15% to +20%
General liability	+5% to +10%
Automobile	+10% to +15%
Workers compensation	+5% to +10%
Umbrella	+10% to +20%
Excess	+10% to +20%

Key takeaway: The middle market segment continues to stabilize and, in some areas, has improved for buyers in capacity and rate.

Marketplace overview

- A two-tiered market still exists but to a lesser degree. The marketplace continues to carefully manage capacity, increase rates and issue non-renewals on challenging accounts.
- Social inflation, accurate property valuations and supply chain issues continue to be a main concern for insurance carriers and are driving greater scrutiny in the underwriting process and on capacity deployment.
- Carriers have high retention and growth goals and are aggressive in keeping accounts out of the market. Marketing efforts on clean accounts are resulting in significant rate reductions for insureds. The industries viewed as desirable include financial institutions, professional services, manufacturing (light or loss-free), technology, commercial real estate and life sciences.
- Insureds with notable losses and heavy cat exposures and those in certain industry segments are considered difficult risks. The tougher classes of business continue to be habitational, transportation, healthcare, social services, hospitality, food and foundries.
- The property market has improved in rate and capacity, but there is still volatility for challenged occupancies, CAT exposed portfolios and schedules with valuation concerns. Renewal outcomes for these risks can be particularly uncertain when facultative reinsurance is needed.
- Additional capacity is being reinstated by umbrella and excess markets to gain a competitive edge.
- As more businesses continue to become fully operational post-COVID, both exposures and loss activity have increased, particularly in some industries, lending themselves to further underwriting scrutiny.

Property

- Property valuations have been a major area of concern for markets given inflation and supply chain challenges. Corrective action is being taken via rate, increased values and coverage wording, such as specific limits or margin clauses.
- Contingent business income continues to see tighter underwriting guidelines and reduced limits.
- Cat capacity and deductible levels continue to be scrutinized and re-evaluated, and risks with heavy exposure (coastal, earthquake, flood, wildfires, wind) have become harder to place.
- Additional exclusions for strikes, riots and civil commotion are being seen on some hospitality, public entity, retail and real estate accounts.
- Water damage coverage is experiencing higher deductibles and lowered sub-limits, and water damage mitigation is a focus.
- Underwriters continue to seek accurate and complete COPE information, including age of roof.
- Tougher property risks that were once written on a 100% single-carrier basis are being pushed to shared/layered programs due to their risk profile and the markets' unwillingness to deploy their full capacity.

- Convective storm deductibles are being added in states that previously did not have them; 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

- We see heightened concern surrounding human trafficking exposures for hospitality and real estate accounts.
- Sexual abuse and molestation coverage continues to face capacity reductions and scrutinized underwriting, particularly given reviver laws in several states.
- Most markets are no longer considering uncapped per-location aggregates.
- Communicable disease exclusions are still being included and can be removed with additional information regarding safety protocols.
- PFAS exclusions are becoming more prevalent and increased scrutiny is expected. Some carriers are willing to remove with confirmation of no exposure; however, others are taking a more stringent approach. This is an emerging topic and carriers are concerned about the potential for class-action suits and the cost to defend.
- With ongoing social inflation, markets struggle to accurately project losses, pushing them to take an all-lines approach to accounts rather than have a liability-heavy portfolio.

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 continues to be heavily underwritten and higher exposure accounts are less desirable.
- Upward pressure on rates has continued as losses in the industry have increased despite fewer drivers on the road in recent years.

Workers compensation

- Infectious disease-related exposures are closely underwritten.
- Remote working has created questions surrounding accurate payroll reporting, especially in monopolistic states as coverage needs to be purchased through the state pools.
- Carriers are requiring details regarding return-to-work policies as they impact rating, terrorism capacity and risk control. More underwriting scrutiny can be anticipated on accounts with exposures in tougher jurisdictions.
- The market continues to view workers compensation as a profitable line and looks to balance books of business by writing more of it.

Umbrella and excess liability

- Higher attachment points are being required by lead markets on both general liability and auto policies for higher risk industry. In these scenarios, buffer layers are being introduced more often.
- Capacity for lead umbrellas has stabilized and reductions in limits have become less common.
- Supported leads tend to be more competitive as carriers leverage the primary lines with their umbrella capacity. In these competitive scenarios, insureds have been able to secure increased umbrella limits, undoing retractions they may have faced in recent years.
- Risk purchasing groups continue to be inconsistent, with increased underwriting, appetite changes, reduced capacity, large increases and market participation changes.
- Clients continue to review contractual requirements and limits purchased.
- Abuse and molestation, assault and battery, and sex trafficking exclusions are being added, or coverage and capacity have been limited — especially where exposures are apparent.
- Minimum premiums have increased significantly, driving higher costs for excess layers.

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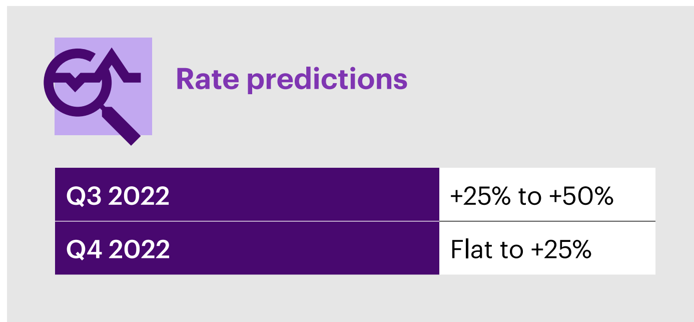
Professional liability lines

Cyber risk



Rate predictions

Q3 2022	+25% to +50%
Q4 2022	Flat to +25%

Key takeaway: An increased level of competition from cyber underwriters eager to write new business following the recalibration of cyber rates last year has led to more nominal rate increases when organizations can demonstrate good cyber security controls year over year.

Primary and excess cyber renewals are now averaging more nominal premium increases in the flat to +25% range and there are signs of capacity beginning to broaden.

- While Q1-Q4 2021 renewals were in the +50% to +200% range, Q1-Q2 premium increases were less pronounced. Increases will still be steepest for those organizations that cannot demonstrate strong cyber risk controls, culture and overall cyber hygiene.
- Highly regulated industries, such as financial institutions, required to have more stringent controls, have seen rate increases on the lower end of our predicted range.
- Underwriting decisions are heavily influenced by the security controls a company has in place in conjunction with pricing and attachment points.
- Although many carriers are starting to communicate that they are open to putting up more capacity for certain risks, we are still waiting for this to become a reality.
- There are real signs of strong competition among markets, as we are often receiving two to three quotes for certain risks. Incumbents are eager to retain business.
- Excess placements are still challenging, because Increased Limits Factors (ILFs) continue to be high.
- 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 more important than ever to start the submission process early so materials can be refined for best presentation to underwriters.

Although there are finally signs of losses slowing some, ransomware and the potential for other widespread events continue to be a concern.

- According to Coveware, the median ransomware payment decreased by 51% in Q2 2022 over the prior quarter, as large enterprises have invested heavily in ransomware controls such as privileged access management, endpoint detection and response and backup strategies in the period since the Colonial Pipeline cyber-attack in 2021.
- 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.
- 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 eleventh 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).
- To highlight potential vulnerabilities, certain carriers are relying more heavily on cyber security consultants for technical expertise as well as on third-party scanning technologies.
- Carriers are continuing to require supplemental applications for ransomware and other common events as there is increased concern around systemic losses and the potential impact they could have on the broader marketplace.

Markets continue to constrict coverages to limit their exposure to regulatory risk, ransomware losses and other widespread cyber incidents, and they look for new ways to underwrite cyber risk.

- Largely in response to the E.U. General Data Protection Regulation (GDPR) that 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, we are seeing cyber markets pull back on offering wrongful collection and compliance coverage.
- Certain markets have added broad SolarWinds and Log4j 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 have taken the drastic approach of splitting coverage into either widespread/catastrophic cyber events or limited impact events, which leaves open the possibility of applying co-insurance, sublimits, retentions and timing factors to calibrate the exposures on either side of the split.
- Dependent business interruption due to system failures is a concern for underwriters. Many markets are often sublimiting this coverage to half of the policy limit.
- Due to the frequency and severity of social engineering and cybercrime claims, certain carriers have removed crime offerings from their policies, pushing the exposure to the insured's crime policies.
- The Russia/Ukraine conflict has led many markets to reassess their war and territorial exclusions.

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Directors and officers liability

Rate predictions

Stable risk profiles

Public company — primary	-7.5% to +2.5%
Public company — excess layers	-15% to flat
Private, not-for-profit — overall	-10% to +7.5%
Side A/DIC	-15% to flat

Challenged risk profiles

Non-U.S. parent, U.S. exposures	Case-by-case basis; potential increases; may experience limited interest
IPOs and SPACs	Case-by-case basis; potential increases; may experience limited interest
Challenged industries	Case-by-case basis; potential increases; may experience limited interest

Key takeaway: Increased capacity from newer market entrants and an improved securities litigation environment continue to drive more competitive market dynamics.

Broader market conditions have improved since the peak of the hard market in Q3 2020. Moderation has been significant and is expected to continue into 2023.

- **Impact of newer capacity**
  - The influx of capacity into the market since late 2020 created competition and yielded rate deceleration throughout 2021. Throughout 2022, we have seen flattened-to-improved D&O premium outcomes.
  - Newer markets initially generated rate relief in the excess layers; however, as markets continue to seek growth, several carriers are providing alternative primary competition and leverage.
- **Economic uncertainty:** Recovery from a lingering pandemic has yielded economic growth; however, D&O underwriters remain concerned with uncertainties that arise from global tensions and hostilities, inflation, supply chain issues, the scaling back of government subsidies and resulting challenges surrounding continued growth and insolvencies.
- **D&O underwriter focus:** Carriers continue to scrutinize financial strength (especially liquidity); supply chain and customer demand; environmental, social and governance (ESG) practices; industry; claim history; regulatory uncertainty; loss-cost escalation; cyber and privacy; employee relations and retention; and systemic exposures.
- **Initial public offerings (IPOs) and special purpose acquisition companies (SPACs):** Despite the decrease of IPO and SPAC IPO filings in the first half of 2022 (see Trends and Exposures section below), insurers remain focused on post-offering operational viability. Primary market conditions continue to be challenged for larger offerings, while conditions are improving for smaller offerings and those insureds remaining within the IPO liability window, as well as excess layers more broadly. Companies exiting IPO windows and with otherwise stable profiles may experience retention reductions and more significant decreases than the rest of the market.
- **Private and non-profit companies:** The moderation of rate increases in 2021 has continued well into 2022. Yet a "tale of two markets" for many private and not-for-profit organizations creates contrasts in renewals for stable risk profiles and industries versus high-risk profiles and challenged industries.
  - **Primary:** Insureds with low and stable risk profiles are seeing enhanced competition, with a minimum of flat renewals and decreases when marketed. The market for high and/or distressed risk profiles remains challenging.
  - **Excess:** For larger risks, excess markets have recalibrated increased limit factors (ILFs).
  - **Retentions:** For challenged risks and those with large exposure increases, carriers continue to press for higher retentions. Even for smaller risks, minimum retentions are being scrutinized and regularly

  increased. Severity of increases most often depends on prior renewal increases and the need, if any, for continued correction.
  - **Increased deployment:** Carriers are willing to regularly deploy capacity for preferred risks. Additional capacity can be found for more risks than in recent quarters. This is having an impact on market conditions more broadly, especially for more desirable risks.
- **Side A:** Competition among insurers for Side A business has been reinvigorated following a protracted period of rate adjustment. Competition is driven largely by newer market entrants.

Underwriting: D&O portfolio adjustments will continue into 2023.

- We expect rates to continue deceleration into softer market conditions ahead.
- Much of the current market competition is in the excess ABC layers, as reflected in more competitive ILFs.
- Some buyers remain challenged, including:
  - Non-U.S. parent, U.S. exposures
  - IPOs and SPACs
  - Challenged industries, e.g., oil and gas, healthcare, life sciences, higher education, cryptocurrency, cannabis, retail (private), restaurants (private), sports/entertainment (private)
  - Liquidity challenged and pre-restructuring/bankruptcy risks

Several trends and exposures bear watching.

- **ESG:** Organizations face increased pressures to address ESG concerns from operational and investment perspectives. Questions of adequacy of disclosures create both shareholder and regulatory exposures. Heightened exposures have resulted in increased underwriter scrutiny into ESG practices more broadly. We note, however, the rise of cautionary messaging from state attorneys general and shareholders to ensure ESG practices do not impair profitability or investment return.
- **Securities class actions:** SCA filings totaling 218 in 2021 represented just over half of average annual filings between 2017 – 2019. Through Q2 2022, 110 SCAs were filed which, annualized, would reflect 220 filings, essentially flat YOY. Fewer M&A-related cases filed as class actions are largely responsible for the decrease since 2019. In fact, "core" filings (i.e., those without M&A allegations) in the first half of 2022 (105) remain consistent with the 1997 – 2021 semiannual average number of core filings (114). Conclusion: despite a significant decrease from recent record high filing frequency, current filing frequency is in line with historic norms.
- **IPOs, SPACs:** Initial public offering activity is down substantially, from 968 offerings in 2021 to 100 through H1 2022 (200 annualized). A downward trend is expected to continue due to proposed SEC rules and government scrutiny into SPACs and de-SPAC combinations. Yet, related SCA filings persist at high levels, with 2022 filings (21 through August) on pace to match 2021 record annual filings (33). We also have observed that several SPACs have been unable to secure acquisition targets with contractual deadlines to do so approaching. We will monitor to what degree litigation may (or may not) arise from this emerging development.
- **Restructuring/bankruptcy/insolvency:** Chapter 11 bankruptcy filings through the first half of 2022 trended below 2021 year-to-date filings and well below 2018-2020 levels. Nevertheless, there were unusually higher August 2022 Chapter 11 filings, suggesting inconsistent filing activity following the slowing or ending of government subsidies. Bankruptcy claims, which impact both private and public companies, can be among the most severe.
- **D&O risk post-Dobbs (overturning *Roe v. Wade*):** Following the U.S. Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*, overturning *Roe v. Wade*, some companies are implementing protocols to assist employees in gaining access to healthcare services they may not be able to obtain in their own states. D&O risks arise as to possible violations of newly implemented state laws and related civil and criminal investigations and proceedings.
- **SEC whistleblower awards on the rise:** In FY 2021, the SEC awarded approximately $564 million in whistleblower awards to 108 individuals, representing the largest amount and the largest number of individuals so awarded in a single fiscal year. Stunningly, these figures are approximately the same as the total dollar amount awarded in the 11-year history of the whistleblower program. Accelerated whistleblower activity reflects heightened regulatory scrutiny and prosecutorial success. We are monitoring whistleblower award activity throughout 2022 and will report on published figures in subsequent market reports.

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Employment practices liability

Rate predictions

Primary (domestic markets)	Flat to +10%
Bermuda markets	+2.5% to +10%

Key takeaway: While the EPL market is still seeing some rate increases, competition is keeping the increases stable/modest, unless there is significant loss history and/or significant change in exposure factors.

Competition is helping to stabilize the EPL market.

- 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 close to or at flat. California continues to be the most problematic jurisdiction. New Jersey, New York and Florida continue to be challenging as well.
- **Retentions:** Expect continued pressure on primary retentions, as well as separate retentions for class actions, especially in California. Expect separate retentions for California claims and for highly compensated employees (particularly in healthcare and financial institutions). Some domestic markets are adding separate retentions for NY, NJ and IL as well.
- **Limits:** Many domestic markets continue to provide lower limits — $5 million to $10 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. New Bermuda market (AIG) adds additional capacity in the Bermuda market.
- **Underwriting:** Expect some questions regarding vaccine/return to office, ESG (specifically, diversity, equity and inclusion initiatives), pay equity audits, labor shortages and supply chain challenges (depending on the industry).
- **Coverage:** Coverage remains intact; carriers continue to add privacy/biometrics exclusions and include limited COVID-19 exclusions on a case-by-case basis.

