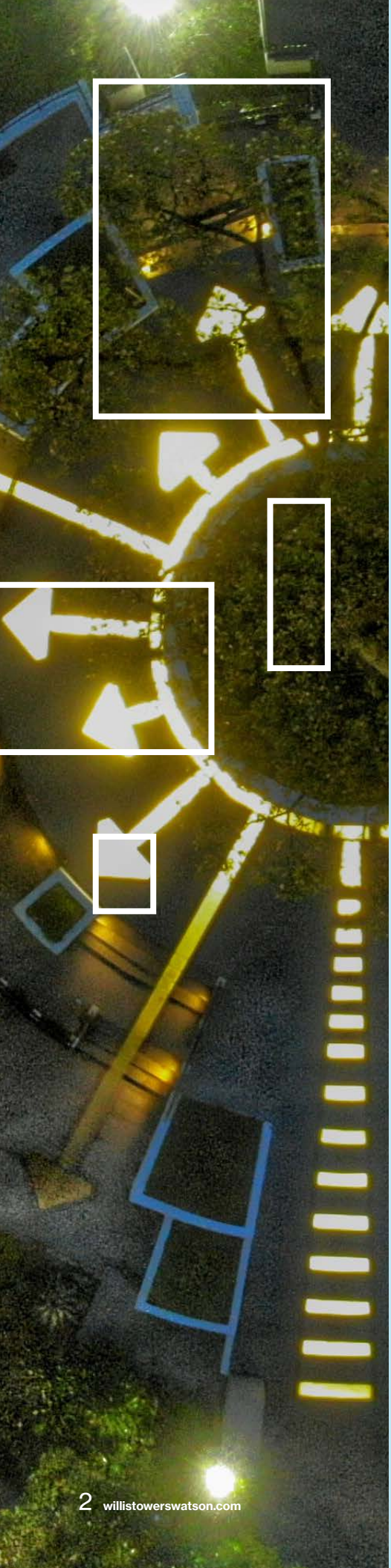
Willis Towers Watson

# Insurance Marketplace Realities

2021 Spring Update



# Contents

# A two-tiered market, one changing world

**In the not-too-distant past, we were in a sustained soft market that seemed impervious to historic property and casualty losses, making many of us question whether the hard/soft market cycle might be a thing of the past. Then eye-popping rate increases and the disappearance of capacity struck like some weather-borne natural catastrophe on climate change steroids. The market had indeed turned. Now, with higher rates attracting new entrants and coaxing some capacity to come off the sidelines, increases are beginning to decelerate, or at least stop climbing. It's still a hard market, but to a large degree, the cycle is – or will soon be – proven again.**

With one important caveat – we are seeing the emergence of not one marketplace, but two: one for "good" risks, another for, well, not so good risks. While there are wide variations product line by product line, good risks are finding some easing of conditions, including more modest rate increases. The others, not so much. Strict underwriting and the cautious deployment of capacity on certain risks seem to persist as the underwriting community grapples with systemic changes in the risk landscape.

## Systemic rise in risk

There are several underlying causes of the current hard market: Years of soft pricing and low interest rates for sure, but a major driver is an increase in the severity of losses. Social inflation continues to drive up jury verdicts and casualty losses. A rising number of shareholder class actions has had a similar effect on D&O. Ransomware losses are increasingly difficult for the cyber market to handle and property losses continue to climb with the steadily rising accumulation of insured property in catastrophe-prone areas. Many also believe that climate change will yield a rise in the frequency of catastrophic events, including those we can anticipate and model (e.g., hurricanes) and those we can't (e.g., tornados and wildfires).

Given these changes, why would any insurance buyers expect anything positive in the marketplace? We come back to the insurance cycle. After a few year-on-year increases, rates are approaching technical adequacy in some lines for some sectors. This has attracted new capital to enter the marketplace – $23 billion of new capital in the last six months. Start-ups are sprouting in Bermuda and London. Established carriers are expanding their available capacity and starting to deploy it a bit more for some risks. While broadly speaking the market remains hard, it is certainly more orderly and predictable.

## The role of analytics

In the past, when the industry cycle reached a plateau, a rapid decline in rates and carrier pursuit of market share often followed. The late 1980s and early 1990s come to mind. While we are not taking the bait and saying that the market cycle is dead, we do note that this hard market has been characterized by uncanny underwriting discipline. We attribute this to the growing sophistication of analytics. Insurers rely on portfolio analytics to guide financial decisions, which has a direct effect on underwriting decisions. We said in a previous edition of *Insurance Marketplace Realities* that the fight between analytics and underwriting

judgement was over and both had won. The result may be a future market cycle with lower peaks and shallower troughs in the aggregate and more differentiated underwriting of risk classes. This latter characteristic is being manifested in the current two-tiered marketplace. The upshot: Insurance buyers need to do everything they can to differentiate themselves into that good tier.

## Competing in the two-tiered marketplace

Risk differentiation begins, as always, with a strong commitment to risk management. Providing exposure data that is both current and developed with rigor will help pave the way for better renewal outcomes. High quality data is also a necessary input for updated analytics and modeling. Remember that underwriters have their portfolio analytics; buyers and brokers need to fight analytics with analytics to differentiate good risks from others in the portfolio. Finally, take full advantage of our virtual business world to hold world-class renewal meetings with many underwriters. While face-to-face meetings will always have an important place in our business of trust, videoconferencing enables risk managers to bring multiple internal resources (e.g., CFOs, safety managers, etc.) to the virtual table. This enables underwriters to dive deeper, and it underscores the teamwork necessary to realize a company's commitment to risk management. In addition, videoconferencing with underwriters around the world has made our global business even more connected.

## Insurance in the post-pandemic world: Words matter

One more note about what we've learned during the pandemic — or perhaps something we've been reminded of in dramatic fashion. Words matter. In the ongoing stream of court battles over what insurance might or might not apply to pandemic-related losses, we're seeing cases hinge on the exact wording pertaining to property loss, diseases, contamination, etc. As risk advisers, we try never to lose sight of such details. Understanding the big picture is important, but so are the details.

Back in October of 2017 when the triple whammy of Harvey, Irma and Maria loomed large, we described our worry in this publication that many in our industry had not gone through a market correction. Three and a half years later we have no such worries! We now have a large class of brokers, underwriters and risk managers who have graduated from the most challenging market in decades.

As a final note, while we see a somewhat brighter horizon in the marketplace for insureds, we certainly see a brighter world for all of us as the end of the pandemic draws nearer. Let us not lose perspective. These times have tested us all, but none more so than those who have lost family or friends.

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# Looking forward, looking back

With the number of lines predicting rate decreases remaining at zero for the third straight issue, and the number of lines predicting flat or mixed results holding at one for the second straight issue, we are forced to look hard at our rate forecasts in search of good news for buyers of commercial insurance. There is some. For one, property increases are not as steep as predicted in the fall. In 10 lines, we expect increases to be lower, and in almost half the lines, the same – not great, but not worse. Only a handful of lines are expected to see higher increases, and some of those just slightly higher. And there's the one holdout in the mixed/flat column: kidnap and ransom insurance – perhaps helped by the fact that in the pandemic, many potential kidnap and ransom targets were, like everybody else, stuck at home.

On the other hand, there is some specific bad news on top of the overall bad news: anticipated cyber rate increases jumped from +10% to +30% in the fall to +25% to +50% in this issue.

But beyond the numbers, many of our line-by-line experts do see this ever-so-slight turn for the better continuing and the marketplace becoming less difficult for buyers in the months ahead. Further, as we said in the executive summary, to properly understand the market, readers should look at the range of possible increase and consider how they can get on the better side of that range. A two-tiered market has emerged, one for better risks, one for poorer. Each tier can expect to pay more for insurance in 2021, but those in the better tier will suffer considerably less.

Here are highlights from our 2021 predictions:

- Property rate increases, while still high, offer what passes for a bright spot in the current marketplace: for challenged occupancies, predicted increases fell from +15% to +20% in the fall to +5% to +15% now; for challenged occupancies the range improved from +30% or more to +20% or more.
- General liability predictions remain at +7.5% to +15%.
- Casualty excess predictions are slightly less eye-popping than in spring: from +150% or more for high-hazard buyers and +75% or more for low/moderate hazard buyers, to +100% or more for high-hazard and +50% or more for low/moderate.
- Workers compensation continues to offer a respite from big increases, with some buyers even coming away with flat renewals.
- Auto rate increases remain plateaued at +8% to +15%.
- D&O increases are decelerating, from +20% to +50% for public companies and +10% to +50% for private/non-profit organizations in the fall to +10% to +40% for public and +5% to +45% for private/non-profit now.

## Commercial lines insurance pricing survey (CLIPS)

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

In the most recent CLIPS survey, the aggregate commercial price change reported by carriers grew by almost 5% in the third quarter of 2019, over 6% for the fourth quarter of 2019 and first quarter of 2020, and then spiked upward to nearly 10% in the second and third quarters and now above 10% in the fourth quarter. U.S. commercial insurance prices saw the highest increase since 2003. For more, review the recent **CLIPS report.**

The market remains hard, but better times for buyers, at least somewhat better times, should be ahead in the not-too-distant future, despite the extreme numbers in the chart below.

