US Casualty: Capacity stable but concerns remain

Introduction: the effect of the 2023 reinsurance market renewal season

The initial feedback from insurers regarding January 1 reinsurance renewals has not been positive. Treaty renewals thus far have been impacted due to losses stemming from a combination of the events in Ukraine, overall claims inflation, increased catastrophic US nuclear verdicts and above-average global natural catastrophe losses in 2022. As a result, many insurers are expecting increases in reinsurance retentions across their respective product silos as well as potentially substantial premium increases. However, as of the time of writing many London syndicates were still awaiting their respective allocations for these increased premiums. While we do not expect "trickle down" costs to have a large impact on clean North American Energy buyers, we do expect rates to continue to trend in a positive direction for many programs in the first half of 2023.

Market outlook

2022 provided another year of overall increased Global Liability capacity, which continued a positive trend after many markets reduced offerings in 2019 and 2020. 2023 capacity thus far appears to remain mostly stable overall, though the US market has seen some reductions in capacity, with some insurers closing their Energy books. Despite this reduction in capacity (roughly US$25 million in available limit) capacity in both London and Bermuda remains relatively stable after increasing in 2022.

Upstream

The Upstream Primary Liability marketplace finds itself in a state of flux in Q2 2023. The Offshore market has been especially challenging from a Primary Liability and Lead Umbrella standpoint, as one of the larger participants in this space is undergoing changes in both limit availability and necessary pricing. While there is confidence that this may potentially be resolved as the year progresses, many offshore operators are looking for alternative options as of the time of writing. While replacement capacity remains available (much of it in the London market), retentions are under pressure; this is a segment that bears watching as the year progresses, as many insurers are seeing a large influx of submissions due to the changes in this space.

Despite the challenges faced by the offshore operator segment, the Onshore market has ample capacity and so buyers have a multitude of potential options for General Liability and Lead Umbrella policies. Capacity remains in both the US and London markets to provide options for buyers in this segment in 2023. Excess Liability (above US$25-50 million attachments) remains ample for both onshore and offshore operators.

Overall capacity in the US has been reduced by nearly US$80-100 million in 2023; however, buyers are still able to procure ample overall Excess Liability limits. London and Bermuda capacity remains fairly stable year-on-year, and we expect renewal rate increases to remain in the single digits during the first half of 2023, with the potential for smaller reductions in the second half of the year.

Oilfield Services

Capacity remains at extremely high levels for the Oilfield Services segment, despite a continued uptick in the severity of "action-over" employee injury claims and as large Auto Liability judgements continue to trend in an alarming direction in the US. We do not foresee any decreased capacity in this space in either the US or London markets and insurers appear to be seeking single digit rate increases at renewals for profitable programs. As there is ample capacity remaining in the space, many insurers are aggressively targeting profitable programs during marketing exercises, due to increased 2023 new business budgets.

Midstream & Downstream

The Midstream and Downstream segments have both experienced a few severe losses in the last 12 months; however, despite this capacity remains stable for Downstream and has increased for Midstream companies during the last 12 months, with risk-transfer attachment levels remaining consistent year-on-year. There has also been a slight uptick in capacity for middle-market Midstream business via the US market in the Excess & Surplus (E&S) space. Despite a few large losses experienced by the sector in the last 12 months, the market continues to offer single digit rate increases on profitable programs in 2023.

Market summary

Primary Liability capacity remains stable and many insurers have aggressive new business goals for the 2023 fiscal year. Buyers with clean loss records are seeing very favorable results when marketing efforts are conducted and favorable early renewal negotiations can be agreed with incumbent insurers. Auto Liability rating increases remain in the mid-to-high single-digits, while Workers Compensation rates remain flat to slightly down and General Liability for most segments remains in the single digit range.

Excess Liability capacity increased in 2022 and remains relatively stable in 2023. While there are still underlying concerns about loss severity, and challenges can remain in the Lead Umbrella space, the pricing volatility of the previous few years has subsided and we expect pricing to continue in the same manner as during 2022, with most buyers experiencing single digit rate increases.

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Market concerns

Claims trends

While North American Energy Excess Liability pricing appears to have plateaued to an acceptable level for insurers and capacity remains stable, the underlying issues that were a direct cause of the hard market in 2020 and 2021 have not abated.

The perceived anti-corporate sentiment of juries over the last few years remains a prevalent concern for insurers and the normalization of larger awards and settlements bears monitoring. Desensitized jury pools and a highly organized plaintiffs' bar are impacting both jury awards and settlement amounts.

Large jury verdicts for Auto Liability continue to put pressure on Excess Liability pricing; without the intervention of statutory laws to limit future liability, we expect this trend to continue.

Overall loss inflation trends are also continuing to trend upwards each year, oftentimes still outpacing the overall increases in Excess Liability rating.

Continued underwriting focus on fleet safety programs

As a result of the increase in Auto Liability settlements, insurers are paying closer attention to buyers' fleet safety programs. It is strongly recommended that buyers provide details of their auto safety programs in submissions and renewal presentations to differentiate themselves from their peer companies; they should also continue to focus on driver criteria improvement and consistency in applying standards for company vehicle use and polices. Driver training, consistent Motor Vehicle Record (MVR) reviews, telemetric devices in vehicles as well as in-cabin cameras in heavy tractors can assist in differentiating risks for both primary Auto and (more importantly) Excess Liability markets. However, if buyers are not actively enforcing in-force company fleet safety procedures, plaintiffs' counsel have argued that lack of enforcement can increase the company's negligence in a lawsuit.

Focus on ESG

Much like the commercial financing sector, insurers are increasingly requesting detailed information concerning insureds' ESG initiatives and policies. While the focus on ESG seems to be declining somewhat, certain insurers are taking a harder stance on Arctic Drilling, Oil Sands and Coal risks.

Cyber

Due to headlines of a breach in the Midstream sector, insurers are also paying closer attention to buyers' cyber practices and procedures. The London market has attempted to narrow coverage for Bodily Injury and Property Damage stemming from a malicious cyber-attack and we are seeing an increased push by other insurers to draft their own limiting language. We recommend that buyers, especially from the Midstream and Downstream sectors, educate their insurers and their management about the protocols and measures that have been put into place to protect their SCADA systems from outside cyber-attacks.

PFAS

Much like the environmental marketplace, many Excess Liability insurers have begun to focus further attention to PFAS (Perfluoroalkyl and Polyfluoroalkyl Substances), also known as "forever chemicals". PFAS exclusions have become more prevalent in the London Excess Liability market and now becoming more common on both US and Bermuda policies. While many companies do not have any PFAS exposure, insurers have been focusing their attention on fire suppression methods and associated chemical use. Buyers should expect inquiries into PFAS exposure as they head into renewals, especially those with terminal, plant or large fixed-asset exposures.

Climate change

Insurers within the Bermuda market and London have begun to insist on Climate Change exclusions being imposed on new business as well as on renewal business if the buyer has been named in a lawsuit. London insurers have also begun to pay further attention to any potential Climate Change lawsuits and have begun to push for exclusions on certain renewal policies.

Inflation

Inflation has naturally been a headline issue throughout the last 18 months, as governments continue to implement inflation-fighting interest rate increases. We expect insurers will remain focused on three key areas of inflation: claim cost inflation, wage inflation and interest rates.

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