COVID-19 employment-related litigation has mostly slowed down.

- Some litigation and COVID-19-related claims continue mostly in healthcare.
- More than 6,000 cases have been filed thus far, with employment discrimination the leading claim.
- California has seen the most claims with New York, New Jersey and Florida following.
- COVID-19 class action claims are most prevalent in healthcare, with wage and hour being the leading claim.

Socially driven movements, Supreme Court decisions and changes in the economy continue to produce claims that impact employment practices liability litigation and legislation.

- With heightened focus on company ESG initiatives insureds should continue to expect questions from underwriters regarding their diversity, equity and inclusion initiatives, particularly racial equity and pay equity.
- In relation to pay equity, there has been a push to require employers to offer pay transparency for applicants and employees. Many states are implementing laws wherein employers must disclose the pay range for applicants.
- The U.S. Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*, overturning *Roe v. Wade*, has created a patchwork of laws across the country, making it extremely difficult for employers, particularly multi-state employers, to navigate. The decision creates a potential for an increase in certain types of claims, such as discrimination, harassment and invasion of privacy.
- Inflation, rising litigation costs and potential recession may lead to more employment claims.

Biometrics and artificial intelligence in the workplace continue to concern carriers.

- The Illinois Biometric Privacy Act (BIPA) has been the subject of many class action claims against organizations with employees in the state of Illinois. We have since seen other states implement their own biometric laws, including Texas and Washington (although neither of these laws creates a private cause of action). New York City and Portland, Oregon have similar laws which do include a private cause of action.
- We continue to see many EPL policies include an exclusion for BIPA claims; however, buyers can look to other coverage lines, such as general liability and cyber, for potential coverage for this exposure.
- Many companies are using software, including artificial intelligence and other technologies in hiring and in other employment decisions. The use of these technologies may be helpful for employers in saving time, etc., but they may also discriminate.
- In May 2022 the EEOC issued guidance for employers to help ensure that the use of artificial intelligence does not violate the Americans with Disabilities Act.

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Errors and omissions

Rate predictions

Large law firms	+5% to +10%
Mid-size law firms	+5% to +10%
Management consulting firms	+10% to +20%
Accountants	+5% to +10%

Key takeaway: As insurers continue to correct rates to better align with long-term loss experience trends, the magnitude of the increases is decreasing at the primary layer level but not yet at the excess level and some insurers are reacting by reducing limits. Several years of corrective rate increases to excess pricing has attracted new insurers into the market.

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.
- Underwriters continue to place more emphasis on coordinating cyber and professional liability coverages.

Lawyers

- Firms with poor loss experience, areas of risk management weakness or historically low rates will see higher rate increases, while firms that are paying closer to what insurers deem rate adequacy should see rate increase ease and level off.
- While several excess insurers recently reduced their capacity from $10 million to $5 million, capacity is still widely available to meet the needs of large law firms.
- Excess market carriers are being less aggressive on pricing partly due to increased competition from new entrants to the market.
- Primary carriers continue to press for higher retentions.
- Although insurers have been less inclined to offer policy wording enhancements, recent new market entrants and the increased competition they have brought, especially in excess layers, have helped buyers when negotiating coverages.
- Professionals can expect questions on operations, financials, information security, client intake, engagement letters, staffing adequacy, lateral hires and SPACS, as well as on the degree of success in implementing return-to-work rules.
- Rate increases 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 seeing premium increases in the 5% to 10% range. Underwriters are now rating on full revenue growth rather than 50% of revenue growth.

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 or cross the line into an operational role with clients.
- Premiums for management consultants are still being impacted by a very large claim payment made on behalf of a leading management consultant related to services provided to a pharmaceutical/opioid manufacturer.

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 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 remain hesitant to offer excess technology coverage on blended technology-cyber programs.

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.

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Fidelity/crime

Rate predictions

Fidelity/crime	Flat to +5%

Key takeaway: In most instances, fidelity and crime underwriters have returned to pricing renewals based on changes in exposure year over year, though some insurers are continuing to right-size premium allocation tied to social engineering coverage.

Social engineering continues to be a focus for underwriters.

- Social engineering coverage remains largely sub-limited. The availability of higher limits is contingent upon the strength of the buyer's controls and procedures and, when available, will generally result in a higher premium.
- Expect limited appetite for extending social engineering to cover loss of "other property."

Blockchain, NFTs and digital assets — OH MY!

- Fidelity and crime insurers are hesitant to cover these digital asset categories.
- Some insurers are imposing non-fungible token and crypto/virtual currency exclusions, even if there is little or no exposure.
- Capacity is primarily available out of London where insurers will consider writing established, custodial risks with meaningful deductibles and premium values.

Courts continue to debate the meaning of direct loss, leading insurers to impose additional policy exclusions.

- Courts remain divided in their interpretation of direct loss with respect to social engineering fraud schemes. The fidelity and crime market has responded by adding exclusionary language for social engineering fraud, except where explicitly covered under a social engineering insuring agreement.
- In *G&G Oil Co vs. Continental Western Insurance Company*, the Indiana Supreme Court held that a ransomware attack is covered under the computer fraud insuring agreement of a crime policy. The court applied a proximate cause test and concluded that the ransom paid was a covered loss. The decision has led to insurers imposing cyber extortion exclusions on fidelity and crime policies.

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Fiduciary liability

Rate predictions

Small public/nonprofit (defined contribution pension plan assets up to $50M)	Flat to +10%
Mid-sized public/nonprofit (plans asset $50M to $500M)	+5% to +25%
Large public/nonprofit (plan assets above $500M)	+10% to +40%
Financial institutions	+5% to +25%

Key takeaway: Premiums have been leveling off, with more renewals on the lower end of ranges. As the previously limited market for primary fiduciary shows some signs of expansion, we expect soon to see more flat renewals. Class action retentions remain in a seven-figure range, more below $5 million than above it.

Underwriters continue to be wary of fiduciary risks, but there has been some stabilization.

- **Underwriting focus:** Excessive fee class action volume appears to have returned somewhat, with 42 cases being filed in the first half of 2022 (versus only 54 in all of 2021, but almost 100 in 2020). Although many recent settlements have been substantially below $5 million (previously most settlements exceeded $10 million), carriers are still concerned about perceived unpredictability, high costs of defense and the substantial number of still pending cases. The U.S. Supreme Court's pro-plaintiff ruling in the Northwestern University excessive fee case disappointed insureds who hoped that a victory for the defense could reverse the negative pricing trends in fiduciary liability; although the Court's holding was very narrow, many carriers have tried to use it as a justification for continued tough terms and threatened escalation. However, recent positive precedents in the Sixth and Seventh Circuits (discussed below), plus more interested markets, have started to counteract the effects of the Northwestern decision and contribute to smaller premium increases which may be heading toward flat renewals.
- Particularly with commercial and large nonprofit (university and hospital) risks, underwriters are focused on defined contribution pension plans with assets greater than $250 million, where previously the cut-off had been $1 billion (some carriers don't want to quote plans with assets above $1 billion).
- Even smaller plans cause concern, now that a few smaller plaintiff firms have targeted them. Insurers now seek detailed information about fund fees, record keeping costs, investment performance, share class, vendor vetting process and plan governance, causing some insureds to seek assistance from their vendors in filling out applications.
- A wave of class actions filed by one law firm against sponsors whose 401k plans include BlackRock target date funds has caused some carriers to focus on this exposure in their underwriting, although the BlackRock funds in question have been highly rated and Morningstar.com has published an article criticizing the lawsuits.
- **Retentions/sub-limits:** Insurers are even more focused on retentions than on premiums. First-dollar coverage has become almost impossible to obtain. Increased retentions of seven figures remain commonplace for specific exposures, e.g., prohibited transactions/ excessive fees and sometimes all mass/class actions, with at least one carrier insisting on eight-figure retentions. Carriers are attempting to push retentions even higher, but insureds who already have seven-figure retentions have generally been successful in resisting increases. 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 entirely 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 can vary substantially. Many carriers are still receptive to offering coverage enhancing endorsements.

- **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.
- **Is some relief in sight?** Yes. While some carriers have all but left the market, and others have expressed little interest in writing new business, some traditional financial line markets that have not historically written much fiduciary risk have begun to provide alternatives (particularly if there are related primary D&O opportunities). Most carriers are closely monitoring the capacity they are putting out, and $5 million primary limits are now more common than $10 million.
- **Rate prediction qualification:** Rate increases may be higher or lower depending on the insured's existing pricing. Insureds who have already had at least one round of double-digit percentage premium increases may be able to keep increases to a range of +5% to +15%. Soon, we expect to see flat renewals becoming more common. 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 have seen some of the most substantial premium and retention increases and have struggled to find placement. This was the result of a wave of excessive fee cases in this sector in recent years. However, the lull in university suits has been helpful in that sector, while hospital systems remain severely challenged.
- Underwriters continue to focus on such issues 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. Some carriers are 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.
- Virtually 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 focused on defined contribution plan risks and 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.
- Cutbacks in benefits (particularly retiree medical benefits) and/or workforces may lead to claims and potentially large class actions.
- Entities that still sponsor defined benefit pension plans and saw their funding status improve substantially during 2021, have more recently seen declines in funding levels.

Litigation volume in first half of 2022 approaches 2020 high after a drop in 2021; legislative and regulatory changes create uncertainty.

- **In 2021, excessive fee claim frequency dropped significantly from its 2020 highs:** For over a decade, a growing number of plaintiff firms have been suing diverse public, private and non-profit entities, making allegations involving allegedly excessive investment and/or recordkeeping fees that resulted in reduced investment principle and reduced returns; many of these class actions also alleged sustained periods of underperformance by specific investment options. Excessive fee class action frequency rose again in 2022 after dropping about 40% in 2021 from 2020 highs (42 cases filed in the first half of 2022), with more than 100 cases ongoing. Several recent excessive fee settlements have been modest (between $1 million and $5 million, mostly on the lower end) than previously. Since the U.S. Supreme Court's pro-plaintiff Northwestern decision, few excessive fee cases have been dismissed, but recent positive precedent from the Sixth and Seventh Circuits (CommonSpirit Health and Oshkosh respectively, discussed below) may show some pro-defense momentum.
- **Other types of class actions persist:** Suits against defined benefit plans alleging reduced benefits due to the use of outdated mortality table assumptions continue to be litigated, as well as class actions involving COBRA notice deficiencies or improper benefit reductions.

- **Employer stock class actions against public companies remain virtually nonexistent, but private companies ESOPs can still see claims:** 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 and affirmed on appeal. 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 in connection with establishing or shutting down such plans, continue to be filed occasionally and are seldom dismissed on early motion.
- **Risks post the Dobbs decision:** Following the U.S. Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*, overturning *Roe v. Wade,* some companies are implementing protocols to assist employees in gaining access to healthcare services they may not be able to obtain in their own states. Fiduciary risks can arise as to possible violations of newly implemented state laws and related civil and criminal investigations and proceedings, raising questions concerning the scope of ERISA preemption. Some employee participants might complain about benefit cutbacks, while others might complain about discrimination. Plan sponsors may also face challenges complying with ERISA's technical requirements in connection with plan changes and creation.
- **The U.S. Department of Labor may now bring more previously time-barred cases:** The DOL achieved a decision that it is generally entitled to the longer six-year statute of limitations (as opposed to the three-year limitation period which is triggered by "actual knowledge" of a violation of ERISA) in which to bring a claim, even if information from which a breach could have been detected was included in a Form 5500 that was filed with the DOL. The court did, however, caution that the DOL could not rely on the longer statute of limitations if it was "willfully blind." *Walsh v. Bowers*, 2021 WL 4240365 (D.C.Hawaii, Sept. 17, 2021).
- **The 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 and has continued to do so.
- **IRS giving 90-day warning on audits:** On June 3, the Internal Revenue Service announced a new pilot program for retirement plans to promote compliance while reducing audit costs. Under the Pre-Examination Compliance Pilot, the IRS is notifying retirement plan sponsors 90 days in advance that their plan has been selected for an audit. The plan sponsor then has 90 days to review its plan documents and operations, and to correct any compliance issues that may be discovered. This new procedure offers a potentially substantial advantage to plan sponsors, since voluntary compliance program (VCP) fees are lower than the audit cap fees that apply to errors found during IRS audits. Previously the VCP program was not available to sponsors who had been identified for audit. Most fiduciary liability policies provide coverage in relation to VCPs, usually without application of a retention.

ESG rules and risks

- **The Department of Labor's proposed new rule regarding Environmental, Social and Governance (ESG) investing achieved final rule status:** On October 14, 2021, the Department of Labor (DOL) published for comment a new rule which would undo the previous administration's 2020 rule that was perceived as discouraging retirement plans from investing in ESG-related investment options by putting a burden on fiduciaries to justify such investments. As the DOL explained in the Supplemental Information provided when they published the rule in the Federal Register, 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."
- On November 22, 2022, the DOL published the final rule and a summary fact sheet. The official press release was entitled: "U.S. Department of Labor Announces Final Rule to Remove Barriers to Considering Environmental, Social, Governance Factors in Plan Investments". The final rule retains the core principle that the duties of prudence and loyalty require ERISA plan fiduciaries to focus on relevant risk-return factors and not subordinate the interests of participants and beneficiaries.

- **DOL request for information from interested parties:** In relation to climate risk, EBSA/DOL has been considering going further than the standard discussed above and on February 11, 2022 issued a request for information seeking public input on how to implement a 5/20/21 Executive Order to protect pension plans from such risks. Under consideration are mandatory disclosures on Form 5500s or elsewhere concerning plan investment policies, climate-related metrics of service providers, plan fiduciary awareness of climate-related financial risk and much more. Although responses were due by May 16, 2022, EBSA hasn't yet made further public comment on this issue.
- **New SEC rules seek to offer guidance to investors concerned with ESG bona fides:** The SEC is looking to step up regulation concerning funds which purport to be ESG-friendly.
- **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. A slowly increasing number of small employers are joining PEPs.
- **SECURE ACT 2.0:** After review by relevant committees, the Senate now has the framework for its version of Securing A Strong Retirement Act (SECURE 2.0). A version of SECURE 2.0 passed in the U.S. House of Representatives on March 29, 2022, by an overwhelming bipartisan 414 to 5 margin. If passed by the Senate in its current form, the bill would expand automatic enrollment in defined contribution plans by requiring new 401(k), 403(b) and SIMPLE plans to automatically enroll participants upon becoming eligible, with the ability for employees to opt out of coverage.
- Among other things, SECURE 2.0 also enhances the retirement plan start-up credit, making it easier for small businesses to sponsor a retirement plan. The legislation further increases the required minimum distribution age to 75 and indexes the catch-up contribution limit for individual retirement accounts. The legislation also allows employers to match employee student loan repayments with retirement account contributions. It is also likely that non-profit 403(b) plans will soon be allowed to offer collective investment trusts (CITs), which often have lower fee structures than mutual funds, as options.
- It is expected that the House and Senate versions will be reconciled into final legislation during the coming months. Whenever the final bill is passed, fiduciaries are going to have to educate themselves about the new playing field and facilitate passing on the benefits to their plan participants. Plaintiff class action lawyers will be prepared to second guess plan fiduciaries.
- **COVID-19 relief legislation:** The American Rescue Plan Act (the Act), which was passed in March of 2021, has been providing 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. So far, the Act has resulted in large payments to two critically underfunded multiemployer pension funds. In July, 2022, the White House announced that "over $40 billion in American Rescue Plan funds have been committed to strengthening and expanding our workforce."

U.S. Supreme Court decides Northwestern University excessive fee case for plaintiffs.