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

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

| IMR issue | Decreases | Increases | Mix/flat |
|---|---|---|---|
| **2021 spring update*** | 0 | 30 | 1 |
| **2021** | 0 | 29 | 1 |
| **2020 spring update** | 0 | 23 | 5 |
| **2020** | 2 | 20 | 5 |
| **2019 spring update** | 2 | 14 | 9 |
| **2019** | 2 | 14 | 9 |
| **2018 spring update** | 2 | 10 | 10 |
| **2018** | 7 | 7 | 9 |
| **2017 spring update** | 10 | 6 | 7 |
| **2017** | 10 | 6 | 7 |
| **2016 spring update** | 9 | 8 | 5 |

* The 2021 spring update figures include marine hull/liability and marine cargo as separate lines.

The 2021 figures include life sciences and alternative risk transfer predictions for the first time. The 2020 spring update figures reflect the addition of managed care errors & omissions as a separate line of business. The 2020 figures reflect the addition of personal lines and financial institutions as separate entries. The 2019 figures reflect the addition of marine, cargo and senior living/long-term care as separate lines of business. The 2018 spring update figures reflect the absence of marine in that issue; the 2017 figures reflect the addition of international coverage as a separate line, and the 2018 figures reflect the addition of product recall and the subtraction of employee benefits, which are no longer covered in this report. Casualty lines are discussed in one combined report but are included in this table as separate items (GL, umbrella/excess, auto and workers compensation).

# Alternative risk transfer (ART)

## Key takeaway

As ART products are affected by the same economic pressures as their traditional counterparts, ART underwriters are acting conservatively in certain product categories, manifested as a preference for simplicity over the cutting edge. That said, all ART deals (simple, novel or innovative) that are supported by robust analytics and negotiated over realistic timeframes fare better.

## Rate prediction

**Structured programs:** Flat

**Parametric natural catastrophe (nat cat)/weather programs:** +5% to +10%

**Parametric pandemic programs:** +15% to +20%

**Portfolio programs:** +5% to +15%

## Future pandemic protection

- For large corporates, the marketplace is offering protection for lost revenue, lost gross profit or an increase in expenses from a non-COVID-19 pandemic event. These programs respond on a dual trigger basis requiring: 1) a World Health Organization notice (PHEIC or pandemic) and 2) either a breach of a pre-agreed level of cases or deaths in particular geographies or a civil authority action by a federal or state government in particular geographies.
- As an extension, these programs can help manage the cash-flow impact of a second wave of COVID-19 through a multiyear structured (pre/post loss funding) component (not risk transfer).
- We expect capacity to remain steady in 2021 at $100 million, although pricing has been driven higher by loss frequency and greater clarity on COVID-19 losses.

## Structured solutions

- While the greatest level of activity is in the property and casualty lines of business, structured solutions are becoming more common wherever traditional markets are charging rates-on-line (premium/limit) of 40%+ for a layer of insurance. We see increasing interest in fronting with structured reinsurance options to seek value outside of traditional approaches.
- Structured solutions create a bridge between increased retentions and higher traditional market attachment points on hard-to-insure risk classes.
- Typically three to five years in duration, these programs include significant pre-loss financing that aligns the insured's risk tolerance with that of the insurers.
- Sophisticated insureds increasingly apply this approach across multiple lines of business, using these products to help manage the cash flow impact of large losses while embracing their risk tolerance and securing risk transfer capacity for remote loss scenarios.
- Insurers are becoming less flexible on funding requirements with greater scrutiny on credit analysis.

## Parametric solutions

- Natural catastrophe risks
  - Parametric hurricane and earthquake programs became very popular in 2020 due to the challenging property market compounded by COVID-19, which amplified the cost of natural catastrophe claims.
  - These solutions complement property placements by in-filling deductibles, topping up sublimits or covering uninsured risks (such as non-damage business interruption risk).
  - Their simple structure, use of independent data and quick settlement appeal to those insureds exasperated by long, drawn-out claim adjustment processes on prior catastrophe events.
  - While few see parametric solutions as a complete replacement for traditional insurance, parametric programs can provide an immediate source of liquidity in the event of a catastrophe while the insured gathers the data for their traditional insurance claim.
  - Markets are working to increase their available capacity for 2021.

- For hurricane risks in the Atlantic basin, insureds are highly encouraged to renew/implement their programs early in 2021 to access optimal pricing and capacity. In 2020 we saw rates increase and capacity disappear as we approached wind season.
- Weather risks
  - Parametric weather index products that address extremes of precipitation, temperature, humidity, snowfall, etc. are increasingly being adopted by insureds to hedge against non-damage business interruption events, especially with growing concern over climate change.
  - Activity is highest in the agriculture, construction, transportation, leisure and hospitality sectors, and buyers range from public entities to corporations of all sizes.
  - In the renewable energy sector, these products support the revenue generation of wind and solar assets over 10- to 15-year periods.
  - Insurers are keen to expand this sector to diversify their natural catastrophe concentration in their portfolios and protect against loss resulting from warm northern hemisphere winters.
- Emerging indexes
  - Advancements in technology continue to expand the number of risks that can be addressed on a parametric basis. Emerging products cover hail, flood/surge, river height, lightning and wildfire risks.
  - Multiperil policies can be written using generic industry indexes (REVPar, Footfall) that are correlated to multiple risks.
  - Insureds' own production data is now being used to settle the business interruption component of a property claim on a parametric basis, greatly simplifying claim settlement – enabling claims to close in days versus months.
- Analytics
  - Parametric contracts are data driven, with claims being settled entirely on the value of the agreed data set. As such, they rely completely on a thorough analytical understanding of a risk and its correlation to a selected index.
  - Basis risk continues to be the key challenge and needs to be clearly understood by potential buyers.

## Portfolio solutions

- Capacity for multi-year portfolio solutions (or integrated risk programs) has diminished as ART units are forced to adopt the same underwriting restrictions imposed on their traditional monoline colleagues.
- These markets increasingly focus on multiline stop-loss protection for a captive or for a portfolio of deductibles/self-insured retentions as insureds are forced to retain more risk to limit premium increases.
- That said, those clients who previously established multiyear integrated programs are benefiting significantly by being insulated from market volatility and rate increases, at least until such programs renew.
- Where there is stress, there is opportunity, and we do see signs of new market capacity being drawn into this sector (as well as into structured solutions).

## Catastrophe bonds

- COVID-19 created a distraction for investors during 2020, but by Q4 we saw renewed momentum, which is continuing in 2021.
- Investors are focused now on minimizing losses from silent exposures, such as cyber, terror and pandemics.
- Litigation may cause investors to reassess risk and increase fees if they feel they cannot rely on the courts to support the plain meaning of contracts.
- Environmental, social and governance (ESG) investing will be an area of focus in 2021. Insurance-linked securities (ILS) arguably have favorable ESG characteristics, which is especially attractive to EU and Swiss investors. The outstanding question is how to translate the principles of ESG into specifics.
- Using alternative capital to create more available and affordable insurance that is more accurately valued considering climate change would be ESG-positive. Collateral can also be ESG-positive where, for example, proceeds from World Bank notes fund sustainable development.
- The experience of 2017 hurricane losses launched ongoing product innovation in the capital market sector to increase transparency and improve valuation techniques, liquidity and collateral structures leading to greater use of industry loss warranties (ILW) and index cat bonds.

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# Captive insurance

## Key takeaway

We are seeing increased deployment of captives as a response to the continuing hard market. While the pandemic initially dampened new captive incorporations earlier in 2020, activity has increased into 2021.

**We anticipate ongoing interest in using captives to secure gaps in coverage, particularly for those risks seeing the highest rate increases (e.g., D&O, excess liability, trade credit, cyber, pandemic and property/ business interruption).**

- Despite continuing economic stress in some industries, other sectors have weathered the pandemic reasonably well. Organizations in these sectors are now able to focus more on their risk financing programs.
- We have even seen instances where the careful preservation of cash in 2020 has positioned buyers to take more aggressive risk retention positions in 2021.

## U.S. domiciles

- Many U.S. captive domiciles reported increases in new licensee numbers in 2020 compared to the last several years. However, this growth was offset by continued decline in the 831(b) captives due to the IRS crackdown on abuse in this sector of the market. This and closer regulatory scrutiny have caused a slight (roughly 2%) decline in the number of captives in the U.S. to 3,107 (Business Insurance Managers' Survey, March 2021).
- We have also heard from several domiciles that applications for new captive licenses have continued into the early part of 2021, leading us to expect 2021 will be another strong year for new captive formations.
- Several domiciles have also reported an uptick in the licensure of captive cells within sponsored protected cell facilities.

