Workers' Compensation Excess of Loss Market Conditions

by Natalie Hackett and Shaun Sweetman

The current climate of the Workers' Compensation market is one that is creating significant challenges for employers to navigate effectively. The impacts of COVID-19, the rising average costs and increasing mental health claims combined with very low investment returns have impacted on the profitability of insurers and will continue to put pressure on pricing, directly impacting employers.

In addition to the above we are seeing significant change in the *excess of loss* market with insurers reviewing the product's profitability, ultimately resulting in the exit of Vero in June 2021 who cited their portfolio's loss ratio as being the contributing factor.

The recent exit of Vero has put additional pressure on the remaining three reinsurers, QBE, Allianz and Liberty. Due to the decreased product profitability, insurers are under pressure from their pricing departments to increase premium rates or reduce future liabilities through increased self-insured retentions. This effectively differs future financial risk from the insurer back to the insured in the event of a large loss.

QBE (the largest insurer in the *excess of loss* market) have recently reduced their capacity to write business whilst they undertake a review on the profitability of their book. Allianz and Liberty, who hold equally small market shares, have advised that they are not actively looking to grow their position in the market due to the financial impact a large loss would have on their portfolio's overall performance. All three remaining insurers have cited late lodgements and higher costing claims as the primary factors for the portfolio reviews and limited risk appetite.

Legislation changes and legal outcomes are also causing disruption to schemes, pushing up liabilities and causing increased exposure to *excess of loss* underwriters.

The outcome of the Summerfield decision in South Australia has added approximately $850,000 million in liabilities to the scheme and means that retention levels for self-insurers will also come under pressure. The Summerfield decision relates to permanent impairment assessments and, in particular, the circumstances in which two or more impairments can be combined.

In similar circumstances, NSW have delayed any further decisions on the Presumptive Legislation until early 2022 which addresses the automatic acceptance of COVID-19 for essential workers. The impact on self-insurers in this

space means that workers currently do not need to prove contraction of the virus was work related and will therefore be liable for all costs, including lump sum costs, for significant side effects.

WTW are actively engaging insurance markets and regulatory bodies on the impacts the above have not only on premiums but also licence requirements and will continue to provide support to clients experiencing these and other challenges in this space.

Contact the WTW Workplace Risk team

To discuss this matter, or for any further assistance, please contact:

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