- On January 24 the U.S. Supreme Court issued its eagerly awaited decision in the Northwestern University excessive fee case, finding for the plaintiffs and remanding the case back to the Seventh Circuit.
- The Seventh Circuit had affirmed a holding that dismissed the case, which arose from the offering of allegedly imprudent investment options, solely because plaintiffs were offered other indisputably prudent investment choices. The Supreme Court's decision rejected the Seventh Circuit's uniquely extreme position on the "investment choice" defense.
- Unfortunately, the decision did not provide meaningful additional guidance concerning what constitutes sufficient specificity to establish a plausible pleading other than cautioning future courts that "[a]t times, the circumstances facing an ERISA fiduciary will implicate difficult tradeoffs, and courts must give due regard to the range of reasonable judgments a fiduciary may make based on her experience and expertise."

Since the Northwestern decision:

- Initially, district courts became even more reluctant to dismiss cases on initial motion. More recently, however, the Sixth Circuit affirmed the dismissal of the excessive fee class action against CommonSpirit Health, and the Seventh Circuit affirmed the dismissal of the class action against Oshkosh Corporation. The courts in both cases stated that the Northwestern decision did not remove the requirement for courts to act as gatekeepers as to whether pleading standards are met in the first instance. Both courts quoted the most pro-defense sentence from the Northwestern decision, which pointed out that "[a] t times, the circumstances facing an ERISA fiduciary will implicate difficult tradeoffs, and courts must give due regard to the range of reasonable judgments a fiduciary may make based on her experience and expertise."
- Both courts found that plaintiffs, despite having pointed to other allegedly comparable but better plans and investments, had failed to establish that they were in fact comparable and indicative of likely imprudence. The Seventh Circuit cited the Sixth Circuit's detailed decision with approval, a trend which may continue in other jurisdictions. Also, within the Sixth and Seventh Circuits there have been submissions of supplemental authority and motions for reconsideration filed by defendants whose motions to dismiss were previously denied. For more detail, see CommonSpirit Health and Oshkosh.

Buyers should keep on an eye on key loss drivers.

- **Excessive fees:** As discussed above, excessive fee claim frequency rose in the first half of 2022 after having dropped about 40% in 2021 from 2020 highs (44 cases filed in the first half of 2022), with more than 100 cases ongoing.
- **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; such claims tend to settle for substantially more than class actions without such alleged conflicts of interest.
- **Any sized plan can be a target:** Although the first excessive fee cases seemed to focus on specific industries and plans whose assets exceeded $1 billion, in recent years the perception is that 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 suits against plans with assets below $1 billion have not resulted in any eight-figure settlements).
- **M&A:** Carriers may apply increased scrutiny to insured with substantial merger and acquisition and/or spin-off activities, which can lead to changes in benefits and related complaints.
- **Positive risk factors:** It can be difficult to get credit from carriers for positive risk factors, but the effort can yield results. Among the factors to emphasize are the quality of advisors and degree of delegation, as well as favorable venues.
- **No claim yet? Not so fast:** Organizations that have not been the subject of claim activity may not necessarily 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:** As fiduciary rates rose; some insureds may have cut the size of their towers. As rates come back down, insureds might consider increasing their limits, notwithstanding that many recent settlements have been in the low seven figures.

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Financial institutions — FINEX

Rate predictions

Coverage	Rate prediction
D&O – Publicly traded financial institutions; Primary	-5% to +2.5%
D&O – Publicly traded financial institutions; Excess/Side A	-15% to flat
D&O - Private financial institutions	-10% to +2.5%
D&O/E&O - Asset managers (excluding private equity/ general partnership liability)	-10% to flat
Bankers professional liability (BPL)	Flat to +7.5%
Insurance company professional liability (ICPL)	Flat to +10%

Key takeaway: Competition among insurers has increased across all lines for financial institutions, resulting in a deceleration of rate increases and, in some coverages, rate decreases.

Market conditions are softening, which will likely continue through the first half of 2023, with potentially some flattening out in Q2 2023.

- The influx of new capacity, strong growth targets for both new markets and established insurers, and the lack of IPO and SPAC activity have contributed to the increased competition in the marketplace. Most insurers headed into 2022 with positive rate targets, but the competition accelerated on the late Q2 2022 renewals, likely as insurers assessed their first-half performance against annual targets.
- While most insurers are supporting flat rates and/ or rate decreases, some are stepping away from programs where the rates no longer make sense. There is a general concern that the softening in rates with a potential recession in 2023 will result in inadequately priced business, which is what insurers have focused on remediating over the past couple of years.
- New market entrants entered the marketplace deploying excess capacity, but some have now issued primary forms with the goal of writing primary and being viewed more favorably for an excess attachment because of their primary capabilities.
- Financial institutions continue to explore the use (or expanded use) of captives, alternative program structures, self-insurance and risk financing portfolio analytics to better manage program volatility.
- Key emerging risk trends that are top of mind for financial institutions include economic uncertainty, ESG (with an emphasis on climate, inclusion and diversity), digital assets and cybersecurity threats. Driving economic uncertainty are interest rate hikes, high inflation, anticipated hard landing for the economy, market volatility and geopolitical risks. Financial institutions are positioning their businesses and portfolios to ensure that they can weather continued volatility and a downturn in the economy.

Financial institution D&O rates are trending downward with primary rates at flat-to-low single digit decreases, and excess rates experiencing double digit decreases.

- The financial institution D&O marketplace has become very competitive. There is increased competition on primary layers with the strategy to aggressively quote primary terms to secure a low excess position. Insurers are looking to move down on towers where there is more rate and add more capacity, typically ventilated throughout a program.
- While we saw alignment between primary, excess and Side A rates in Q4 2021 and the first half of this year, we have seen the excess rates diverge again with larger decreases than the primary, resulting in excess increased limit factors (ILFs) coming down.

- Certain insurers are strategically targeting Side A D&O capacity if they write the primary D&O ABC layer.
- Insurers are willing to consider enhanced coverage terms and have moved away from any tightening of terms.

Professional liability (E&O) varies by subsector, with regulatory trends a key focus by underwriters across all subsectors.

- **Asset managers:** Insurers continue to have a targeted appetite for asset managers, with several insurers releasing new primary forms, including some new market entrants. This has led to aggressive competition in the marketplace for both primary and excess. Across the financial institutions industry, rate increases have come down most for asset management D&O/E&O programs, with rate decreases being much more common. Coverage remains stable, though a limited number of insurers have sought to apply language intended to eliminate ambiguity for cyber events by clarifying what is and is not covered.
- **Insurance companies:** Rates have stabilized with any increases in the low to high single digits. Primary capacity continues to be limited with few viable insurers looking to write new business. However, some insurers have released new primary ICPL forms and, after several renewals with rate and retention increases, some insurers are willing to revisit programs that they had previously exited. “Silent” cyber exclusions are often applied to ICPL policies. Some insurers outright exclude cover relating to cost of insurance (COI) claims against life insurers, but we are seeing signs that other insurers may be willing to offer COI coverage subject to higher retentions and significant additional premium.
- **Banks:** BPL continues to be a more challenging line, but rate and retention increases have largely stabilized. Rate increases have moderated and shown signs of flattening. Retention increases were largely applied over the past two years, but for those banks that still have aggressive retentions relative to size/exposures, there will likely be pressure to increase the retention. Primary capacity for large banks continues to be limited; however, as insurers look to grow, there has been renewed interest, and some insurers are aggressively pursuing primary and low excess layers. New market entrants have increased competition on excess capacity.

Several trends and exposures bear watching.

- **Crypto/digital assets:** There has been a lack of regulatory guidance around digital asset activities for financial institutions, leading many companies to cautiously approach any digital asset products or services. The Biden administration released its first-ever crypto regulatory framework in September providing some direction, but it leaves many key questions unanswered requiring further exploration (i.e., is crypto a security). The framework also comments on a U.S. central bank digital currency and its potential benefits but seems limited to further consideration by an interagency working group to review the implications.
- **ESG:** Regulatory scrutiny of ESG-related products and strategies continues to increase. In May of this year, the SEC proposed new rules intended to protect investors in ESG-themed investment products, which would impact investment advisers and mutual funds. State AGs are becoming more active in ESG policies and have recently brought a multi-state investigation against several large banks for their involvement in the U.N.’s Net-Zero Banking Alliance and ESG investing, which the states feel will inhibit lending to the fossil-fuel sector.

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Speciality lines and solutions

Aerospace

Rate predictions

Airlines	-10% to flat with fleet growth
Airline hull war	+100% to +250%
Airline excess war liability	+50%
Aircraft lessors/banks	+50% with multiples for hull war
Products manufacturers and service providers	+5% to +10%
Airports and municipalities	+5% to +10%
General aviation	+5% to +10%
Space	Rate changes depend on risk and limit; percentage range not applicable

Key takeaway: Except for war coverage, the market remains stable as insurers take a measured "wait and see" approach to the potential impact of Russia's confiscation of aircraft. However, this could shift in 2023 if losses manifest in the market, at which time all segments of the aviation insurance marketplace could be impacted as the hull war market is simply too small to absorb a $10 billion+ loss on its own, and the reinsurance marketplace is relatively finite when compared to the P&C (property & casualty) market, which could result in the direct and reinsurance markets seeking to recover their losses in other segments.

Airlines

With exposures bouncing back, plenty of capacity and below-average claim activity, the rating should be stable going into 2023.

- Insurers are looking to grow and compete for premium income.
- Exposures have bounced back, although with some regional variations.
- Rating is already at high levels.
- Markets show two years of profits.
- However, reinsurers could tighten their costs should war claims spill over to the H&L market.

Hull war and excess war liability, premium and rating

- The Russia/Ukraine crisis and resulting sanctions have produced catastrophic claim activity for the hull war market.
- The current market premium is completely inadequate to support the claims.
- Rates are going up 100% to 250% across the board.
- Coverage and aggregate limits will be impacted.
- Reinsurers are driving the rating activity; several large insurers have pulled out completely.
- Opportunistic markets have entered/will enter the market, which should stabilize the market in 2023.

Aircraft lessors/banks

Hard market conditions prevail with increased emphasis on geographic aggregation of assets; hull war sub-class remains highly volatile. The impact of sanctions on Russia could lead to an unprecedented aviation market claim with insurers being exposed to previously unquantified hull exposures. Preliminary expectations for total industry losses range from $10 billion to $20 billion and, while the uncertainty of the overall loss magnitude continues, risk perception has already shifted for both direct and reinsurance markets. The historical premium base for this class has been low and, with losses concentrated in this class, this will lead to disproportional cost increases.

- Insurers continue to assess exposure and liabilities to Ukraine, Russia and surrounding areas. Combined impact of the Ukraine crisis and developing airline assets held in Russia are expected to have a far-reaching impact on this class.

- Increased claim activity has continued (this in addition to prior-year losses developed from many repossessions).
- Insurers remain focused on geographic aggregation of assets and broader geo-political perils.
- Overall market capacity remains adequate following several withdrawals; insurers begin to introduce sub-limit(s) and cover limitations with focus on aggregation.
- Increased underwriting oversight from insurer senior management; insurers' own reinsurance renewals expected to further restrict and limit coverage.
- Volatility within hull war rating can be tempered if confiscation etc. (paragraph (e) perils of wording) are excluded, the market is very distorted, and a "balance" remains to be found on coverage and price.

Product manufacturers and service providers

While the shadow of the Russia/Ukraine crisis looms over the aviation insurance market, aerospace organizations renewing in 2022 have so far avoided any significant impact to their programs. It is very possible that this could change any time. Therefore, our advice for those renewing is to engage with their team early to get terms and support secured, as it is challenging to anticipate the direction the market will take and when a shift might occur.

- Insurers are still pushing for premium increases (+5%); however, flat renewals are achievable where there are no new losses or deterioration.
- This has come following two years of improved profitability for insurers, encouraging growth in capacity, which has led to a deceleration of movement in market conditions.
- A few insurers see this as the moment to seize larger shares on desirable risks in anticipation of the market hardening once again, this time because of the Russian/Ukraine crisis.
- The direct aviation insurers rely heavily on reinsurance, and reinsurers who were already smarting from the Boeing Max loss are looking closely at direct insurer exposure to Russia/Ukraine; we are seeing coverage restrictions being imposed — especially regarding hull war and war liability writebacks.

General aviation

Underwriters will continue to push for some uplift in rates, while remaining focused on 12-month model-specific SIM pilot training as well as retaining their book of business.

Inflation and increasing claim costs remain a major concern for underwriters.

- Underwriters are citing inflation as a main driver for an uplift in rates.
- Supply chain constraints and labor shortage continue to increase the cost of repairs and aircraft down time, effectively increasing the total cost of claims.
- The award on the Allied Aviation loss caused nervousness among insurers in Q4 of 2021 and served as a reminder of the potential for runaway jury awards in the U.S.

New capacity is being deployed by new and existing markets, which is putting pressure on underwriters to offer more competitive pricing on larger quota share placements.

- Underwriters are inclined to stay on current business and are not very aggressive on new business due to uncertainty in the market regarding potential increased reinsurance costs and Russia/Ukraine.
- We have not seen any major changes in coverages and sub-limits, as underwriters have been closely reviewing and reducing these over the last couple of years; however, we have seen agreed hull values being reviewed both midterm and at renewal.

Environmental, social and governmental (ESG) stances of carriers continue to translate into more restrictive underwriting on risks that present an adverse picture on sustainability (e.g., older aircraft with less efficient/higher carbon emission engines).

Airports and municipalities

Aircraft and passenger traffic is rebounding in a post-COVID era, driving increased exposures on site. Also, large, and unique verdicts continue to keep the social inflation and nuclear verdicts fresh in carriers' sights, leading to a general sense that pricing remains inadequate.

- Though rating increases continue, we have seen a shift to individual account assessment with more significant changes in appetite, structure and rating if there is an unfavorable loss history.
- Coverage adjustments to non-aviation excess limits have occurred in the past few years and are less significant moving forward.
- There is a sense of a more competitive environment, though all markets are still seeking what they determine to be adequate rates.
- Vertical placements (quota-share) are a good solution to engage capacity on larger-limit accounts and establish a more stable program for the future.

Space

Since the rate corrections of 2019 – 2020, this sector has stabilized and embraced a more disciplined underwriting approach.

- Risk differentiation is now based on limit requirements and technology-based risk variations.
- Premium rates have remained stable over 2021 – 2022, with rate reductions only on risks with significant technical heritage.
- The market's annual premium income target remains $750 million, but it has not reached that target yet.
- Annual market income has been hampered from 2020 – 2022 by pandemic-related project delays and supply chain issues.
- New insurers/capacity have come into the market to replace exited/decreased capacity.

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Alternative risk transfer (ART)

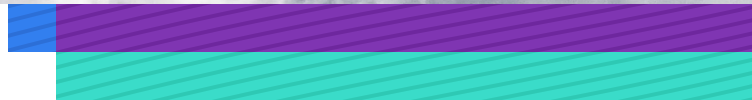
Rate predictions

Structured programs	Flat
Parametric nat cat	-5% to +5%
Parametric weather index programs	Flat to +5% (+20% to +30% Asia)
Parametric pandemic programs	Flat
Portfolio programs	+25% to +40% over 3-years (7-12% annually)
Captive stop loss	Flat to +5%

Key takeaway: Parametric and structured solutions continue to be the focus of the ART market in 2023. Portfolio/integrated risk products renewing in 2023 face the impact of cumulative changes in the market since binding three years ago.

Markets continue to navigate poorly qualified and structured opportunities. ART deals supported by robust analytics and negotiated over realistic timeframes continue to fare better.

- The parametric market, now established for many risks, continues to increase market share through complementing existing placements, addressing increasing gaps in traditional coverage, or by providing novel capacity for ESG risks. Lenders are increasingly accepting parametric solutions, reducing historical barriers to utilization.