## U.S. offshore

- The key Atlantic and Caribbean domiciles of Bermuda and the Cayman Islands saw captive numbers continue to fall by a net 17 in 2020. There were 48 new licenses issued during 2020 in these domiciles. (World Domicile Update 2020, Captive Review March 2021)
- The removal of a similar number of licenses was largely attributable to merger and acquisition activity as well as continuing pressure on the 831(b) captive sector as the result of IRS investigations. This left net growth in the number of captives at less than 1%.
- New activity remains largely focused on business from the U.S. and Europe, but there has also been some activity from Asia and Australasia.
- Cayman has seen much new activity in the healthcare sector, which remains its largest generator of captive business.

## Growing use of analytics in captives

The anticipated increase in the use of analytics to support decision making and to optimize cost of risk transfer in market negotiations is already manifest in the early part of 2021. We see this at all stages of captive development, from new captive feasibility to strategic planning for existing captives.

We have seen much greater focus on risks that are driven more by severity than frequency, such as professional liability, cyber and complex products liability risks. This has created additional demand for analytical services that can better model such risks and that can assist an owner in capital and portfolio management for the captive.

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# Property

## Key takeaway

A recent rise in the availability of capacity has created a two-tiered market: one for challenged occupancies and one for non-challenged occupancies.

## Rate prediction

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

**Challenged occupancies:** +20% or more

**Property pricing is showing signs of easing, but upward rate pressure persists in the near term.**

- Year-on-year increases for several annual cycles have brought perceived rate adequacy to many accounts. As a result, new capital (and redeployment of capital that sat on the sidelines in 2020) is available, helping to ease overall rate pressure for certain risks – to the point of creating competition for adequately priced risks in non-challenged occupancies. A phenomenon rarely seen since 2018. However, capacity remains constrained for challenged occupancies and all occupancies with adverse loss experience.
- Even with some easing of capacity and some signs of competition, the entire property market, broadly, is still experiencing rate increases, however, and the range of rate increases varies greatly by industry and risk classification.
- While we expect the magnitude of rate increases to continue to decelerate in 2021, the extreme losses of 2020, the winter storms of 2021 and ongoing COVID litigation are likely to sustain upward rate pressure for some time.

**The marketplace continues to be driven by insurers pursuing profitability, not capital depletion.**

- Insurer focus remains on the reduction of volatility – a strategy that not only impacts rate, but raises the likelihood of underwriters adding coverage restrictions and policy exclusions, e.g., for communicable disease, strikes riots and civil commotion and cyber. Cyber exclusions are now standard.
- We are seeing a continued push for company forms versus manuscripts.
- Fronting of global programs remains problematic due to enhanced scrutiny of the financial security of reinsurers and inconsistency of policy wordings.
- Technical underwriting remains a challenge at renewals.
- Despite dramatic increases in 2020 rate levels, some accounts are perceived to not yet be adequately priced, and insurers are looking to maintain the upward rate pressure.

**The 2020 year brought historic disasters.**

- The U.S. suffered 22 separate billion-dollar weather/climate events in 2020.
- The record Q1 2021 catastrophic losses from severe winter weather in Texas and Louisiana are expected to result in approximately $18 billion in insured losses. The potential for these claims to develop further may have an impact on the rate environment. The Texas/Louisiana cold snap could develop into the largest winter storm event in history.
  - Billion-dollar events are on the rise; 2020 was the sixth consecutive year with 10 or more billion-dollar weather/climate events. The elevated frequency of such events has changed the marketplace, altering the way insurers plan for future insured losses and for modeled and non-modeled risks.
  - The hard market of 2020 forced many clients to take larger retentions, self-insure a portion of their risk as well as reduce overall limits to manage costs. The market is far from a state where a return to previous program structures will make budgetary sense.

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

- This increased information will help buyers more accurately model any changes (e.g., reduction in limit or increased retention) and help ensure that risk management strategies reflect organizational risk appetite or corporate philosophy.
- Analytics provide important guidance as buyers align offerings in the marketplace to their rapidly shifting risk transfer needs.
- Buyers need to distinguish themselves from their peers, especially those in challenged occupancies. Risk managers are more critical than ever to help tell this story and provide the necessary data to satisfy underwriters' insistence on robust underwriting information.
- Underwriter meetings are strongly encouraged; telling a story of mitigation efforts, improved loss control measures and disaster recovery/business interruption plans will be critical in differentiating a buyer's risk.
- Underwriting meetings via video conferencing have become the norm. Take advantage of this medium to bring corporate resources (e.g., plant safety professionals) to underwriting meetings to provide depth to the risk management narrative.

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

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

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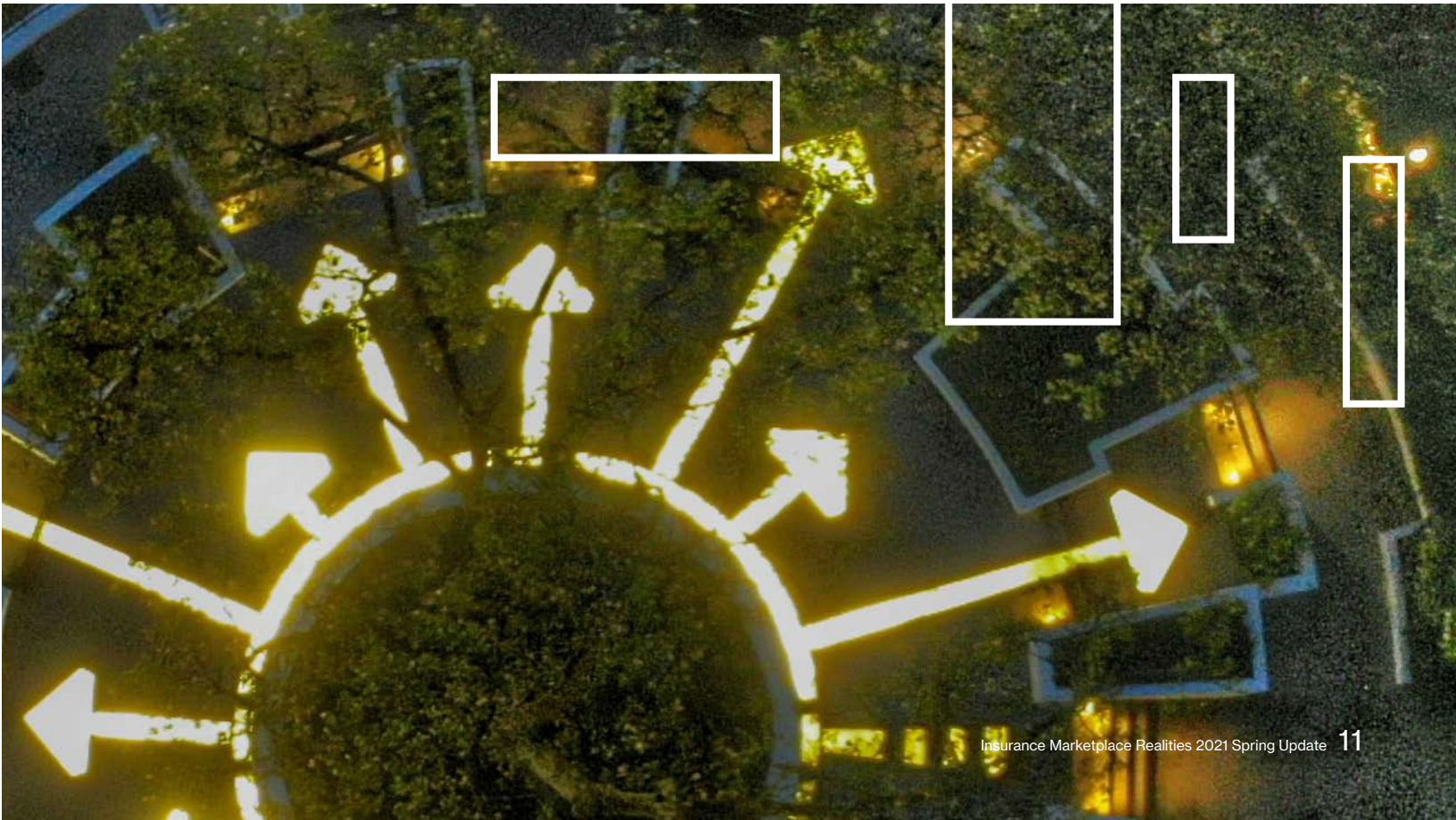

# Casualty

## Key takeaway

The commercial liability marketplace remains challenged. However, recent lead umbrella and excess liability renewal rates have been less volatile, a trend we expect to continue through 2021.

## Rate prediction

**General liability:** +7.5% to +15%

**Automobile liability:** +8% to +15%

**Workers compensation:** Flat to +4%

**Umbrella liability:**
**High hazard:** +50% or more
**Low/moderate hazard:** +30% or more

**Excess liability:**
**High hazard:** +100% or more
**Low/moderate hazard:** +50% or more

**Focus should be on differentiating risks with the support of analytics.**

- As we continue to navigate this hard market, differentiating client risk profiles, exposures and loss experience is more important than ever. Analytic tools are crucial to these efforts and to identifying risk financing options.
- Shifts in buying strategies and program structures are more commonplace today than at any time in recent memory. These changes demand risk quantification to help identify optimal program structures.