- Structured solutions embedded in recent years are now expanding into other lines of business. Having been established to address a specific need, typically in primary property or casualty lines, clients are leveraging their investment in the mechanism to drive efficiencies into other lines of business.
- As in property and casualty, fronting is now being aggressively deployed to address such risks as cyber, where insureds balance the prospect of no/limited risk transfer and contractual requirements.
- Captive use has increased, though that has not necessarily translated into multiline stop loss or other ART approaches, as insureds simply retain risk.
- Portfolio/integrated risk products are attracting less attention; however, they do continue to perform favorably when compared to many monoline equivalent programs. Underwriters do continue to focus on their structured solutions books.

Parametric solutions

- **Natural catastrophe risks**
  - Parametric hurricane and earthquake programs are the mainstay of ART. However, capacity may become constrained due to potentially challenging 1/1 reinsurance renewals.
  - ART is increasingly deployed by sovereign and public entities to aid in disaster recovery and the protection of ecosystems, such as reefs and nature preserves.
  - Insureds aware of the limitations of traditional property policies are realizing the broader potential for ESG-linked uses of ART approaches.
  - Deployment has increased for hail, flood (water height) and wildfire, with new products emerging for tornadoes, pandemics and third-party cloud service provider outage.
  - Typical use continues to be as a complement to the property placement, in-filling deductibles, topping up sublimits or covering uninsured risks (such as non-damage business interruption risk).
  - The simple, easy-to-communicate structures and quick settlement are key drivers.
  - Captive participation is increasing often through quota share participation or fronting for parametric reinsurance. This is in support of a company's risk and ESG agenda.
  - 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 its traditional insurance claim.
  - This market continues to attract investor capital supporting new MGAs, and technology continues to drive product refinement. We are conscious, however, that these MGAs often access the capacity of established parametric markets. This could suggest that this market will see consolidation in the future.
- **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 interruptions, 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.
    - Companies in the value chain, dependent on the volume of an underlying product can protect their revenue and profits by mirroring the yield or volumetric output of that underlying product.
  - In the renewable energy sector, these products support the revenue generation of wind and solar assets over five- 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 restriction by a federal or state government in particular geographies.
  - These programs could 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 becoming available using various economic and industry or risk indexes.

- **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.
  - The use of blockchain deployment has been aired many times, as the characteristics of this sector are a good fit. That said, there is little movement in this direction, likely because these programs require a notable degree of upfront customization (especially for large insureds), and programs run quite efficiently today.

Structured solutions

- Insureds with challenging risks or large risk appetites have benefited from deploying structured solutions.
- In addition to increased use beyond property and casualty, these solutions are also attracting interest as reinsurance of captives.
- Mature programs are expanding to absorb a wider set of risks.
- Key advantages are:
  - 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 (several trends and exposures bear watching)

Fronting solutions

- As capacity may be limited or simply not available for cyber insurance, many insureds are creating fronting programs of $5 million to $100+ million, leveraging their risk tolerance to retain the risk. This means that the money otherwise spent on insurance premiums can be redeployed into security improvement.
- Expect this dynamic to appear in other challenging lines, especially where legislative change allows the assumption of risks not previously within scope.

Portfolio solutions

- Expiring programs have enjoyed stability in coverage and cost, having been protected from the hard market cycle. While these recalibrate to the current market environment, capacity has diminished for some insurers and lines of business following the traditional monoline market. That said, pricing continues in the main to be favorable when compared to monoline equivalent programs.

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Architects and engineers

Rate predictions

Professional liability	Flat to +10%
Project-specific professional liability	+25% or more
General liability/package	Flat to +5%
Auto	+5% to +15%
WC	Flat to +5%
Umbrella:	+5% to +15%
Management liability	+5% to +15%
Cyber	+50% to +100%

Key takeaway: While the overall A&E marketplace is relatively stable, most A&E professional liability carriers have reported an increase in severity claims. Firms can therefore expect more pressure toward higher deductibles and self-insured retentions. In addition, some PL carriers have reduced their available capacity resulting in the need for some design firms to look to excess markets to meet their higher limit requirements — which usually comes at additional cost.

Professional liability (PL): While the number of available PL carriers remains high, there are a finite number of long-term stable A&E PL markets.

- An increased severity in claims has created some restriction in capacity as well as an increased pressure on higher retention levels.
- Decreased capacity has created a need for additional limits through excess carriers at an additional cost.
- Design firms can expect a greater level of underwriter scrutiny to continue. Firms can expect underwriters to look closely at their commitment to specific risk management practices, including negotiation of fair and insurable contracts and education of their staff on managing A&E PL-related risks.

Insuring single projects

- Design firms can expect to pay more for insuring single projects; notably, specific job excess (SJX) and project specific PL (PSPL) due to a hardening PL market and a reduction in available capacity.
- We continue to see a decrease in available capacity within the project specific PL market — especially for large civil design-build projects. Some of the leading A&E PL carriers have taken a hard line on these risks in large part due to alternative delivery methods and the use of fixed price contracts with unrealistic pricing and contingencies paired with an imbalance of contractual risk allocation.
- We continue to see a push for progressive Design-Build from the underwriters.

Emerging A&E claim trends: In 2022 WTW A&E released a survey of senior claim managers from 12 A&E professional liability carriers. The survey focused on professional liability claim statistics, professional liability claim trends, and emerging A&E risks. An updated survey is currently in process for 2023.

- **Professional liability claim statistics**
  - The cost and time to settle a PL claim are increasing, with most noting it takes on average two to three years or more to settle a matter.
  - Most carriers surveyed noted that the overall frequency of A&E PL claims has remained stable; however, we are experiencing a definite upward trend in the severity of claims and an increase in the overall cost to settle matters.
- **Professional liability claim trends**
  - Condo projects continue to be the frontrunner when it comes to the most “hazardous” project type from the perspective of A&E PL carriers.
  - Third-party bodily injury claims and design-build/alternative project delivery are the two leading factors behind a continuing trend of severity claims on roads and highway/infrastructure projects.
- **Emerging A&E risks**
  - Climate change and the evolving standard of care were identified as a leading emerging risk for A&E firms by the leading A&E PL carriers.
  - Social Inflation has been identified as a contributor to the increase in claim severity. Increased values in verdicts, aggressive plaintiffs’ bar, and concerning trends in reptile theory and litigation financing are fueling this emerging issue.

The A&E cyber insurance market remains difficult.

- Increased claim frequency and severity continue to directly impact premiums, capacity and retention levels.
- The continued claim activity has kept underwriting scrutiny high; however, firms with proper protocols in place have seen favorable renewals. Start the renewal process early and review underwriting trends with your broker to ensure you have the proper protocols in place.
- To help our clients manage the evolving risks associated with cyber liability, WTW A&E has created a Cyber Risk Resource Center to provide thought leadership to the design community and help stay in front of these emerging risks.

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Captive insurance

Key takeaway: The trends in the marketplace continue, with commercial insurance rates rising at a moderating rate. Interest in traditional property and casualty captive programs typically jumps during hard market cycles, but now we are seeing additional consideration given to emerging risks and risks not previously financed through captives.

Captives continue to increase involvement in specialty lines of business beyond the traditional property and primary casualty areas. This is accompanied by greater awareness of the benefits of building diverse portfolios of risk rather than a monoline approach.

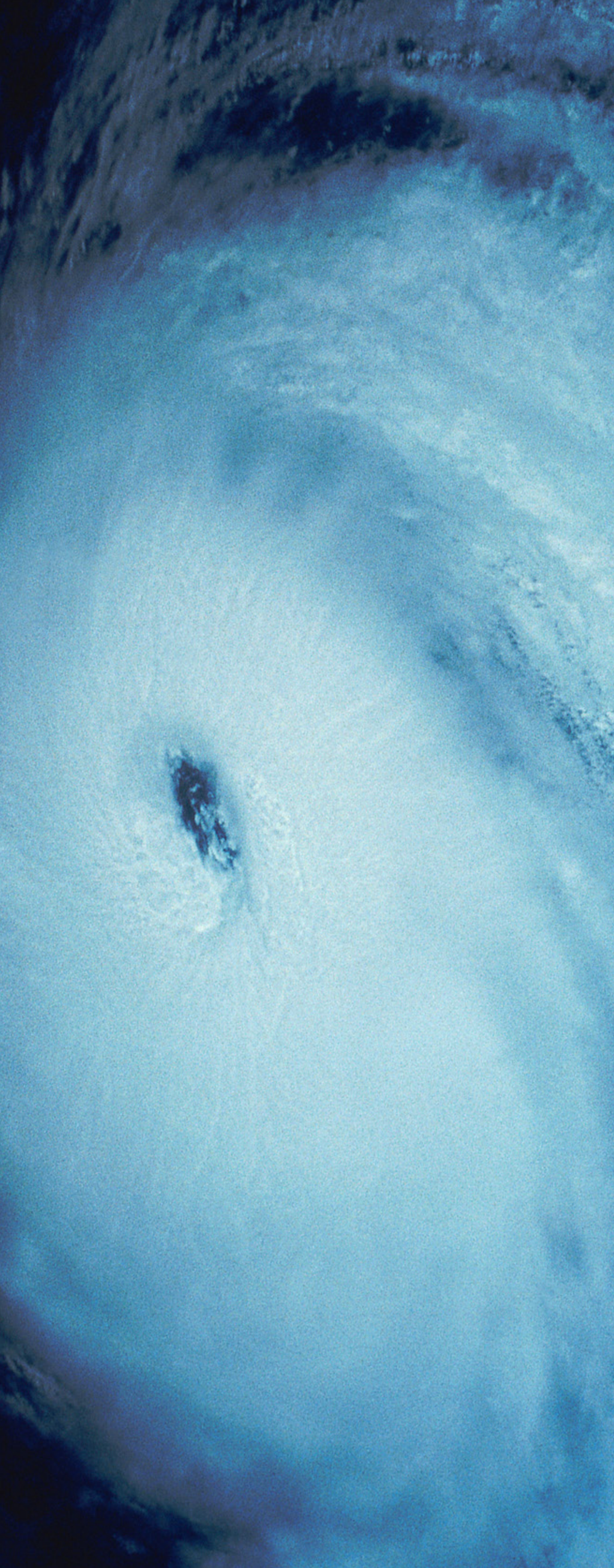
- This shift in captive deployment is subtle but definite in many instances. Enhanced data and analytics capabilities are key enablers of change.
  - These tools are facilitating advances in quantification of both individual risks and portfolios of risks, including multiple lines of business.
  - In some cases, captives may be able to cover emerging risks before traditional insurance markets have an opportunity to develop their own products.
  - We continue to see an increase in the use of analytics to support decision making and to optimize cost of risk transfer in market negotiations, particularly among captive owners looking to optimize their use of capital and quantify their risk tolerance.
- Interest in parametric solutions, especially around climate and environmental risks, remains strong, as clients seek capacity that may not be available in traditional insurance markets.

U.S. domiciles

- Early new captive formation reports suggest a strong 2022 across many domiciles, all industries, and many lines of insurance.
- For example, according to the Vermont Department of Financial Regulation, the State of Vermont is reporting 34 new captive formations year to date compared to 38 over the same period last year.
- In addition, there have been 32 cells approved so far this year compared with 20 last year in Vermont.
- Captives that built capital and surplus during the extended soft insurance market are being further optimized to support new lines of insurance and new offerings of limits to combat the effects of the lingering hard insurance market.
- Captive participation in cyber placements is becoming more commonplace, with captives participating in both the primary layer and in excess layer positions.
- Employing captives for Side A D&O coverage has become a discussion area following the amendment to the Delaware corporate statute; however, the same considerations remain:
  - Can the assets of a captive be segregated from the parent company?
  - Concerns around the independence of claim handling procedures
  - Circularity of funding considerations

Americas offshore

- The key Atlantic and Caribbean domiciles of Bermuda and the Cayman Islands have seen renewed growth in the number of new captive insurance licenses issued.
- Through August 2022, there have been 14 new licenses issued in Bermuda compared to eight in the prior year and six in 2020, according to the Bermuda Monetary Authority. The Cayman Islands Monetary Authority has seen 28 new captive licenses issued so far this year.
- New activity remains largely focused on business from North America, with some additional activity from Latin America, while interest from the Asia Pacific region has increased.
- Cayman continues to see new activity in the healthcare sector which represents approximately 40% of the number of licensees, with a growing number of reinsurers being formed writing diverse risks. There is a particular focus on the formation of life and annuity reinsurance entities.
- Bermuda activity remains centered on larger, more complex global programs at one end of the scale, but also segregated accounts (cell) business at the other where we are seeing very strong growth. This has included Side A D&O business on a funded basis, which in some cases is a viable alternative.
- International employee benefits captives are gaining some traction.



- More generally in commercial insurance in Bermuda, there are increasing numbers of startup platforms based on blockchain (and similar) technologies where the proposition focuses on greater contract standardization and immediate settlements, all of which are automated.
  - The use of such technologies includes such lines as marine cargo, travel cancellation, crypto currency theft — where complex manuscript policies are not necessary.
  - Such solutions are being considered in the captive market, but the trend is in the early stages of development.

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Construction

Rate predictions

General liability	+5% to +10%
Auto liability and physical damage	+5% to +15%
Workers compensation	Flat to +5%
Umbrella (lead)	+5 to +15%
Excess	+5% to +20%
Project-specific builders risk	Flat to +10%
Master builders risk/ contractors block programs (renewable business)	+10% to +20%
Professional liability	Flat to +10%
Contractors pollution liability	+5% to +10%
Project-specific/controlled insurance programs	+5% to +15%; +10% to +40% for excess
Subcontractor default insurance	Flat to +10%

Key takeaway: The rate environment in North America, across all lines of coverage, continues to improve. We anticipate continued improvement through the remainder of 2022 and into 2023. Certain high hazard exposures and contractors with challenging risk profiles will continue to experience rate increases, but the rate of these increases will be tempered as the market improves.

Rate increases are moderating.

- With an influx of capital into the market, compounded by increased competition for quality risks, the market has shown increased trending toward flexibility in pricing and coverage offerings.
- While increased carrier competition may yield better renewal results, incumbent partners continue to be an attractive option for most annual renewals. Often the familiarity with the contractor's operations provides incumbent carriers a level of confidence that allows for increased underwriting flexibility.
- Renewal rate increases continue to decline across all casualty lines. After peaking in the third quarter of 2020, with an average rate increase over 46% for umbrella and 108% for excess, (WTW "State of the Casualty Marketplace" 2022 Q2) the umbrella and excess liability lines have seen the most stabilization.
- Interest rates are on the rise and, while they have a strong long-term relationship with improved combined ratios, interest rates will potentially only play a minor role in short-term changes in underwriting metrics.

Construction activity is expected to rise in 2022.

- The construction industry is beginning to feel the effects of the Infrastructure Bill; however, infrastructure projects to date have only represented the tip of the iceberg as contractors expect to add additional work in the coming years.
- The trend for investment in renewable energy remains strong, and we expect it to increase with funding from the Infrastructure Bill.
- Courts' backlogs are still being worked through.
- Courts are diligently working through backlogs that were caused by the COVID-19 pandemic. We expect an increased number of large verdicts and construction defect claims, which will continue to negatively impact renewal results for the next few years.

A recent survey published by the Thomson Reuters Institute revealed that the average backlog in state and local courts increased by approximately one-third between 2020 and 2021.

- Reinsurance results play a major role in many casualty renewals.
- The tightening of terms in reinsurance renewals have negatively impacted contractors' abilities to achieve their desired renewal results from both a rate and coverage perspective.

- The positive trajectory of the Fitch, AM Best, and Moody's ratings on the reinsurance market may signal light at the end of the tunnel for many contractors.

General liability (GL)

Rising labor costs to combat the labor shortage and the impact of inflation on the costs of materials continue to increase the underlying exposure bases that underwriters use to determine overall premium. While increased exposure bases are driving up premiums, it is unclear at this point if this directly correlates with increased risk.

- The mounting pressure on contractors' margins is a result of the unpredictability in the cost of materials.
- The burdens placed on supply chains threaten timelines and overall viability of projects. This may result in contractors needing to use less-familiar materials and suppliers to meet their deadlines. Contractors should fully research new materials and suppliers to avoid circumstances that could give rise to GL claims (construction defect).
- Recent interest rate hikes are likely going to cool off the residential construction market, although it's not yet clear to what extent.
- The construction industry is facing unprecedented labor shortages requiring contractors to offer higher wages to bring people back to work. As wages are a primary exposure base for GL premium rating, insureds can expect increased premiums, even when the number of workers on the payroll remains the same. (GlobeSt)
- Reinsurance terms have further limited the market's ability and flexibility to write certain high hazard construction operations. Contractors with these operations will need to demonstrate a higher degree of care to meet the demands of increased underwriting scrutiny. Favorable loss performance and clear commitment to safety will help bring more markets to the table.
- There is increased competition among carriers for best-in-class risks, resulting in positive marketing outcomes. In some circumstances, renewal decreases are being obtained.
- Well-organized submission data is paramount to achieving the most positive renewal outcomes. Due to recent market changes, submission flow has increased, so best-in-class submissions are often pushed to the top of the underwriters' desks and given more opportunities for underwriting credits.
- Developing carrier partnerships is a valuable approach in this marketplace. These partnerships allow for more flexibility in underwriting and more predictable renewal results.

Auto liability (AL)

The auto market continues to be challenging; however, rate increases are beginning to moderate.

- The driver shortage has put added pressure on contractors to find suitable drivers. As a result, many firms are considering loosening driving requirements to keep up with their demands.
  - Labor/driver shortages have prompted contractors to enlist younger drivers. Insurance carriers are scrutinizing driver safety programs when evaluating and pricing risk. Furthermore, insurance carriers may look to limit exposure to less experienced drivers by restricting coverage.
- Fitch notes that the pandemic's socioeconomic changes led to an "unprecedented decline" in commercial auto claim frequency. However, regular increases in claim severity have been a key factor behind the chronic underperformance of commercial auto over the past decade, according to the report.
- Large and heavy fleets continue to drive increased rates.
- Insureds with large commercial fleets are experiencing pressure on primary automobile liability attachment points and increases in lead umbrella pricing. These increases put upward pressure on excess layer pricing.

Workers compensation (WC)

Workers compensation still exerts a stabilizing influence on most contractor's programs — balancing out rate pressure on general liability and auto.

- Mounting backlogs and labor shortages are putting pressure on contractors to hire less qualified and less experienced workers to keep up with demand. Reliance on younger, often less skilled labor potentially increases exposure to injury. Safety training and a strong commitment to loss control is more critical than ever to maintain a safe and healthy labor force.
- The use of job monitoring technology is becoming commonplace and proving effective when employed correctly.
  - Additional collaboration between management and jobsite employees to ensure that proper protocols are being followed has been an area of focus with the introduction of new technology.
- The ongoing stability of workers compensation underwriting experience has enabled contractors to offset rate increases in general liability and automobile liability rates.
  - As a result, pairing workers compensation with other lines of business is the most effective way to maintain stability in the overall casualty program.

- Despite the loss stability on this line of business, premiums are being affected by the increase in underlying payroll exposures due to the competition for labor.
- Rising healthcare costs will continue to pressure carriers to increase workers compensation rates to maintain targeted loss ratios.

Umbrella/excess liability

Umbrella/excess carriers, while continuing to seek increases, have become more flexible with pricing and their overall approach, as recent trends indicate renewal rate increases tapering. While the market has shown overall improvement, coverage grants and attachment points will still be scrutinized.

- After more than two years of an exceptionally hard umbrella and excess market — where the availability of lead umbrellas, unsupported by the primary lines, virtually dried up — most contractors have now paired their primary and lead umbrella programs with the same carrier to achieve the most optimal renewal results.
- Although new capacity has entered the space, increasing competition, most carriers prefer to deploy this additional capacity in multiple ventilated layers and not necessarily in a single tranche.
- Rate increases on lead umbrellas have stabilized, but average renewal rates continue to be more favorable when renewed with incumbent carrier.
- The London and Bermuda markets have become increasingly more price-competitive at historically lower attachment points.
- Contractors who operate in challenged industries or have perceived high hazard exposures — including PFAS, wildfire, residential and New York operations — are experiencing higher rate increases, capacity challenges, and are often forced to take on higher retentions and reduced coverage to reduce overall costs.

Controlled insurance programs (CIPs)

Class-of-business-dependent, we have seen the direct marketplace allow for more creativity in offered coverage in addition to competing on desired program layers, thus creating a more predictable cost for commercial project-specific placements. Difficult classes of business (location- and risk profile-dependent) remain heavily written in the E&S space with a large variability in cost.

Whether pursuing an owner-controlled or a contractor-controlled program, a robust submission with comprehensive underwriting data remains the most important factor in pursuing carrier support for CIPs.

- The drastic cost increase of materials is driving premiums up even while achieving a competitive rate.
- A robust submission is imperative and includes sponsor experience, general contractor performance and history, loss control measures and specific details surrounding quality to ensure a successful project delivery.
- Being able to demonstrate risk management strategies at the sponsor level provides much needed transparency and comfort for the carrier to trust in the partnership of insured and insurer. Concern surrounding the CIP becoming a catch-all is mitigated when multiple lines of coverage are purchased for the project.
- Carriers have invested much time and many resources to offer risk control technologies that improve project success and reduce the potential for loss. Their availability should be considered when selecting an insurance carrier.
- Direct carriers are laser focused on creating long-term partnerships in support of project-specific programs and show more creativity and flexibility when the insured desires the same.
- While market conditions are gradually improving, moderate rate increases are still expected.
  - Carriers remain reluctant to deploy a full $25 million in limit resulting in multiple quota-share layers for large limit towers.
  - Although some new entrants have emerged from the global marketplace, obtaining lead umbrellas remains one of the most difficult challenges. Lead excess limits on difficult risks remain low for deployed capacity hovering between $3 – $5 million.
- Reinsurance treaties most often align with quarter ends, which proves difficult when attempting to hold quotes open beyond the renewal date. Open quotes are either re-underwritten, resulting in a price increase, or a market will leave a class of business in total, no longer making the program viable. It is important to align formal submission release with construction start date as best as possible so as not to run into this scenario.
- Extensions remain extremely difficult to secure at original program pricing and are highly dependent on project experience as well as on remaining work scope and location. If requiring an extension is a known need, it is best to begin the process as soon as possible.
- Including a small percentage of difficult classes in large rolling programs used to be an exception that could be negotiated, but we expect that these classes will require separate stand-alone programs.
  - Uncapped per-project limits are more difficult to secure.

  - Products completed operations aggregates are typically limited to one-time per project including the statute of repose, whereas historically providing one for construction term plus one for statute was the norm.
  - New York remains a challenging jurisdiction causing most carriers to only offer general liability on a very large or matching deductible basis.
- Frame, residential and single-family build-to-rent portfolios are typically only supported in the E&S marketplace.
  - Single family build-to-rent projects are limited to an allotted amount for the book in total, and once the carrier has reached that capacity, another market must be used. There is not a robust number of markets willing to entertain this new trend.
  - Problematic jurisdictions continue to force for-rent, commercial grade projects into the E&S marketplace, with large rate increases on both primary and lead, as most carriers consider the lead excess to be a working layer.
  - Some carriers classify “anything with a pillow” as containing a residential component forcing a push into the E&S space.

New York controlled insurance programs (CIPs)

Loss experience in NY shows no signs of slowing down when it comes to liability and continues to drive price increases in the state. Most primary layers are written with a rate on line approach.

- The marketplace underwrites the state in its entirety as being New York Labor Law exposed, whereas in the past, provided an opportunity outside the five boroughs, which used to be a more attractive component to gain interest in the project.
- Under a CIP, if an enrolled contractor’s worker sustains an injury resulting from a fall or a falling object, the typical result is a labor law general liability claim in addition to the workers compensation claim.
- Nuclear verdicts have no sign of slowing down when it comes to labor law.
- 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

There is generally ample capacity in the builder’s risk market, but capacity can be restricted based on location/CAT exposure, project size and type of construction. Prototypical technologies, alternative construction methods or materials (such as modular or CLT) and natural catastrophe-exposed projects continue to face hesitancy from the marketplace and/or more restrictive terms and conditions.

- Limited underwriter bandwidth and increased underwriting discipline require longer lead times to quote. Providing complete and accurate underwriting information is a prerequisite. Carriers are looking to partner with clients that can demonstrate strong risk controls highlighting best-in-class supply chain efficiencies and on-site protections.
- Coverage drivers:
  - Water damage and water intrusion — Water damage losses continue to challenge the market. Higher water damage deductibles can be expected, especially on high-rise, residential and wood frame projects. Lower water intrusion sub-limits may be imposed on wood frame projects.
  - High CAT-exposed projects — Carriers are still looking to achieve technical adequacy for CAT pricing as natural catastrophes worsen year after year.
  - LEG 3 and damage to existing property — If and when these coverage extensions are offered, higher rates and/or deductibles usually apply. Carriers may impose serial loss clauses and/or sublimits applicable to LEG 3.
  - Market scrutiny continues around valuation and adequacy of original policy limit due to supply chain challenges, building supply shortages and skilled labor shortages. Carriers have been reluctant to offer significant increases to escalation clauses to this point. As such, brokers should revisit budgets with project teams throughout the project life cycle and adjust the limit of liability as needed.
  - Capacity restrictions heading into Q4 — Some carriers may be reaching their premium caps for new business which may further restrict available underwriting capacity at the end of the year.

While extension terms and conditions remain challenging, carriers have been more flexible and, on most projects, are continuing to partner with clients through the project completion.

- Increased rates and deductibles, in addition to possible restrictions in coverage, can still be anticipated on extensions beyond pre-agreed policy terms. Projects with losses, heavy cat-exposed locations or opportunities backed by reinsurance support can still expect more severe restrictions and corrections in rate and overall terms.
- Early engagement with the carrier when an extension is needed remains crucial. Providing detailed project status information along with ongoing protections in place at the project site is key.

The wood frame market continues to be extremely challenging, with finite capacity causing rates to rise.

- Large-scale developments/projects are becoming more common, and the need for multiple carriers on a single risk leads to premium increases and possible non-concurrent terms and conditions.
- Adequate lead time for wood frame submissions as well as complete underwriting submission details is critical; turnaround takes weeks to months depending on project size and complexity.
- Coverage drivers:
  - Site security is a requirement for most large wood frame construction. Risk managers and contractors should look at site security as part of the all-in construction cost instead of an additional cost. Electronic service monitoring can be costly, depending on the scope of work and length of the project. Engaging vendors early will assist in estimating costs.
  - Water detection service implementation on wood frame projects is encouraged. While not always a requirement, it does help separate a project from others and increases carrier appetite.
  - Crime scores are closely monitored on all projects, as civil unrest, riots, arson and looting in certain geographies have proven challenging to underwrite. Buyers should anticipate higher rates and even stricter security requirements in these locations.
  - Wildfires continue to be front-of-mind for underwriters, and wildfire deductibles or restrictions may appear on new placements.
  - Wind/hail limit and deductibles for projects within high-risk areas 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.

- While some insurers have reduced limits on specific coverage parts or on an overall book portfolio basis, the marketplace continues to see many insurers offer at least $10 million per risk to insureds, with others able to offer up to $25 million.
- Total market capacity for contractor's professional annual practice programs is estimated to be $350 million to $400 million, while project-specific placement estimate is reduced to $250 million, because many insurers have reserved this capacity for practice or annual clients.
- Growing pressure on insurers to report rate increases is due to macro elements of U.S. inflation and micro elements of mergers/acquisitions by the insurers parent company.

Coverage

- Insurers are underwriting each risk on a case-by-case basis and, while there is no consensus among insurers, they are advocating for firms focusing on third-party design, in-house and subcontracted design build to consider higher retentions.
- More recently the coverage of first-party rectification/mitigation has become a focal point for insurers, especially on project-specific placements. Depending on a project's delivery method, we are now seeing requests for a percentage of design completion greater than 30%, and a push for no limitations of liability in designers' subcontracts with the insured.
- Continued competition and the presence of new entrants in the marketplace have alleviated past concerns of rectification being sub-limited on annually renewable practice programs.

Claim environment

- Insurers continue to report significant and severe first-party rectification claims, as well as claims derived from "solar and heavy infrastructure."
- Additional underwriting caution is being detected from "Heavy EPC, IPD and P3" project exposures.

Single project policies

- There is ample capacity available for project-specific placements for contractors. Some insurers are reserving project capacity on specific placements exclusively for clients who are buyers of their annual renewal practice programs.
- Total terms (policy period plus extended reporting period) of 15 years are widely available, although some insurers are starting to limit extended reporting periods to applicable projects state statute of repose or contractual requirement, whichever is less.
- Design professionals in the architects and engineers' industry have seen project capacity leave their marketplace, thereby rendering these placements more difficult to secure on large project placements, especially on design/build infrastructure projects.
- Reduced available capacity for design professionals has adversely affected contractual negotiations that design/build contractors have with owners. This, coupled with the push for limitations of liability from design professionals, is in turn making contractor-purchased project placements more expensive and difficult to structure.

Contractors pollution liability

Construction project and bid activity continues to be strong, as is the resulting demand for contractors pollution liability (CPL) coverage which should expand into 2023. CPL remains a desirable line of coverage for more than 30 carriers who underwrite it, although slight rate increases are anticipated as carriers work to achieve adequate rate across their entire book of business.

- Carriers are looking to achieve effective rate increases commensurate with their loss experience and appetite across their renewal books by employing underwriting methods, such as premium increases, shorter policy terms and reduced capacity.
- Contractors pollution liability programs continue to experience rate increases largely due to the market-wide performance of site pollution products, but these increases are kept in check (+5% to +10%) by markets competing for this desirable line of business.
- Site pollution continues to experience higher rate increases (+5% to +15%) resulting from increased claim activity, remediation costs (fuel and labor), and regulatory uncertainty from emerging exposures (i.e., PFAS).

For coverage and claims, carriers are looking to:

- Reduce capacity for renewals, which could impact practice policies/rolling wrap ups with larger limits
- Scrutinize known conditions at project/redevelopment sites with respect to capital improvements/soil management
- Increase underwriting scrutiny for indoor air quality (IAQ — i.e., mold and legionella) exposures in a post-covid market
- Achieve adequate pricing to cover the ever-increasing environmental claim frequency and severity in the marketplace — especially in the habitational, hotel, hospitality, and hospital sectors

Exposure spotlight

- **PFAS:** As predicted, per- and polyfluoroalkyl substances (PFAS) exposures are challenging standard lines insurance markets for all lines of coverage, including property and products liability. As environmental regulators consider the classification of these chemical as hazardous substances, researchers are racing to develop potential remedial solutions. Meanwhile, carriers are all but eliminating coverage for PFAS on site pollution (and increasingly on contractors pollution) programs because of increased activity from environmental regulators and third-party lawsuits.
- **ESG (environmental, societal, governance):** ESG principles may begin to factor into certain contractor sectors and aspects of projects, including project site waste management, and natural resource consumption and conservation.
- **IAQ (indoor air quality):** IAQ coverage for 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.
- **Redevelopment:** Claim activity related to redevelopment of brownfield properties continues — although carriers try to limit exposure by adding exclusions or coverage restrictions associated with soil management, historic fill, dewatering and voluntary site investigations.
- **Stormwater:** We are also seeing increased contractors pollution and professional liability claim activity relating to excessive siltation and stormwater run-off from construction sites, with 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 2023 and beyond. As delayed projects get back online, we are seeing steady increases in backlog for the remaining of 2022 and into 2023. Access to qualified labor, continued limitation of materials, and inflationary impacts will be key challenges to 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 eight carriers, including six that we consider actively engaged in the product line. Four of those five can offer single limits of $50 million or greater per loss.
- Carriers continue to offer flexibility for annual and multiyear programs and on subcontractor enrollment amounts, which is opening SDI programs for small, mid- and larger-sized contractors.
- 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 critical of contractors who are altogether new to SDI, and virtual underwriting meetings may not be sufficient to build trust. Carriers are open to travel for in-person underwriting and risk engineering visits, which is driving more concrete relationships.
- For the near term, contractors will have to contend with inflation, material and supply uncertainty and ongoing qualified labor constraints. We expect contractors to consider a balance of SDI and subcontractor bonds to get through this period of growth and 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 entrance of a new carrier at the beginning of 2022 offering significant limits, without legacy exposure, provides an additional option for both the near and long term.