**Several broad factors continue to drive rate increases in the casualty marketplace.**

- Liberal class action certifications
- A highly organized and heavily funded plaintiffs' bar that utilizes third-party litigation financing
- Jury pools desensitized to vast monetary values
- Carriers continuing to question and reevaluate reserve adequacy
- Global umbrella/excess capacity reductions
- Nuclear verdicts and catastrophic liability losses
- Uptick in frequency of significant punitive awards
- Coverage limitations and changes in treatment of defense for high-hazard industries
- Historical excess pricing methodologies becoming less applicable as increasing severity compels insurers to reevaluate excess liability rate adequacy
- Renewals taking much longer to complete, with participation from many more carriers needed to replicate expiring umbrella/excess capacity
- Some buyers buying less excess coverage and increasing their retentions

**Lead umbrella and excess liability renewals continue to experience year-on-year rate increases, with excess liability remaining the most disruptive casualty line. However, recent renewals suggest a deceleration in rate increases.**

- Most programs have now been exposed to the challenged market for two consecutive renewal cycles and, while buyers still face double-digit rate increases, pressure to completely overhaul structure has eased and triple-digit rate increases have become rare.
- Total available/advertised global capacity has declined from $2.2 billion in 2018 to $1.4 billion in 2021 – although maximum *deployed* capacity is closer to $690 million.
- Capacity reduction has three sources:
  - Carrier consolidation (approx. $235 million)
  - Carriers withdrawing capacity (approx. $500 million)
  - Underwriting restrictions (approx. $700 million)

- New capacity has helped mitigate rate increases, a trend we started to see in Q4 2020.
- Higher rate increases are most prevalent on programs with exiting capacity (lead or excess).
- The best pricing and coverage have often been offered by long-term incumbent carriers. That will likely change once softer market conditions return and competition becomes more aggressive against incumbents.
- Loss severity is increasing along with the proportion of claims that are litigated.
  - While we await the release of updated data, Lewis Brisbois (defense firm) reviewed the median value of the top 50 U.S. verdicts and 2019's value was estimated to be $88 million, which would mark a 62% increase from :2018's median value of $54.33 million and a 318% increase over 2014's $27.7 million.
  - Severe recent verdicts have become the benchmark for future claims and are the result of aggressive litigation, litigation financing, changing jury sentiments and social inflation. Nuclear verdicts and large settlements, even in jurisdictions perceived as conservative, are another major driver of the current market.
- Carriers are leveraging their lead umbrella and excess capacity to secure positions on primary casualty programs. Since Q2 2020 there has been a 15% increase in the number of buyers purchasing supported casualty programs (i.e., primary programs with umbrella/excess from the same insurer) and that trend is accelerating.
- Excess liability insurers are imposing higher minimum premiums, citing increased cost-of-capital requirements. This has been a major driver of excess rate increases and has disproportionately affected clients who purchase more than $100 million in excess limits.
- Underwriting and pricing guidelines remain fluid, with carriers continuously reacting to market conditions and, at times, changing their positions over the course of renewal discussions with insureds.
- Communicable disease and specific COVID-19 exclusions are now commonplace but not uniform, creating further challenges in structuring excess liability towers.
- Captives are being deployed to help manage excess rate, tower rate inversion (i.e., premium rates higher in upper tower layers than in lower) and non-conventional umbrella structures. Many captive owners are taking actions that put captive capital at risk to help manage a difficult marketplace.

**Auto liability premium rates and claim payments remain on the rise, with some insureds being forced to amend program structure to manage total cost of risk.**

- Upward rate pressure is causing some insureds to reevaluate higher deductibles, implement corridor deductibles or explore alternative risk transfer (ART) solutions for their auto programs.
- Recently available data illustrates sources of this upward rate pressure:
  - Advised data states that 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.
  - 2019 (per AM Best) was the worst underwriting accident year in a decade for automobile insurers, as losses reached $4 billion. Even with rate increases over the past several years, the 2019 combined ratio stood at 109.
- As a result of increasing claim costs, umbrella carriers continue to demand higher attachment points, resulting in a stretching of primary limits or the introduction of excess buffers. Since 2018 there has been a 34% increase in the number of clients with $5 million in primary auto liability limits.
- COVID-19 impact aside, increased frequency and severity of losses are the result of a multitude of factors, including more vehicles on the road covering more miles, distracted driving, rising medical expenses, commercial trucking driver shortages, legal climate changes, and decaying public infrastructure.
- Risk managers recognize that drivers who text while operating a vehicle are 23 times more likely to become involved in a vehicle accident, so they are exploring risk control technology to help manage this exposure.
- NHTSA data shows that more than 1,000 people are injured daily in accidents in which at least one driver was distracted.
- Sleep apnea/deprivation continues to be a key factor in accidents, with over 43% of the workforce indicating they are sleep deprived. This is a major issue for risk managers, as employers have been found legally liable for not properly managing fatigue and sleep issues.
  - The CDC states that 18 hours without sleep is the equivalent of driving with a blood-alcohol concentration (BAC) of 0.05%, while being awake for at least 24 hours is equal to having a BAC of .10%, which is higher than the U.S. legal limit of .08%.

- *Repurposing,* a buzz word of the pandemic that came into currency as businesses modified job duties to meet changing demand, has impacted auto risks — e.g., in-house restaurant servers who are asked to deliver take-out orders using their own vehicles. Repurposing can raise the non-owned and hired exposure to both restaurant owners and their insurance carriers. Insureds should look at the employee's personal auto policies to ensure that coverage under those policies would not be void in such circumstances.

**Workers compensation renewals are experiencing flat to modest rate increases as carriers seek to offset exposure-driven premium reductions brought on by pandemic-impacted payrolls and to fund COVID-19 losses from high-severity employers.**

- Workers compensation continues to be the casualty line of business with the most COVID-19 claim activity. The circumstances around coverage are complex, vary by state, and are impacted by presumptive legislation.
- Many excess workers compensation policies were historically designed to include batch language for communicable disease claims. With the advent of Covid-19 this coverage enhancement has been limited and, in many cases, excluded.
- COVID-19 has led to the deferral of elective treatments and medical care in general for non-acute conditions. This may extend the duration for non-COVID claims, putting upward pressure on costs.
- The pandemic has reduced return-to-work opportunities and light-duty programs, which could also increase claim duration.
- While less driving and more telecommuting may reduce the number of motor vehicle accidents, more ergonomic injuries may be expected as a larger percentage of the workforce is working remotely in spaces not designed for that purpose.
- COVID-19 has created greater uncertainty in defining "the course and scope of employment" with many workers now telecommuting. Employers may have to add neighboring states to their policies, modify class codes, and establish guidelines and protocols for working from home.
- A workplace outbreak of a communicable disease, such as COVID-19, is more likely to be covered by workers compensation if several factors are present:
  - Presumptive legislation creating a pathway for designated claims
  - An elevated risk of contracting the disease due to type of employment
  - Ease in identifying the time and place of disease transmission
  - State statutes and case precedents that favor workers compensation claimants
- Telehealth, especially since the outbreak of the COVID-19 pandemic, continues to play a key role in workers compensation by providing more efficient access to high-quality medical care, mitigating medical expenses and lost time from work, and reducing claim severity.
- New medical technology alone can inflate loss costs by 40% to 50% and are a key driver in mega claims.
- Since 1999, indemnity claim severity has increased by 85%. This is consistent with the cumulative growth in wages of 78% over the same period.
- Recently available data from the National Council on Compensation Insurance (NCCI) shows:
  - 2019's combined ratio for private carriers was 85, up from 83 in 2018, marking the sixth consecutive year of underwriting profit, and the third consecutive year of results under 90.
  - NCCI estimates that average indemnity claim severity for accident year 2019 was 4% higher than that for accident year 2018. The severity change is in line with the projected countrywide average wage increase for 2019.
- While opioid use is declining, the problematic painkillers still account for close to 25% of workers compensation prescription dollars.

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# International casualty

## Key takeaway

The international casualty market continues to be impacted by recent social and economic trends, with results varying widely based on individual account risk factors and market competition.

## Rate prediction

**+7% to +10%**

**Social and economic instability in recent months has permeated international casualty despite healthy capacity and very few claims linked directly to COVID-19. Overall, capacity remains available, primarily from the established markets, who can write multiple global lines.**

- Renewal results vary widely from risk to risk, with some insureds still renewing with flat rates or even some rate reductions, while most are seeing single and low double-digit rate increases.
- Insureds who have experienced significant claims and those with higher-risk exposures are the most vulnerable in this evolving marketplace. We recommend that these insureds initiate renewal discussions early and explore all possible options.
- To achieve the best results, buyers should:
  - Deliver clear and consistent underwriting data and related documentation
  - Leverage their purchasing with strategic carrier relationships
  - Demonstrate that they have communicated detailed risk management protocols to their various stakeholders
  - Partner with their broker, carriers and internal teams to take a disciplined approach to the renewal timelines, allowing for a thorough review of localized coverages and claim handling plans
- With many businesses reporting a decrease in revenues, the resulting reduction in exposure may not mean a 1:1 reduction in premium. Global program administration costs are somewhat inelastic and are a significant portion of the total program costs, so insureds may face rate increases as their exposures drop.
- As organizations measure the quality of their global programs, we recommend taking a holistic approach and placing value on issues beyond price, such as the delivery of information and service. The most effective carrier partners are those who deliver accurate and timely policy documents, quality post-binding services around the world, and offer an insured the ability to influence localized policy coverage terms.