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Energy

Rate predictions

Downstream property

Downstream property	
Favored, well-engineered programs	-5% to flat
Clean risks	Flat to +2.5%
Loss affective programs and dirty risks	+5% to +10%

Upstream property

Upstream property	
Offshore fixed assets	Flat
Offshore contractors	Flat to +2.5%
Onshore contractors and smaller E&P programs	+2.5% to +5%
Midstream	+10%
Subsea offshore construction	+20%

Key takeaway:
Downstream: After a brief period of market softening, recent losses and valuation uncertainties have produced a return to a more cautious underwriting climate.

Upstream: A major market bifurcation has developed; while there is strong competition for the best business offering significant premium income, there is now a much more restricted capacity for low-level "attritional" programs. This will be exacerbated by Munich Re Syndicate 457's announcement of their withdrawal from traditional oil and gas business in 2023.

Downstream

A downturn in the loss record has halted the recent softening process in the market.

- Recent losses reported suggest an overall loss total of approximately $4 billion to date for 2022.
- While this figure would not be sufficient to ensure overall unprofitability, the final loss total for the year may result in portfolio losses for many insurers.
- These losses have been across all the major downstream occupancies and across all geographies.
- Midstream losses have been heavy, which may affect overall capacity and market appetite for this sub-class.
- The losses have caused a major retrenchment in the market, with written lines being reduced and competitive pressures easing.
- Those insurers who had begun to compete with the existing leaders have once again elected to retreat, leaving leadership options generally as they were at the beginning of the year.

Global inflation rates have left insurers concerned that current valuations may not be accurate.

- Insurers are looking at tightening the LMA 5515 volatility clause, reducing the percentage cap on both monthly and annual variations in what is declared by the buyer to their program.
- Given the frequency and severity of fossil fuel price spikes in recent months, buyers are now left with the challenge of estimating the correct values to declare at a time of great uncertainty.
- During the pandemic, buyers have been used to simply indexing figures from 2019, but most insurers are not going to find this approach acceptable going forward.
- Global refinery business interruption values are likely to come under further scrutiny, given the multiple increases in commodity prices during 2022.
- Where insurers are not comfortable with the reliability and accuracy of the valuations presented to them, they are likely to respond with a more cautious approach to the program in question.

Insurers continue to focus on ESG, but market inconsistencies remain.

- Several downstream companies are owned by mega corporations that also own power companies that use coal-fired plants. These companies have had to face a withdrawal of support from various insurers, particularly those from Western Europe.
- The term ESG is now being questioned by some, as some inconsistencies among the constituent parts of the ESG framework are becoming apparent.
- This may be accentuated by the revised focus on fossil fuel production to alleviate the projected energy crisis in Europe and elsewhere in the months ahead.
- There is therefore still no consensus of approach across the market, making the navigation of the options available to buyers particularly challenging.

There is still little or no challenge to existing leaders from other areas of the market.

- While there have been some new entrants to the market, they have generally been significantly impacted by the recent loss record deterioration.
- As a result, there is a now a general reluctance to challenge existing market positions and leadership options.
- Brokers are therefore finding it more challenging to generate further competition into this market.

Buyers continue to experience a three-tiered market.

- **Tier one** consists of well-engineered and perceived "good" clean well-run risks; reductions of up to 5% are still available.
- **Tier two** consists of programs featuring less premium income, but which still can show clean loss records, the range for which is now flat to +2.5%.
- **Tier three** consists of loss-affected programs where rating increases of between 5 to 10% are still being applied.

Upstream

There is an increasingly significant bifurcation developing in the upstream market.

- Realistic capacity for the least sought-after programs has now constricted, despite the abundance of capacity for the most attractive risks.
- Insurers are increasingly withdrawing from non-renewable, attritional business, such as one well programs, small land rig fleets and sub-sea construction business, which has proved not to be profitable in recent years. Brokers' ability to complete some of these placements is becoming increasingly challenging. This will be exacerbated by Munich Re Syndicate 457's withdrawal from this market in 2023.
- Meanwhile, capacity for the most attractive business remains plentiful, with no sign of any withdrawals; realistic capacity continues to stand at some $7.25 billion for these programs.
- These include fixed offshore assets, global upstream programs, well-engineered risks, and those programs that remained faithful to their existing market leader. The common denominator is the prospect of significant premium income.

Recent midstream losses are also causing the market particular concern.

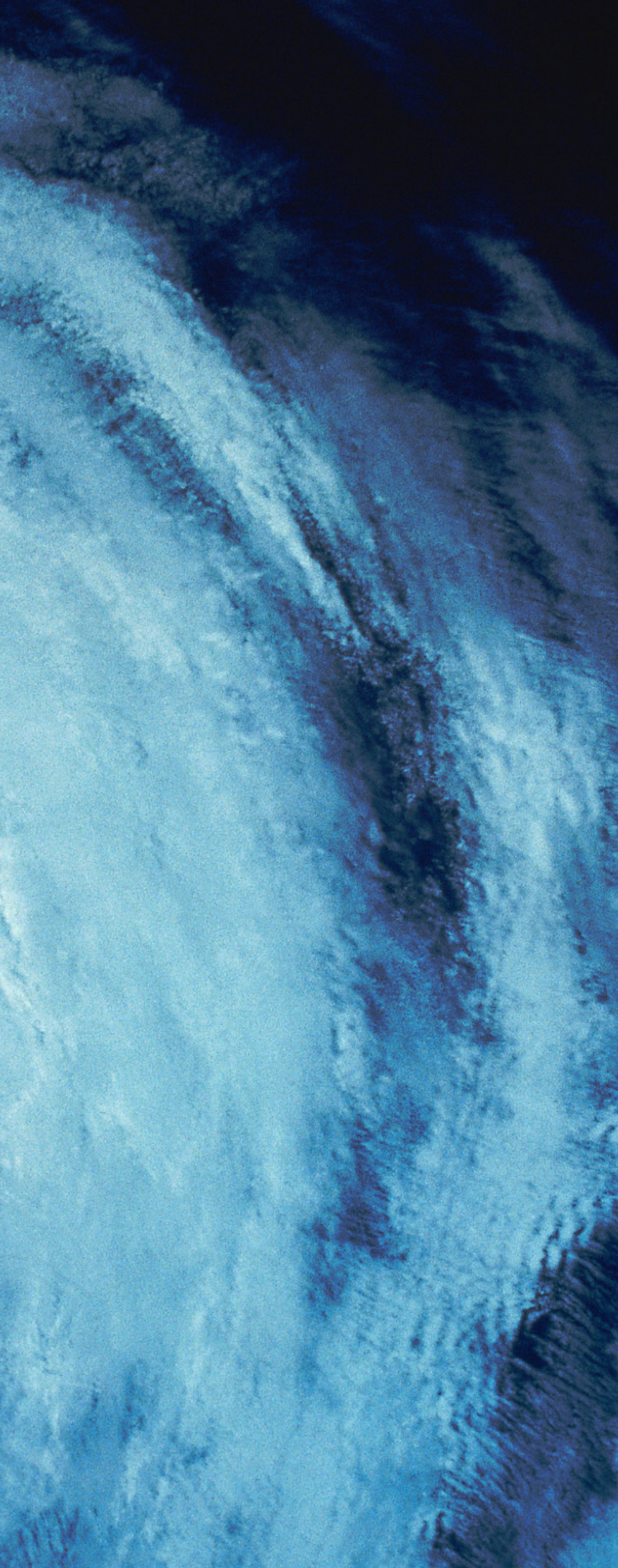
- There has recently been a series of midstream losses, especially relating to LNG assets, which have traditionally been underwritten by the downstream market, but which are also written by a selection of upstream insurers.
- This has surprised upstream underwriters, as previously this business had been regarded as relatively low risk.
- Capacity is therefore becoming scarcer for this business, and rating levels are increasing.

Global inflation is also presenting significant challenges to the upstream market.

- Underwriters are concerned that so few programs have been independently valued in recent years, although credit is being given in the market if buyers can prove that they have considered the impact of inflationary factors in their underwriting submissions.
- Insurers are increasingly concerned about their loss of production income (LOPI) exposure due to supply chain issues leading to increased lead times to replace damaged equipment.
- Global inflation is also undermining the value of current deductible levels, which have continued to remain at roughly the same levels for the last five years.
- Where insurers are not comfortable with the valuation data presented to them, this is reflected in the negotiations.

Natural catastrophe risk remains a concern as reinsurance terms and conditions tighten.

- Insurers are having to pay increased prices for their natural catastrophe reinsurance protection.
- As a result, they are under pressure to maintain or increase pricing levels to ensure they can continue to afford the reinsurance protection required — regardless of the actual location of the risk.



While the outlook for smaller business still looks challenging, a greater degree of market competition is expected for the best business in 2023.

- Insurers are looking to replace premium income lost due to the conflict in Ukraine with increased participation on the best-regarded programs.
- This has resulted in a significant degree of over-subscription in these programs, with underwriters disappointed by the reduction of their actual signed lines.
- This in turn has created challenges for these underwriters, given the premium income targets set by their senior management.
- We therefore anticipate that additional competition is likely to be generated in 2023, as those insurers who are not traditionally acknowledged as market leaders seek to challenge the current status quo by competing more aggressively to achieve enhanced premium income targets.

As a result of the market bifurcation, a multi-tier market has now developed.

- For E&P programs featuring significant premium income, flat renewals for this business remain the norm, although reductions can sometimes be achieved for the most sought-after business.
- Offshore contractors' rates are now flat to +2.5%.
- Onshore contractors and smaller E&P programs now attract rises of between 2.5 to 5%.
- However, midstream program rating increases now average 10%, with even higher increases (approximately 20%) for subsea offshore construction business.
- Programs with unfavorable loss records may incur even higher rating increases, in contrast to the increased appetite for "clean" business.

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Environmental

Rate predictions

Contractors' pollution liability (CPL)	+5% to +10%
Site pollution liability (PLL/EIL)	+5% to +15%
Combined environmental + casualty/professional/excess	+5% to +15%

Key takeaway: The 2023 marketplace should experience steady yet cautious growth while continuing to face the headwinds of increased claim frequency and severity, regulatory and economic uncertainty, and emerging exposures. Concurrently, the environmental insurance role in addressing ESG (environmental, social and governance) risk continues to expand

Rates and markets

- Carriers are looking to achieve effective rate increases commensurate with their loss experience and appetite across their renewal books by employing underwriting methods, such as premium increases, shorter policy terms and reduced capacity.
- Contractors' pollution liability programs continue to experience rate increases largely due to the market-wide performance of site pollution products, but these increases are kept in check (+5% to +10%) by markets competing for this desirable line of business.
- Site pollution continues to experience higher rate increases (+5% to +15%) resulting from increased claim activity, remediation costs (fuel and labor), and regulatory uncertainty from emerging exposures (i.e., PFAS).
- Combined environmental + casualty/professional/excess programs have experienced a modest reduction (+5% to +15%) in their rate increases, keeping in line with the slight softening of the casualty market.

What's new?

- **ESG:** The role of environmental insurance as a tool to address ESG-related matters continues to be contemplated and discussed with more vigor as regulatory disclosure rules in the U.S. and the rest of the world around ESG are promulgated.
- **Climate:** Environmental insurers continue to evaluate their books of business for insureds contributing to climate change. Those insureds are seeing a decline in available markets as well as higher rate increases as a result.
- **Environmental justice:** We are seeing increased regulatory enforcement of certain industries and projects 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.

Exposure spotlight

- **PFAS:** As predicted, per- and polyfluoroalkyl substance (PFAS) exposures are being faced by standard lines insurance markets for all lines of coverage, including property and products liability. As environmental regulators are considering the classification of these chemicals as hazardous substances, researchers are racing to develop potential remedial solutions. Meanwhile, carriers are all but eliminating coverage for PFAS on site pollution (and increasingly on contractors' pollution) programs because of increased activity from environmental regulators and third-party lawsuits.
- **IAQ (indoor air quality):** IAQ coverage for mold and Legionella has become increasingly subject to sublimits, higher retentions and per-bed/door retentions for healthcare and residential exposures.
- **Redevelopment:** Claim activity related to redevelopment of brownfield properties continues — although carriers try to limit exposure by adding exclusions or coverage restrictions associated with soil management, historic fill, dewatering and voluntary site investigations.
- **Stormwater:** We are also seeing increased contractors' pollution and professional liability claim activity relating to excessive siltation and stormwater run-off from construction sites, with claims brought by project owners, citizen action groups and regulatory agencies.

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Healthcare professional liability

Rate predictions

Allied health	+5% to +15%
Physicians	+5% to +15%
Senior living	+5% to +25%
Hospital professional liability	+7.5% to +20%

Key takeaway: While overall rate increases appear to be stabilizing, decreases are not expected any time soon. Carriers are indicating they will need consistent rates given the current market trends.

The medical malpractice market continues to deteriorate in the loss environment, driven by systemic risks, such as rolling back of tort reforms in key states (California, New York, Pennsylvania) and increasing severity of claims. Furthermore, antitrust and class action claims continue to be problematic while social inflation and economic inflation add an additional wrinkle to the market dynamic. Overall rate increases appear to be stabilizing, and rate decreases are not expected any time soon. Carriers are indicating they will need consistent rates given the current market trends, especially for health systems, loss-affected accounts, and clients with exposure in challenged venues. Many times, excess layer increases can outpace lead layer increases due to the larger impact of trend and severity.

The market continues to experience:

- Increases in client retentions
- Sexual abuse
- Capacity crunch (while some of the excess capacity that was lost has been restored with new entrants, carriers continue to deploy their capacity judiciously)
- Communicable disease exclusions, mainly for senior living and certain segments of allied health

Mergers and acquisitions

The number and size of acquisitions have declined so far in 2022, largely due to the pandemic; however, combinations continue to be a common practice in healthcare. While the impact of M&A is debatable, some key points that can impact market response:

- Does M&A activity impact quality of patient care?
- With continuing workplace shortages, does M&A activity increase worker burn out?
- Does pre-acquisition due diligence provide enough accurate data to adequately underwrite M&A risks?
- Physicians' risks are impacted positively because the use of MSOs help manage the backroom, including loss data, credentialing.

Nuclear verdicts

Excess verdicts will continue to cause turbulence in the marketplace by driving further deterioration in the loss environment. According to the Verdict and Summary Survey results, published by Clark Hill PLC in August 2022, year-to-date 2022 has already seen 19 verdicts larger than five million with three verdicts above $50 million.

- The cost of nuclear verdicts directly impacts the cost of healthcare insurance.
- As verdicts continue to grow, carriers will seek to increase premiums and attachment points.
- Jurors continue to hold defendants accountable to society for perceived unsafe practices.

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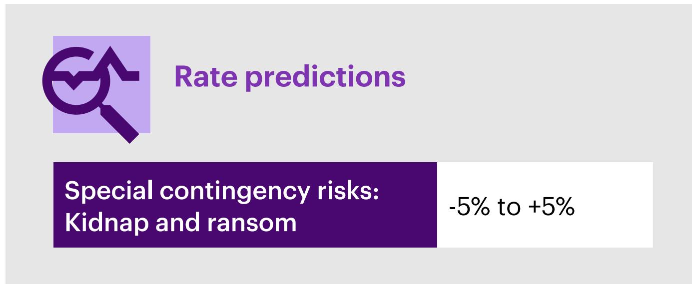
Special contingency risks: Kidnap and ransom



Rate predictions

Special contingency risks: Kidnap and ransom	-5% to +5%

Key takeaway: The special risks insurance markets have almost uniformly removed all cyber extortion coverage from their policy forms. Markets are also applying for coverage exclusions for exposures in Belarus, Russia and Ukraine — albeit to varying degrees.