**Capacity remains available, despite outside pressures.**

- The ongoing impact of the global economic downturn caused by COVID-19 is uncertain, but we anticipate a continuation of low interest rates, which will impact carrier investments and suppress overall carrier profitability. Other P&C lines will continue to push for rate increases, which influences underwriters of international programs to follow suit and raise rates.
- In 2020, upward pressure on rate was mitigated by growing capacity. However, most carriers have become less aggressive, choosing rather to stabilize their capacity rather than continuing to expand.
- Underwriters are seeking clear and consistent exposure information from insureds, limiting or even removing the ability to obtain coverage for "if-any" exposures, as well as excess difference-in-condition (DIC) coverage, without clear details about the primary coverage in local geographies.
- On a positive note, carriers that write global lines of coverage are often able to partner with insureds on other lines, offering the opportunity to reduce overall cost through economies of scale.

- Multiyear agreements are available in some instances and can offer coverage and rate certainty as well as relieving the administrative burden of annual renewal negotiations.
- For certain insureds with large and complex international risks, European-based insurers can offer an alternative access point with potential benefits:
  - Customarily higher primary limits and expanded coverage territory
  - Sizable limits on unique coverages, such as pure financial loss and extended products liability
  - Key coverage extensions included in the master policy, enabling broader coverage territory

**Achieving optimal overall price includes a discussion of umbrella attachment points.**

- Buyers need to review how international casualty would best attach to the excess and umbrella (i.e., retained limit versus underlying limits) as well as the attachment point itself. These factors can impact overall cost and drive optimal claim handling.
- With many international casualty programs charging lower rates than the primary umbrella, pushing up attachment points may offer considerable opportunities.

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

- Catastrophe limits continue to be under pressure, requiring more underwriting scrutiny and higher premiums and larger deductibles.
- Buyers can take steps to minimize these negative pressures:
  - Deliver clear and consistent underwriting data
  - Leverage position with strategic carrier relationships
  - Demonstrate that strong loss controls are in place and there is resolve to improve the company's risk profile

**Requests for more underwriting data as a result of COVID-19 adds pressure to renewal timelines.**

- Expect questions about how your organization is protecting staff and customers from the pandemic.
- The foreign voluntary workers compensation (FVWC) component of international casualty remains the most significant target for coverage discussion around COVID-19. This coverage commonly extends to endemic disease with state-of-hire workers compensation benefits for employees who are working outside of their home countries. However, for coverage to apply, their travel needs to be in the course of business.
- Coverage may also be triggered in a business travel accident policy for someone who contracts the virus while traveling on business.

**Life after Brexit requires attention to local policy administration.**

- Carriers and brokers have long been preparing for Brexit by repositioning certain underwriting and/or service functions (e.g., freedom of service [FOS] infrastructure) to alternative European locations (e.g., Luxembourg, Ireland, Spain and Belgium).
- As a general note, we strongly encourage insureds to partner with their broker and carrier to weigh the pros and cons of an FOS structure as the primary source of coverage for a casualty program. The benefits that are generally available on a property program are often less clear for casualty. Programs that replace local policies throughout Europe with an FOS policy may reduce costs, but may also lose broad, country-specific terms that are only available in certain countries.
- In the past, some insureds may have received an FOS policy from a carrier's U.K. office, representing coverage for the U.K. As many carriers need to transfer those FOS responsibilities out of the U.K., insureds should consider requesting a separate local U.K. policy at renewal.
- When a renewal involves a potential change regarding where an FOS policy will be issued, we suggest carefully considering the governing laws of that policy. For example, the U.K. relies on common law whereas other European countries rely on civil law, and there will be differences in how claims are managed.

**Changes in market regulation and issues of compliance are crucial.**

- State-driven regulation and rising protectionism continue to impact the marketplace. Federal agencies in some regions are requiring participation of in-country insurance capacity in global programs, which impacts pricing, exportability, control and renewal timing. Buyers should be aware that any restrictions on the exportability of risk and premium will limit the corresponding amount of underwriting and claim settlement authority that can be centralized.
- Enforcement of premium payment warranties (e.g., cash before cover) is quite active in some countries, which should encourage buyers and their brokers to be ready to bind 30+ days in advance of renewal.
- Insurance and tax audits, as well as requirements for insureds to provide know-your-client (KYC) documentation, are evidence that local regulators are actively seeking to ensure that programs are locally compliant.

**Alternative risk programs that include fronted local policies offer notable advantages and are likely to become attractive as risk transfer rates increase.**

- While the marketplace for fully fronted programs remains fairly limited, they can be popular for insureds who wish to control cost allocations and centralize coverage documentation. If risk transfer pricing continues to rise, we expect more insureds will consider various forms of alternative risk transfer, including the use of captives.
- Carriers that write programs with significant retentions are often well-established and have the underwriting expertise, global network, technology and cash flow capabilities to handle these programs effectively.
- Programs with a reinsured retention generate administration costs and often require collateral. The calculation of administrative costs and collateral depends on several factors, including the number of local policies, volume of claims, limits issued, etc. Upward pressure on those costs can be mitigated in certain cases by leveraging a carrier relationship across other products.

**Program administration remains an important focus.**

- In a marketplace that does not generally see the same claim frequency or severity as U.S. domestic lines, multinational programs often incur more administration costs from carriers, brokers and insureds. As a result, all parties should look for ways to drive value through efficiencies.
- The key to achieving a program that delivers value is a disciplined approach to renewal timelines, with teams beginning the renewal process early and documenting clear objectives upfront.
- International casualty programs require significant administration and collaboration. Rather than differentiate purely through price, carriers and brokers are creating and/or enhancing operational tools, leveraging technology and offering underwriting flexibility and/or enhanced transparency around country-specific coverages.
- Premium allocations require a defensible and consistent methodology. Insureds and brokers should initiate these discussions early in the renewal timeline, with consideration of such issues as taxes and premium/risk exportability.
- Several carriers supplement the delivery of international programs with online platforms. The ability to reduce friction and improve clarity continues to be a differentiator; therefore, carriers continue to invest in tools that offer transparency into network instructions, posting of policy documents and other improvements in efficiency.

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# Product recall

## Key takeaway

Increased regulation anticipated under a new administration in Washington D.C. is unlikely to take effect until later in 2021, leaving the product recall landscape fairly stable and the insurance marketplace trending slightly more favorably for buyers.

## Rate prediction

**Flat to +5%**

**While it has been consistently found that COVID-19 is not transmitted through food, insurers are still seeking to exclude pandemic-related diseases from restaurant coverage.**

- One major carrier will no longer write pandemic endorsements.
- Another carrier is developing a COVID-19 exclusion.
- Business interruption losses under restaurant contamination policies hit historic highs due to the prevalence of affirmative pandemic language in these policies. This pandemic coverage is no longer available.

**Product safety has been flying a bit under the radar due to government resource constraints during the pandemic, but at a time when consumers are demanding more in terms of product safety, it's essential that companies safeguard their production processes.**

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

**Underwriter movement has created excitement in the marketplace – new underwriters are opening once stagnant markets, developing greater market competition.**

- Two leading players have lost some dynamic underwriters to a smaller market, though both markets are still flush with talent.
- One carrier purchased another's product recall book of business along with their underwriting leadership.
- One insurer has developed a broad Canadian-only cannabis product for recall – they are building their brand in anticipation of the likely legalization of cannabis across the entire U.S.

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# Cyber risk

## Key takeaway

As insurers continue their strategies to mitigate the financial losses from the significant increase in frequency and severity of ransomware incidents over the past year, they must now also assess how organizations may have been impacted by the SolarWinds, Accellion and Microsoft Exchange Server breaches. In an already hardened insurance market, these recent developments are likely to tighten the terms and availability of certain cyber coverage for some organizations, especially for those that cannot demonstrate strong cyber risk controls, culture and overall cyber hygiene.

**Rate prediction**
**+25% to +50%**

**COVID-19 continues to impact the cyber market.**

- The work-from-home era, now in its second year, may be contributing to an increase in phishing and hacking activity, as certain organizations have been more vulnerable than usual due to employees working remotely on potentially less secure networks with less secure hardware.
- According to the IBM and Ponemon 2020 Cost of a Data Breach Report, 76% of the organizations polled across 17 different industries predicted that remote work would make responding to a potential data breach much more difficult by increasing the time to identify and contain a potential breach.
- Further, the polled organizations predicted that having a remote workforce would increase the average total cost of a data breach to around $4 million.
- According to a Willis Re recent survey of cyber insurance buyers, underwriters, risk managers, claims professionals, actuaries and brokers, 86% think the frequency of cyber attacks will increase as a result of COVID-19; over half (54%) think the severity of those attacks will also increase.

**Primary and excess cyber renewals are now averaging premium increases of 25% and higher.**

- Heavily exposed industries are likely to see increases on the higher side of our predicted range: healthcare, higher education, public entities, manufacturing, financial institutions, construction and large media and technology companies.
- The use of analytics to assess potential cyber exposures and determine optimal insurance limits for insureds has become vital as we navigate a marketplace that keeps hardening.
- Cybercriminals are targeting businesses of all kinds with ransomware attacks. As these attacks become more sophisticated, such as threatening a firm's entire electronic infrastructure, ransom demands have increased — often reaching eight figures.
- As incidents and losses mount, carriers have been reevaluating their positions in large towers and looking more closely at rates in perceived burn layers.
- Carrier strategy regarding excess layers revolves around obtaining adequate premium for perceived risk. There is less competition to get on excess towers, especially if pricing is considered too thin.

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

- According to the IBM and Ponemon 2020 Cost of a Data Breach Report, data breach costs remain highest in the U.S., where the average cost of a data breach in 2020 was $8.19 million, up 5.3% since 2019, driven by a complex regulatory landscape that can vary from state to state, especially for breach notification. Healthcare was again the most expensive industry.
- The human element continues to be the leading cause of cyber loss, contributing to 63% of the claims included in the Willis Towers Watson 2020 Reported Claims Index.
- Certain carriers are adjusting their ransomware coverage appetites and considering sublimits and co-insurance alternatives, while more carriers are requiring ransomware supplemental applications.
- Certain markets are adding broad SolarWinds exclusions to their policies, making it essential for organizations to report notices of circumstances if either they or one of their vendors use or used the software.

- Certain carriers are relying more heavily on cyber security consultants for technical expertise as well as third-party scanning technologies to highlight potential vulnerabilities.
- Excess carriers are increasingly not aligned with primary coverages and are seeking to benefit from exclusions placed on excess policies below them in a tower.

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

- Since the E.U. General Data Protection Regulation (GDPR) went into effect in May of 2018 and the subsequent trove of data privacy legislation introduced across the U.S., most notably the California Consumer Privacy Act and New York's copycat legislation, Senate Bill 567, we have seen cyber markets affirmatively address coverage for claims stemming from these regulations. Markets are also offering expanded wrongful collection and compliance coverage largely in response to the new regulatory landscape.
- Other expansions include coverage for forensic accounting costs, reputational damage and invoice manipulation in certain industries.
- Business interruption/system failure continues to be an area of concern for underwriters. Heavily exposed industry classes, such as aviation, manufacturing and transportation have seen increased underwriting scrutiny. While coverage remains available, some buyers face significant premium increases.
- Cyber underwriters are working more closely than ever with their counterparts in other lines to address silent cyber coverage. Carriers are withdrawing or limiting cyber coverage in non-cyber insurance lines due to concerns over aggregation.

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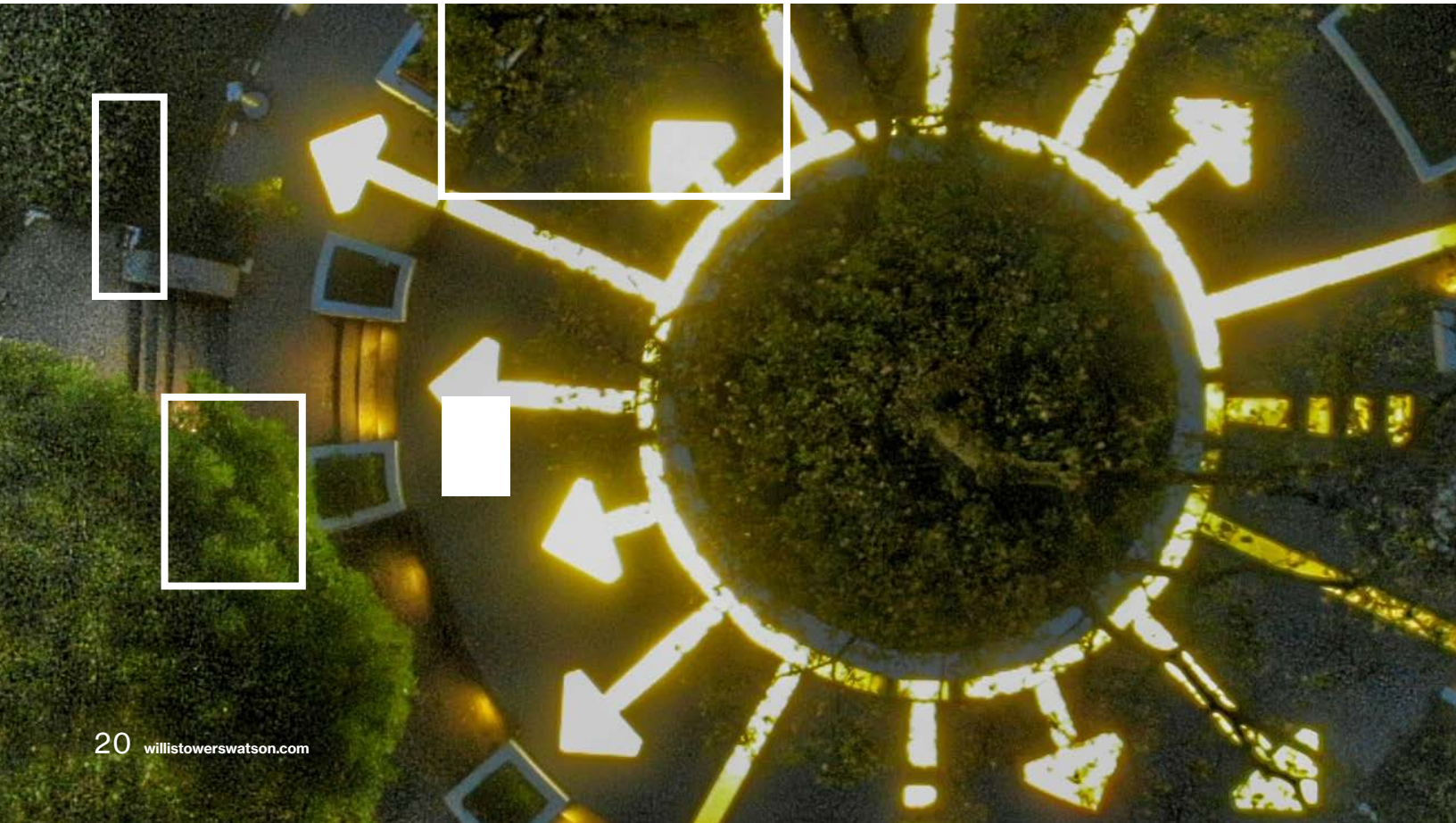

# Directors and officers liability

### Key takeaway

Rates, retentions and terms continue to see upward pressure, but capacity inflow in the public company space is yielding a deceleration of rate increases.

### Rate prediction

**Stable Risk Profiles (modest COVID-19 exposure):**
**Public company – primary:** +10% to +40%
**Public company – excess layers:** +15% to +65%
**Private and not-for-profit – overall:** +5% to +45%

**Side-A /DIC:** Case-by-case, with minimum premiums impacting most risks

**Challenged Risk Profiles (high COVID-19 exposure):**
**Challenged industries/companies, e.g., oil:** Case-by-case basis; large potential increases; may not be enough willing capacity

**The unprecedented economic environment continues to impact a profitability-challenged directors and officers (D&O) liability market, fueling underwriter uncertainty and concerns about insureds' liquidity and systemic risks. Nevertheless, new excess capacity in 2021 may lead to stabilization.**

- **Sustained hard market conditions, transitioning to a decelerating rate environment:** An already-hardened D&O market faces heightened concerns fueled by continued economic challenges.
  - Insurers managed their capacity and corrected rate in 2020, but many insurers believe the product remains underpriced.
  - Offsetting these challenges is new excess capacity of approximately $100 million (or more) in the public company D&O space, yielding a moderation of rate increases versus the peak increases we saw in 2020. This capacity inflow should lead to additional buyer leverage and an enhanced ability to fill capacity holes.
  - As expected, more favorable risks are the initial beneficiaries of conditions brought on by new capacity. More challenged risks continue to experience sustained hard markets challenges.
- **Uncertainty:** COVID-19 remains a cloud over the prospect of economic recovery. Vaccination of populations is promising, but mutated virus strains and social/political tensions around health and safety measures present issues over the timing and pace of business re-openings and the resurgence of employment and economic growth.
- **D&O underwriter focus:** Financial strength (especially liquidity), claim history, industry and responses/resilience to COVID-19.
- **D&O underwriting concerns:** Financial pressures, bankruptcy trends, pandemic impact, antitrust allegations, post-election uncertainty, loss-cost escalation, emerging exposures such as environmental, social and governance (ESG), cyber and privacy, social inflation, event-driven claims and systemic exposures.
- **IPOs and special purpose acquisition companies (SPACs):** The sustained growth in traditional public offerings, in addition to SPAC formations and follow-on business combinations, has led to heightened underwriter uncertainty.
  - Litigation frequency around SPACs and business combinations (de-SPACs) remains relatively low, but is beginning to accelerate, as filings in the first quarter of 2021 exceeded the total number of filings in 2020.
  - Anticipate high retentions, underwriter scrutiny, hard-market pricing and conservative terms to continue for the foreseeable future. Purportedly creative policy options are available in the market, but they may not always lead to desired terms and conditions.
  - Conferring with D&O coverage specialists is a critical part of any IPO, SPAC and de-SPAC transaction.
- **Private and non-profit companies:** Rate increase percentages have leveled since 2020. Most programs can find adequate capacity, but for certain segments and larger programs, willing capacity can be sparse.