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 (an alleged kidnap has occurred with 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 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.

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

- Insurers have now uniformly 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 carry high self-insured retentions coupled with small aggregate limits.

Insurers are introducing coverage exclusions for Russia, Ukraine and Belarus.

- As a result of the crisis in Ukraine and the imposition of sanctions against Russia and against certain elements in Belarus and parts of Ukraine, insurers have introduced coverage exclusions.
- The exclusions have so far been introduced on programs with historic, actual or anticipated employee headcount or travel exposure in/to those countries.
- The scope of coverage exclusions has varied by insurers, ranging from blanket exclusions across the entire program to exclusions under selected endorsements only.

Interest in active assailant coverage is growing.

- 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 (because of both physical and non-physical damage) and indemnification of a variety of incident-related expenses.
- These solutions go beyond traditional terrorism and/or political violence coverage and are increasingly being used to complement traditional policies.

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Life sciences

Rate predictions

Risks with favorable loss history	+5% to +7%
Litigated or challenged product classes	Continuing to face more scrutiny

Key takeaway: Life sciences product and E&O rates are stable as capacity remains high for products not in litigation or otherwise challenged classes.

Capacity

- New carriers, most recently Hamilton Specialty, continue to enter the space, keeping product and E&O rates stable.
- Zurich is gearing up to offer property and casualty programs with terms specific to life science companies. They are aiming to roll out their excess liability form before the end of 2022 with coverage for primary product liability to follow later.
- For most companies domiciled in the U.S., limits up to $100 million in the domestic marketplace are easily obtainable.
- There are considerably fewer carriers willing to offer a combined liability tower, where the general liability, auto, employers' liability and foreign exposures share limits with the product liability. If a tower is currently combined, or insureds are considering a combined tower, be aware the auto fleet size and/or losses are being met with more scrutiny and will limit the appetite. Insureds should also consider that a severe auto loss could erode the limits available for product claims.
- More carriers are offering cover for CBD products, although the appetite for ingestible products remains low.
- Policies for clinical trials being performed in sanctioned countries can be secured, although capacity is limited, and master programs are unlikely to sit excess or provide difference in conditions/difference in limits (DIC/DIL).

In the spotlight

- **Monkey pox:** In August of 2022, the FDA issued the first EUA (Emergency Use Authorization) for the testing of Monkey Pox. The FDA also issued an EUA for the JYNNEOS vaccine to increase production of the product to meet the expected demands. The product was originally approved in 2019 for prevention of smallpox and monkeypox.
- **European Union medical device regulations (EU MDR):** May of 2024 is the deadline for medical devices sold in the EEA (European Economic Area) to fully comply with the new EU MDR regulations. The regulation was also expanded to include software along with a cybersecurity component. Different types of products, distributors, importers and authorized representatives all have varying compliance requirements. The adoption of and compliance with regulations should positively impact the placement of insurance, but only time will tell.
- **Diversity in clinical trials:** There is a sharpened focus on the lack of diversity in clinical trials which could lead to certain populations being underrepresented. People of different ages, races and ethnicities may react differently to certain medical products, so diversity in research is imperative for health equity. Clinical research stakeholders (patient groups, community members, clinical research sites, CROs, academia, nonprofit and advocacy organizations, federal and state agencies, industry, etc.) are looking to increase their efforts to improve diversity, equity and inclusion efforts around clinical trials.
- **Transition from EUA for COVID-19 products:** The FDA has released updated guidance as we approach the end of the public health emergency, outlining the steps manufacturers must take to return to traditional premarket pathways. Companies must be aware of the requirements and timelines to return to normal operations and processes.

- **Nuclear verdicts:** The size of verdicts continues to increase, and they are becoming more frequent. Many nuclear verdicts are now composed primarily of an award of noneconomic damages (such as pain and suffering). Expert evidence and testimony based on sound science is critical to help prevent verdicts from becoming nuclear.

Coverage considerations

- Companies engaging in mergers or acquisition should work closely with their insurance professionals as early as possible in the due diligence phase. Review of purchase/sales agreements, loss experience and product exposures are common and will be scrutinized in conjunction with the underwriting of past liabilities. The most favorable terms are more likely secured when detailed documentation is provided, and the information is underwritten well in advance of the acquisition date.

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Managed care E&O and D&O

Rate predictions

Public MCOs and Blue plans	E&O, +10% or more; D&O, +15% or more
Other management liability lines (employment practices liability, crime)	+10% to +12%
Fiduciary	+50% or more
Hybrid entities (accountable care organizations, third-party administrators, revenue cycle management, etc.)	E&O, +10% or more; D&O, +10% or more
All other MCOs:	E&O, +5% or more; D&O, +10% or more

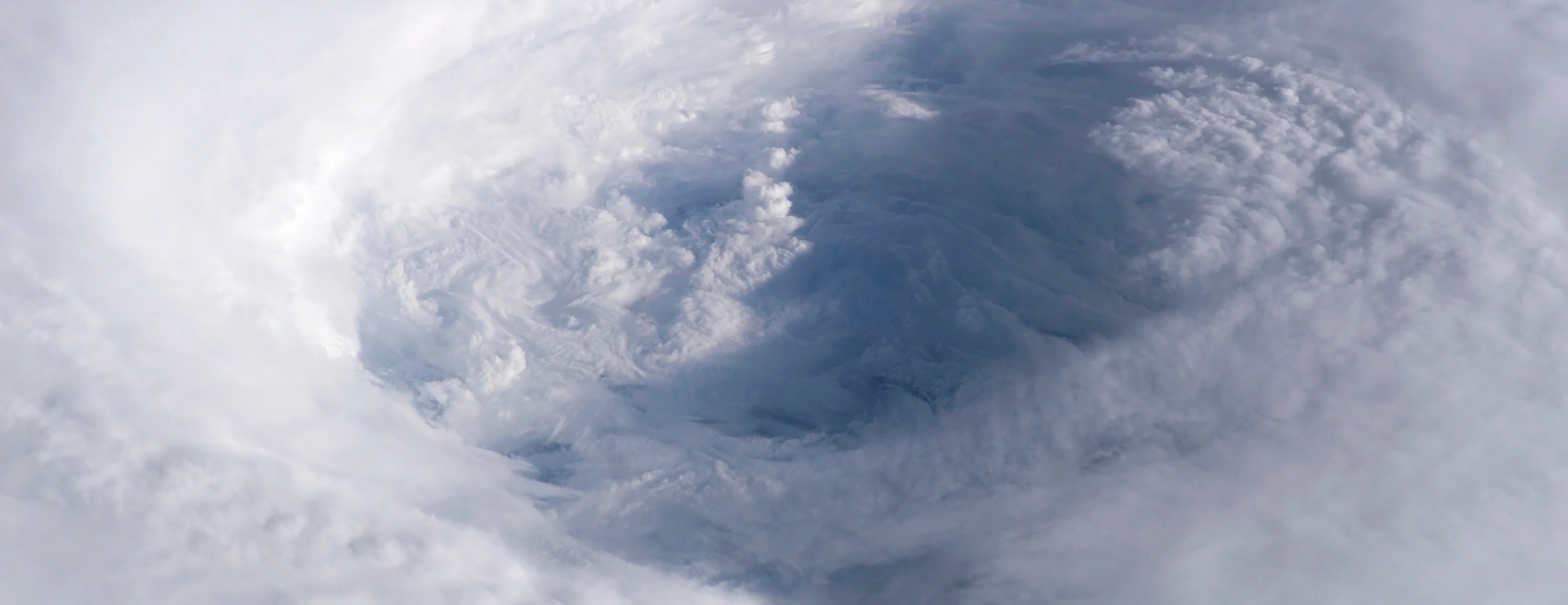
Key takeaway: E&O and D&O conditions for managed care organizations (MCOs) are stabilizing, but systemic risks and concerns over mass tort, antitrust and class action claims plague MCOs. Managed care E&O and D&O carriers continue to assess their entire portfolios as they consider their exposure to aggregated risk.

E&O and D&O rate increases are coming down, but coverage restrictions on significant risks continue.

- Rate increases are leveling off, except for one market. Increases are becoming less generalized and increasingly applied on an account-by-account basis.
- Forced retention increases based solely on market conditions have slowed down. But we are keeping an eye on regulatory retentions based on political and regulatory uncertainty at the federal and state level, which is adding further complexity to the marketplace.
- Coinsurance and sub-limits related to antitrust and regulatory risk continue to be applied by some markets.
- Related claim language is narrowing significantly, as is manuscripted exclusionary language related to prior industry claims.
- Association, cyber and opioid exclusions remain common.
- Rebate exclusions are being added to PBM policies.
- 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.
- Carriers are hesitant to write hybrid accounts that provide non-managed care services to third parties.
- Risk transfer programs must be managed and strategically planned across all lines of coverage to avoid gaps in coverage and limit restrictions.
- 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 space are also impacting rate, coverage and capacity.
- The use of captives and other alternative risk financing solutions is on the rise. Fronted programs can be negotiated as an alternative to captive programs.
- Coverage for pharmacy benefit managers, those engaged in value-based contracting from the provider side, revenue cycle management and medical services management, remains difficult to find due to limited capacity and restrictive terms and conditions.
- New London and Bermuda markets have shown some interest in managed care E&O. However, capacity is limited, and Bermuda's minimum attachment is $75 million.

Merger and acquisition activity continues to rise.

- One industry trend that supports upward pressure on rates is ongoing mergers and acquisitions. Consolidation, vertical and horizontal integration, acquisition of delivery platforms by payors, the significant involvement of private equity and venture capital, etc., constitute a major force in driving industry risk.
- Due diligence related to exposure and solutions — and innovation related to risk transfer — is required because combinations create risks that are not typically seen or evaluated in the marketplace.



- The markets are slow to adapt terms and conditions because traditional healthcare underwriting does not take this market dynamic into account. Markets will have to be pushed into offering appropriate terms, conditions, products and rates to cover this evolving segment of the industry.

The Dobbs Decision — a controversial subject is creating a lot of debate.

- In June the U.S. Supreme Court reversed the legal precedent *(Roe v. Wade)* that protected access to abortion at the federal level. This ruling pushed laws about abortion to the state level, which has created complex legal issues due to widely different state legislative and regulatory approaches to reproductive healthcare benefits.
- This is significant for MCOs as benefit payors and plan creators, but also as providers and managers.
- Payors and hybrids, including administrators and employers, as well as the managed care insurance market, are keeping a close eye on developments since managed care E&O, D&O, employment practices and fiduciary liability coverages may be affected.
- Self-insured plans may need to make changes to plan benefits based on their employee base. These self-insured plans could consider purchasing a plan purchaser policy that extends coverage like that of health plans and provides some protection for regulatory actions and defense for criminal actions.

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. 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.
- **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. 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.
- **Government fines and penalties:** Because MCOs are so tied to government reimbursement, plans are likely targets of government investigations, False Claims Act actions, whistleblower lawsuits or administrative fines/penalties.
- **Behavioral health claims:** Behavioral health claims are on the rise. Mental health parity claims, at both the federal and state levels, can be costly to defend, especially the class actions. Demands for benefit payments, penalties and restitution are not covered by managed care E&O policies, but there is usually defense coverage.

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Marine cargo

Rate predictions

U.S. markets
Transit

Good loss experience	Flat to +5%
Marginal to poor loss experience	+10% and higher

Stock throughput

Good loss experience	Flat to +5%
Marginal to poor loss experience	+10% and higher

London markets
Transit and stock throughput

Good loss experience	Flat to +5%
Marginal to poor loss experience	+10% and higher

Key takeaway: The hard market continues; however, renewed competition and enhanced growth targets in the marketplace have had moderated upward rate movement in 2022. While rate increases are to be anticipated for incumbent renewals, reductions may be achievable in rare cases following a strategic marketing effort. Considering Hurricane Ian, it is unknown at this juncture how marine insurers and reinsurers will respond regarding policy terms, conditions and rating.

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

- The crisis in Ukraine continues to be an area of focus for marine insurers as they look to limit or more often than not eliminate their transit and static exposures within the region.
- Rate movement has stabilized for accounts with favorable to moderate loss experience.
- Insureds 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 pressuring deductibles upward and tightening coverage terms. These actions have positively impacted underwriting results, which lessens the need for drastic remediating action at subsequent renewals.
- Rate remediation has created an attractive entry point for new and revitalized cargo underwriting operations.
- 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 risk differentiation remain crucial to securing favorable terms and conditions.
- Analytical tools should be employed when available to best position insuring structures (with a focus on retention, cat limits, aggregates, etc.).

Vulnerabilities throughout the supply chain have become apparent during COVID-19 pandemic.

- Maritime mishaps, such as vessel fires, engine failures and containers overboard, continue to plague cargo insurers, adding to an already stressed global supply chain.
- A global shortage of available vessels and containers has contributed to an accumulation of values throughout the supply chain. We recommend insureds regularly review the adequacy of policy limits to ensure that larger consolidations are accounted for.

- Vessel accumulation 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 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.
- Cyber events remain a looming threat to maritime trade.

Cargo and stock throughput markets are challenged by catastrophic losses.

- Large industry losses have occurred because of mis-declared cargo, causing concern for insureds and insurers. In some cases, shipowners have declared general average.
- Cat management continues to be a 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" buy-backs. In addition, insurers continue to seek the inclusion of straight-line wind in the windstorm definition.

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Marine hull and liability

Rate predictions

Domestic hull and machinery, good loss records	+5% to +7.5%
London/international hull and machinery, good loss records	+5% to +10%
P&I domestic	+5% to +7.5%
P&I crew domestic	+7.5% to +10%
Domestic primary marine general	+5% to +7.5%
Domestic excess marine liability	+5% to +10%, greater with underlying crew and towing exposure for 1st excess layer
London marine liability	+7.5% to +15% or more
USL&H mutual	Flat to +5%

Key takeaway: The marine market remains firm; however, underwriters are seeking smaller increases than in recent years. The market looks like it is flattening. Marine underwriters are becoming less willing to provide excess coverage over non-marine exposures unless over $5 million or so.

Underwriting in the current environment remains demanding.

- Increasing inflation, notably "social" inflation, is influencing the market, especially with respect to personal injury and increasing raw material costs.
- Excess underwriters are still seeking to reduce capacity, and quota share placements are the norm, though these trends are easing as most markets have stabilized.
- 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 and employers' liability policies. They are becoming reluctant to do so unless above at least $5 million – $10 million due to adverse loss experience and the underpricing of these exposures.

International Group P&I Clubs

- For the February 2022 renewal, IG P&I Clubs asked for minimum general increases in the 10 to 15% range.
- Given the continuing deteriorating level of large pool claims, there is nothing to suggest that February 2023 renewal will result in any improvement, but it is of course premature to predict with accuracy.

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 businesses 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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Personal lines

Rate predictions

Homes under $1,000,000	+7% to +10%
Homes over $1,000,000	+10% to +14%
Cat-exposed	+20% to +50% w/ limitation or non-renewal
Cat-exposed and/or losses	+50% or non-renewal
Auto	+10% to +12%

Key takeaway: We predict a continuing, pervasive hard market in personal lines across all lines of business. Carriers remain focused on profitability over growth and have therefore firmed up their underwriting appetite and risk exposure. California and Florida remain problematic as carriers shed unwanted risks. We anticipate carriers will expand their contraction to other CAT-prone areas. The market was caught off guard with a combination of inflationary pressures and unanticipated supply chain constraints, forcing the market to file for significant rate action to shore up rising loss ratios. We also expect additional restrictions in contract language to impact certain coverage limits.

In a hyper-inflation environment, an underinsured program is a major concern at time of loss.