- Healthcare and higher education clients are seeing a focus on antitrust exposures and limited capacity offered by carriers.
- Carriers continue to evaluate aggregate capacity and limit their exposures to a single risk across all management liability product lines.

- **Side-A:** Predictions on across-the-board rate changes for Side-A placements have become less reliable. Instead, we are experiencing lead Side-A minimum premiums in the range of $5,000 to $6,000 per million of coverage, regardless of expiring rate. Increases may, therefore, be more or less severe depending on the insured's expiring pricing.

**Underwriting: D&O portfolio adjustments may continue into 2021.**

- The recent trend of reductions in overall capacity has begun to moderate in the face of new capacity in the public company space.
- Excess pricing recalibration may moderate as well.
- Buyers may face pressure for higher attachment/retentions.
- Terms are tightening.
  - Entity coverage: Targeted pullbacks especially for large (greater than $1 billion in annual revenue) privately held companies
  - Exclusions: Cyber/privacy, insolvency and professional liability
  - Derivative investigation sublimits: pullbacks or removals
- Some buyers may be particularly challenged.
  - Non-U.S. parent, U.S. D&O exposure (due to complexities of compliance across jurisdictions, internal controls and varying carrier appetites for U.S. and non-U.S. D&O risks)
  - Large private and private equity portfolio risks
  - Certain industries: oil and gas, healthcare, life sciences, cryptocurrency, cannabis, retail, travel and hospitality, and higher education
  - Liquidity challenged and pre-restructuring/bankruptcy risks
- In a normal market, post-restructuring risks may be seen by some carriers as relatively clean risks, but in this environment, they are more often viewed as challenging risks, and willing capacity may be hard to find.

**We continue to monitor several trends and exposures.**

- **Securities class actions:** Frequency trends ended 2020 down year-on-year, yet remained at historically high levels. Traditional core filings ticked lower than 2019 levels, but remained consistent with 2017 and 2018 filings. In contrast, M&A objection litigation decreased to its lowest level since 2016. This may be due, at least in part, to decreased M&A activity itself through much of 2020; however, we note that M&A activity rebounded in Q4. Severity trends, both average and median settlements, were generally consistent year-on-year when removing aberrations. (*Cornerstone Research, Securities Class Action Filings, 2020 Year in Review,* and *Cornerstone Research, Securities Class Action Settlements, 2020 Review and Analysis.*)
- **Influence of social media on stock value fluctuation:** The power of social media to manipulate stock valuation and trading recently emerged like a tidal wave, as we saw swift and significant increases in the stock prices of several high-profile companies. To what degree might this present risk to affected companies and their directors and officers?
- **Board diversity:** Board level diversity, a key element of the governance component of ESG, has itself become the subject of legislation in a growing number of jurisdictions. In addition, the Securities and Exchange Commission and Nasdaq have been examining diversity disclosure requirements in public filings, which has the potential to lead to increased regulatory activity. The issue has also become a focus of derivative litigation against several high-profile companies, creating heightened underwriter scrutiny into board composition and corporate inclusion and diversity (I&D) practices.
- **Network security and privacy:** Oversight and disclosures relating to network security and expanding global privacy laws remain a heightened D&O risk. As evidenced by recent prominent events, exposures include regulatory investigations and proceedings, as well as litigation, including securities class actions.
- **Board duty of oversight:** Side A coverage has become an even more important last line of defense for directors and officers. The Delaware Supreme Court's 2019 decision in *Marchand v. Barnhill, 212 A.3d 805 (Del. 2019)*, opened the door to derivative claims based on critical failures of board oversight. In 2020, the plaintiffs' bar began to take advantage of this new opportunity by successfully pleading other oversight claims. With derivative claims a key driver of Side A loss, carriers have flagged oversight claims and mega derivative suit settlements in 2019 and 2020 in support of their efforts to push Side A rate and terms.

- **Restructuring/bankruptcy/insolvency:** Many restructurings in 2020 and 2021 have been consensual or largely consensual. From a D&O perspective, a consensual restructuring may present materially less risk. Some insurers can and do take this into account. Nevertheless, bankruptcy claims can be among the most severe. Companies facing restructuring or bankruptcy should seek expert D&O insurance advice in advance of any filing, where possible, as policy wordings unique to the risk can impact the extent of policy recovery when needed.

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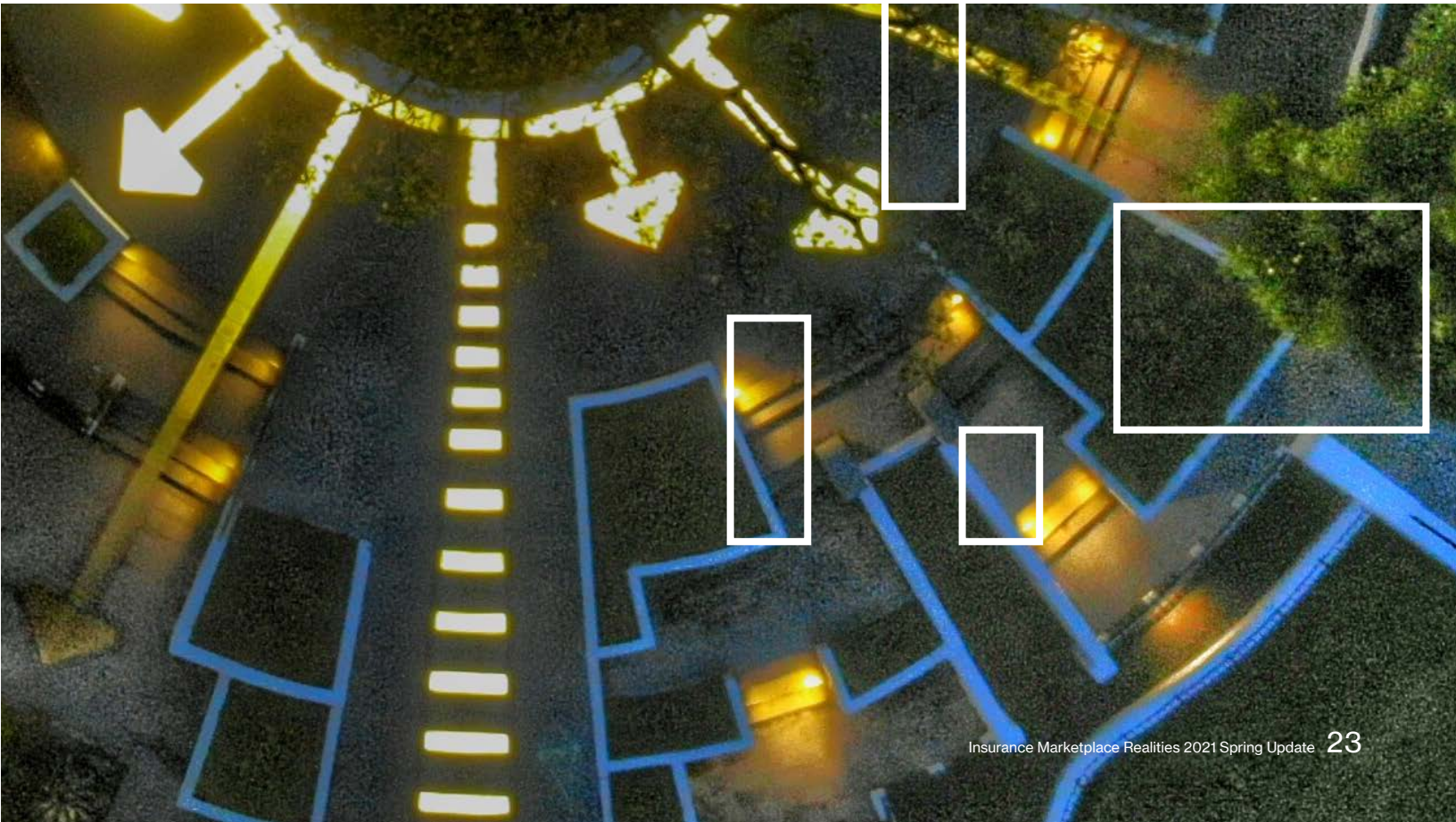

# Employment practices liability

## Key takeaway

While we may be seeing a light at the end of the COVID-19 tunnel, the employment practices liability (EPL) market remains hard, with rates, retentions and COVID-19 claims trending upward.