- Carriers and clients struggle to match policies with actual replacement costs as labor and materials have surged this past year.
- Economic inflation coupled with social inflation has pushed loss costs at its highest point in more than 30 years.
- Clients and brokers should remain vigilant to keep values up to date with annual replacement cost reviews.

The reliance on surplus lines will continue to grow as the demand for solutions in high-risk areas expand.

- Premiums written for surplus lines jump to record $82 billion in 2021 (Business Insurance).
- Admitted carriers will continue to shy away from CAT-prone areas, leaving many clients dependent on alternative markets through surplus lines wholesalers.
- Non-admitted carriers are demanding significant rate while eliminating coverages usually included by the admitted market.
- Personal auto premiums will struggle to keep pace in the face of higher costs.

Q2 results for personal auto showed a "significant deterioration," driven by inflation and corresponding rate adequacy challenges. (AM Best)

- Frequency and severity of auto claims are increasing to pre-pandemic levels.
- Elevated used car prices and extended repair times have exacerbated auto carriers' ability to remain profitable in 2022.
- Almost all auto carriers are anticipating rate action across the country to the highest levels in over a decade.

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Political risk

Rate predictions

Anniversary host-country sub-limit increases	Up to +45% for host-country sub-limit increases in sensitive countries
New programs	+15% to +25% for programs excluding China, Taiwan and Turkey; higher for programs including those countries

Key takeaway: The continuing reverberations of the crisis in Ukraine have drawn increased multinational corporation interest in learning about PRI and, in many instances, putting together PRI programs as they grow increasingly concerned regarding political volatility caused by food insecurity and increasing tensions between the West and China.

Since the beginning of the Russia/Ukraine crisis, there has been a spotlight on PRI which has led to increased interest from multinational corporations' risk managers, often directed by their C-suites.

- The political risk insurance marketplace has risen to the occasion, with many claims ongoing in both Russia and Ukraine. WTW has supported many clients with claims from political violence (damage to property), forced abandonment (a non-damage situation which results in the client abandoning their operations due to a security situation, which has been common in the Donbass region and in Russia), and currency inconvertibility (as the Russian government has closed the foreign exchange window for many companies, harming their ability to remit dividends, pay off intercompany loans, or repatriate proceeds of a divestiture).
- Given the media coverage of the crisis in Ukraine, PRI has garnered strong interest from the media given war exclusions under other insurance programs and the need to explain to readers where war and political risk coverage can be found.
- The tensions between China and Taiwan/U.S., and the U.S. sanctions and restrictions on U.S. citizens working for Chinese companies in the semi-conductor industry, has awoken many U.S. companies to political risk in China. Xi Jinping's appointment to lead China for a third, precedent-breaking, term and stacking the Politburo with allies is also concerning for many multinationals.
- The spate of coups and attempted coups in West Africa has continued, with a failed coup attempt in Mali and a successful coup in Burkina Faso.
- The U.S.' rapidly tightening monetary policy has led to the strongest dollar in decades. This has led to increased inflation in the rest of the world, especially in developing countries that rely on imported food/fuel, as these commodities are traded in dollars. High food inflation in particular puts many developing countries, especially in the Middle East and Africa, at risk of social unrest.
- Clients seeking to differentiate their risks must focus on incident reporting, claim mitigation, policies and procedures. Emphasis on the clinical program management will also have a positive impact, particularly those with a focus on fall management, elopement, medical management and infection prevention and control.

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

London market: Little appetite for multi-country PRI. The remaining appetite is going for higher rates.

U.S. market: More appetite for PRI, especially multi-country PRI, than the London markets. In the recent past we were able to negotiate CEND triggers for business interruption, though in the tightening market, fewer markets are amenable to this enhanced cover.

Country capacity update: Most underwriters are closed to Russia and Ukraine in new PRI programs. Some underwriters are open to Taiwan and Turkey, though capacity is severely limited, and pricing reflects that.

- With the market tightening, when attempting to place a large multi-country PRI program, there is a greater need to create innovative layering and syndicated approaches to muster as much capacity as possible.
- Market conditions are increasingly challenging for certain sectors, such as technology (especially semi-conductor companies) and retail.
- For clients in sectors/countries that are particularly challenging to place now, we advise that, if the markets do not support the size of the program they're requesting, they purchase what they can get now. The PRI marketplace emphasizes loyalty, so those that purchase programs will be front-of-line once capacity loosens.

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Product recall

Rate predictions

Product recall	-3% to flat

Key takeaway: Catastrophic market-wide claims are currently being adjusted so, while the near view of the market is bullish, we foresee the market hardening once these losses are realized

Numerous large-scale movements in the recall market are slowly coming to light.

- The noteworthy Smucker JIF loss is motivating large food manufacturers to purchase catastrophic coverage.
- This loss will reshape the markets' use of capacity.
- We can also see further concern over coverage for whole genome sequencing of microbiological contaminations.
- A major MGA has emerged as a new market and is helping drive the rate decreases that we are seeing.
- Three new markets are emerging in London.
- New endorsements addressing mold, fungus and rancidity are appearing.

Flat renewals to small increases are giving way to small, single-digit rate reductions, but buyers should be ready for market hardening later in 2023.

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Senior living and long-term care

Rate predictions

Favorable risks

General and professional liability with favorable loss experience and venue	+5% to +25%, higher with adverse loss experience and/ or poor venue
Property with non-challenged occupancies	Flat to +7.5%
Property with challenged occupancies	+15%
Workers compensation	-5% to flat
Auto	+5% to +10%

Key takeaway: Emerging from the pandemic, challenges remain in senior living and long-term care with respect to coverage issues and insurance capacity; however, we see the potential for improvement in rates and capacity on the horizon. Inflationary pressures have produced headwinds in rate improvements, although rate stabilization and nominal deceleration in rate increases are being realized in various lines of coverage.

Professional liability and general liability

- CNA's Aging Services Claims Report published in March 2022, reported that the average cost of senior living claims has increased more than 15% since 2018, with assisted living claims being almost 9% higher than skilled nursing claims.
- As a result, we anticipate further rate increases ranging from +5% to +25% depending on acuity mix, venue and prior loss experience. In addition, economic inflation is now being priced into all business.
- Insurers are highly selective in determining the risk they will write. They are frequently unwilling to deploy significant capacity in such litigious venues as New York, New Jersey, California and Florida.
- Insurers advise that larger risks will likely require further premium remediation, while most smaller accounts are priced appropriately.
- Significant capacity was lost in the senior living market in late 2019 and 2020. While lost capacity has not been fully replaced, new entrants have yet to deploy their capacity in a meaningful way.
- Expect to see rate deceleration as the environment evolves and new entrants begin to try to expand market share. Markets will continue to focus on obtaining rate for increased exposures and to decline or non-renew risks with adverse loss history.
- Underwriters have incorporated a broader communicable-diseases exclusion rather than simply excluding COVID-19. Stand-alone communicable disease liability policies are now becoming available, but large capacity is still not available.
- 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.
- Underwriters are seeking more detailed data and information for the renewal process. Information requests may focus on vaccine protocols, staffing adequacy, virus statistics, and potential financial instability for senior living communities as 97% of communities have lost revenue during the COVID-19 pandemic.
- Clients seeking to differentiate their risks must focus on incident reporting, claim mitigation, policies and procedures. Emphasis on the clinical program management will also have a positive impact, particularly for those with a focus on fall management, elopement, medical management and infection prevention and control.

Property

- Valuations are being heavily scrutinized, due to significant cost increases evolving from material demand, supply chain issues and labor shortages. Occurrence limits of liability endorsements and margin clauses are frequently considered by insurers to limit their liability in the event of perceived under-valuation of property values.
- The recent shift in availability of capacity is causing a deceleration of rate for non-challenged occupancies. However, challenged occupancies (including senior living) and certain geographic locations continue to see higher rate increases.
- As new capacity enters the market, incumbents are forced to increase line size or decrease rate to maintain market share. Challenges remain for accounts with losses as well as engineered risks.
- 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.
- There is continued pressure to move from manuscript to insurer forms.
- Due to the array of occupancy classifications that can apply to this sector, it is imperative to use accurate occupancy classifications for modeling to ensure the most competitive pricing.

Workers compensation

- Eight years of consecutive 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 and payroll 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. For accident years 2020 and 2021, COVID-19 has generated roughly 60,000 claims and close to $500 million in losses.

Auto

- Combined ratios are still over 100 and the volume of vehicles on the road is increasing as the pandemic subsides.
- National Safety Council (NSC) estimates Q1 2022 motor vehicle fatalities are up 4.5% from 2021 (the worst year on record for motor vehicle fatalities) and 16.7% from 2019. The median cost of a single fatality in 2019 was $5.1 million, up 14% from 2018 and up 182% over the past 10 years.
- 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.
- According to Fitch, the pandemic's socioeconomic changes led to an "unprecedented decline" in commercial auto claim frequency; however, regular increases in claim severity have been a key factor behind the chronic underperformance of commercial auto over the past decade.
- 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 predictions

Surety	Flat

Key takeaway: Despite macro-economic challenges, we expect healthy construction activity and strong surety profitability to prevent hardening of the surety market.

The threat of a recession, continued volatility in the energy and raw materials markets, inflation, rising interest rates and labor shortages will continue to challenge the U.S. construction industry in 2023. Continued strong surety profitability, low losses and a strong construction market, however, will ensure ample surety capacity into 2023.

- We do not a expect a hardening of the surety market due to healthy U.S. construction output, which is anticipated to grow 4% in 2023 (GlobalData) and continued strong surety profitability, with the industry's direct loss ratio improving from 22.8% to 17.5% in 2021. (SFAA)
- Predicted construction growth compares to a 2.4% growth in 2022 and a 1% contraction in 2021.
- Surety revenues grew 7.7% to $7.43 billion in 2021, compared to $6.9 billion in 2020.
- Ample surety capacity was bolstered by three new entrants in 2022 hoping to benefit from a profitable industry. Further demonstrating surety confidence is a recent poll conducted by the National Association of Surety Bond Producers (NASBP), in which 96% of surety executives indicated that they had no plans to tighten underwriting in the near term. (Surety Bond Quarterly — Summer 2022)

Huge infrastructure investment by the U.S. government is expected to outweigh the dampening of residential construction resulting from rising interest rates.

- Construction work will increase as a result of the $1.2 trillion Infrastructure Investment and Jobs Act. Partially offsetting this will be a slowing of residential construction projects as high mortgage interest rates reduce housing construction demand.
- Rising interest rates will impact residential construction because housing demand drops when home buyers are unable to afford higher mortgage costs. This impact can already be seen: July 2022 housing start figures dropped 9.6% month over month to an annualized rate of 1.446 million units, the lowest since February of 2021 and well below market expectations of 1.54 million. (YCharts)
- Increased interest rates have helped combat rising inflation, with the U.S. annual inflation rate dropping to 8.5% in July 2022 from a 40+-year high of 9.1% in June and coming in below market forecasts of 8.7%. (Trading Economics) The drop in raw material costs can be seen in lumber prices dropping to $429 per thousand board feet in August 2022, compared to a January 2022 peak of $1,329. (NASDAQ)
- Easing inflation will improve profitability and cashflow for contractors.
- The reduction in new housing demand has also helped ease the cost of raw materials and will allow contractors the bandwidth to complete their large backlogs with their existing workforce.
- Infrastructure construction supported by the Infrastructure Investment and Jobs Act includes several large-scale projects, such as the $12.3 billion Gateway project in New Jersey scheduled to begin in 2023. This project includes phased expansion and renovation of the Amtrak Northeast Corridor (NEC) rail line between Newark and Manhattan.
- Labor demand remains strong, with reports of 32,000 new construction jobs in July 2022, resulting in total construction jobs of 7.7 million. This represents 0.4% growth month over month and 4% year over year. (U.S. Bureau of Labor Statistics) While labor demand still exceeds labor supply, the cooling residential market will help ease the pressure contractors have been facing from a diminished work force.

Talent retention remains an issue for the industry, as well as the ability to effectively transfer knowledge to the new generation of underwriters in a remote work environment.

- According to the Surety Bond Quarterly (Summer 2022) report by the NASBP, 87% of polled sureties stated that they were focused on hiring, training and retaining a new generation of underwriters; 48% indicated concern about the effectiveness of knowledge transfer in a remote work environment, and 96% said they will need to hire more seasoned underwriters in 2022.

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Terrorism and political violence

Rate predictions

Terrorism and sabotage

Territory	Rate
Non-volatile territories	+10% to +20%
Some volatility and/or isolated events	+20% to +30%
Major volatility and/or widespread risk of major incidents	+30% to +40%

Political violence

Territory	Rate
Non-volatile territories	+20% to +30%
Some volatility and/or isolated events	+30% to +50%
Major volatility and/or widespread risk of major incidents	+50% or higher

Key takeaway: Current political/economic conditions and conflicts around the globe are helping drive up pricing for political violence and terrorism insurance.

The crisis in Ukraine has added another dynamic to a marketplace already in turmoil from the lingering effects of the pandemic and global economic instability.

- Lloyd's is bracing for losses in Ukraine, which could ultimately exceed $3 billion.
- The global interconnection of the risk environment can lead to protracted losses in multiple-asset classes worldwide.
- Facing significant losses, reinsurers are signaling significant cost increases/reduced capacity for the class at upcoming account renewals.

Increasing global political polarization continues to provoke civil unrest and possible resurgence of terrorism.

- Large-scale political shifts are fuel for social discord. Major civil disturbances have occurred in more than 25 countries in the past 36 months, causing significant physical and human loss.
- While the marketplace has remained relatively static in terms of capacity, many insurers are reducing per-risk deployed capacity, and prices are expected to increase significantly due to these events and the expected reinsurance impacts.

A new generation of crisis analytics is being deployed to paint a clearer picture of potential human and financial consequences of terrorism and political violence.

- Risk aggregation models can calculate precise aggregate accumulations and point the way to operational and structural changes to reduce vulnerabilities.
- Global risk analytics can now generate risk scoring for any point on the planet to provide a holistic view of a company's global risk profile and provide warnings about changing risk environments.

The deployment of captive insurance vehicles continues to provide access to otherwise unavailable or uncompetitive capacity for terrorism risk.

- Recent clarifications of the Terrorism Risk Insurance Program (TRIP) legislation have enabled access to physical damage coverage due to a cyber terrorism event.
- In a market where premium is capacity-driven, the flexible rating mechanisms permitted within a captive structure allow exposures to be priced for risk exposure and divorced from unrelated perils — generating significant cost savings for many clients.

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Trade credit

Rate predictions

Better risks	Flat
Poor risks	+5% to +10%

Key takeaway: Insurers remain braced for higher claim activity. The combined stressors of the war in Ukraine, high inflation and looming recessionary environments have many trade credit insurance underwriters exercising caution.

For stronger risks, underwriters remain very competitive with buyer-friendly pricing and strong limit appetite.

- Certain sectors are facing capacity issues even for good risks. A key example is the oil and gas sector, where both corporate clients and financial institutions are eager for trade credit protection.
- For weaker risks, non-rated or poorly rated portfolios, we are seeing reduced limit appetite and pricing increases in the upper single digits. Buyers in certain industries — retail, for example — can expect similarly tougher conditions.
- Overall, strong underwriting results, high demand from both corporate clients and financial institutions, and new entrants to the trade credit insurance marketplace will allow the trade credit insurance marketplace to offer competitive rates and limits as carriers work to retain and grow market share.

The expected claim-driven marketplace hit hasn't struck yet.

- Insurers are advising the marketplace of their expectations for mounting claims and notifications of past-due accounts. Yet even as claims come in, insurers are indicating that combined ratios for 2022 will likely remain quite strong and show a strong underwriting result.

Banks are projecting significantly higher levels of credit insured accounts receivable funding.

- Accounts receivable funding facilities could see a significant increase over the 2021 period.
- This surge in such funding facilities will likely continue through H1 2023.

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

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