## Rate prediction

**Primary (domestic markets):** +20% to +40%

**Bermuda markets:** +15% to +30% with minimum retentions of $1M

**We expect the EPL hard market to continue through 2021.**

- The extent of rate increases will be determined by many factors, particularly industry, loss history and location of employees. California continues to be the most problematic jurisdiction with New Jersey, New York and Florida not far behind.
- **Retentions:** Expect continued pressure on primary retentions across the board, especially in California. Expect separate retentions for California claims and for highly compensated employees (particularly in healthcare and financial institutions).
- **Excess:** As in other lines, excess EPL markets are following primary increases in addition to looking to correct increased limit factors (ILFs).
- **Capacity:** Overall capacity in the EPL market is stable, but it is becoming more limited for the industries that have been stressed (healthcare, retail, hospitality and leisure) as a result of COVID-19 and for first-time EPLI. buyers
- **Coverage:** Remains intact, with limited COVID-19 exclusions added on a case-by-case basis. Many carriers continue to add privacy/ biometrics exclusions.

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

- More than 2,000 employment-related complaints have been filed thus far, with disability, leave, accommodation claims leading the way, followed by retaliation and discrimination/ harassment.
- California and New Jersey lead the way in number of complaints filed.
- Hardest hit industries are healthcare, retail and manufacturing.
- As businesses and offices reopen and vaccine policies are implemented, we expect claim numbers will increase.

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

- While #MeToo claims are still coming in, there has been a shift to employee activism, with employees pushing their employers to take stances on social issues.
- Focus on inclusion, diversity and equity in the wake of the Black Lives Matter movement has led to calls for zero tolerance of racial discrimination and racial inequities in the workplace.
- These movements collectively and individually may continue to drive the rise in EPL claims.
- Expect more questions from underwriters about your organization's inclusion, diversity and equity initiatives.

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

- The Illinois Biometric Information Privacy Act (BIPA) has been the subject of many class action claims against organizations with employees in the state of Illinois. Losses for BIPA class action claims are in the millions. Some states (e.g., New York and Maryland) are considering similar legislation to BIPA.
- Many EPL policies now have an exclusion for BIPA claims, with some having language broad enough to exclude all confidential information claims.
- As businesses and offices reopen, many employers are collecting more information about employees (as part of symptom checking, contact tracing, temperature checking, COVID-19 testing, vaccine questions, etc.), which may lead to more employee privacy claims and ADA claims.

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# Errors and omissions

## Key takeaway

Underwriters are continuing to adjust their pricing and capacity due to adverse loss trends, concerns about future claims from recessionary economic conditions, and the possible impact of COVID-19.

## Rate prediction

**Large law firms:** +10% to +25% (higher for poor risks)

**Mid-size law firms:** +10% to +15%

**Management consulting firms:** +10% to +15%

**Accountants:** +10% to +15%

**Errors and omissions (E&O), or professional liability, is arguably the most complex area of specialized insurance, with several distinct marketplaces:**

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

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

- As ransomware attacks have hit professional firms across all industries, insurers are increasingly concerned about silent cyber exposure.
- London markets have now taken steps to require silent cyber exclusions. While this adjustment has not yet been widely seen in the U.S. and Bermuda, given the fact that London markets participate on most large law firm programs, it may only be a matter of time before those markets follow suit.

## Lawyers

- Capacity is being carefully managed, especially on primary layers where insurers continue to prefer smaller deals. More ventilation is being sought between layers for multilayer participation, with most insurers demanding higher increased limit factors (ILFs) to provide capacity, especially on first and second excess layers.
- Retentions that have not been increased recently will face insurer scrutiny this year. Insurers are also less inclined to make policy wording enhancements. Underwriters are closely analyzing all aspects of a firm's practice and expect firms to tightly manage key exposures.
- COVID-19 continues to impact insurance renewals, with carriers often requesting completion of COVID-19 questionnaires for existing policyholders and for new business. Professionals can expect questions on the expected impact on operations, financials, information security and even legal advice and contract provisions in the work-from-home era.
- Rate increases vary firm to firm. Consistent with the two-tiered marketplace we are seeing broadly, firms with poor loss experience, risk management weaknesses 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 below 10% for some firms.

## Accountants

- Accounting firms are continuing to see increased rate pressure, and those firms with losses are seeing premium increases in the 10% to 15% range. London markets are seeking higher premiums than domestics.

## Technology

- Evolving product and service delivery technologies are pushing the edges of technology E&O into other coverages, including CGL, cyber and other types of professional liability.
- Internet of Things (IoT) devices 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.
- As of late, carriers are more reluctant to offer excess technology coverage on blended technology-cyber programs.

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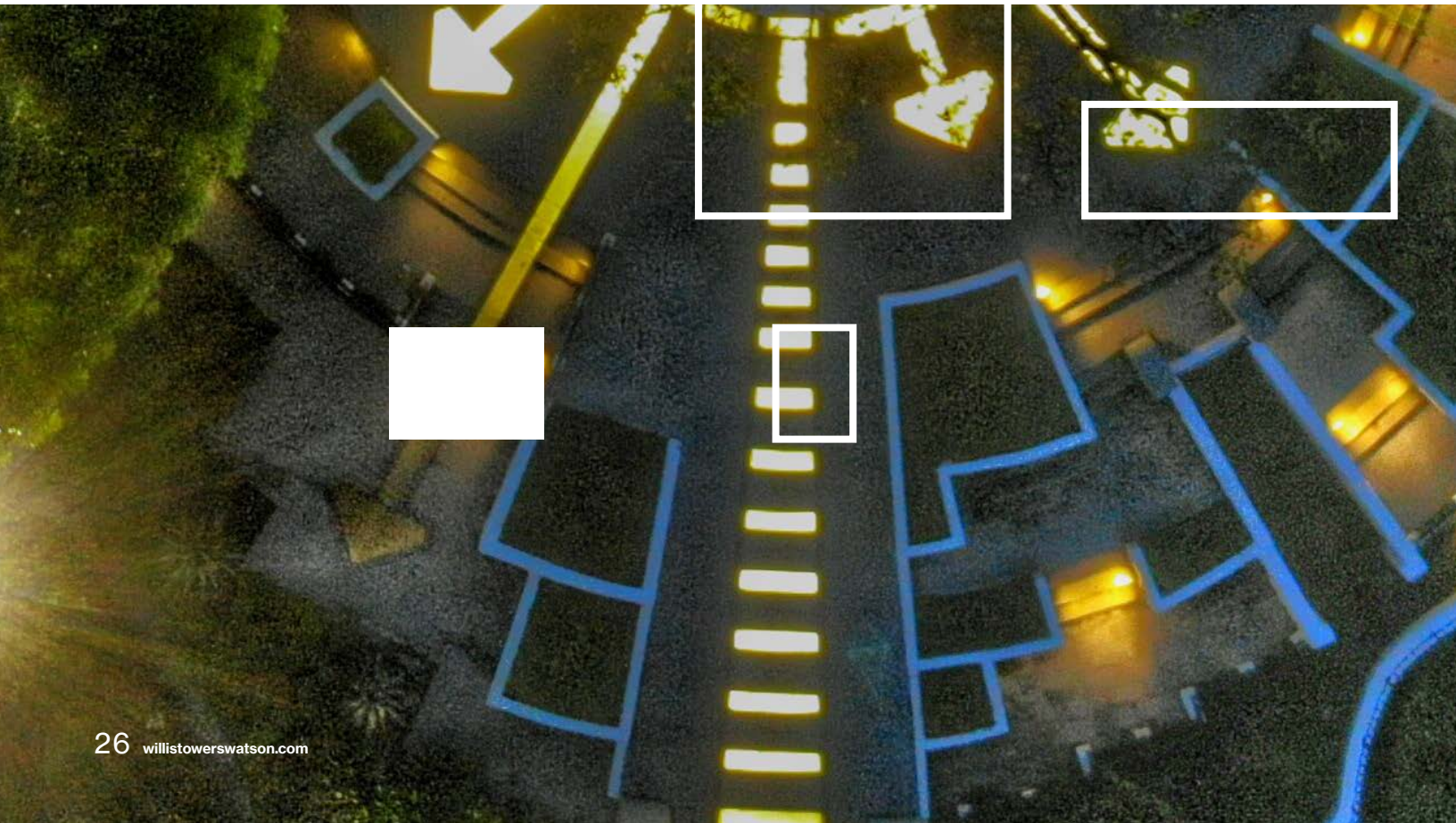

# Fidelity/crime

## Key takeaway

Crime is often part of the larger financial and executive lines portfolio, where rate hikes continue to be sought more broadly, albeit at varying increments per line of business. While we still expect rate pressure on crime renewals, we do not expect to see carriers push rate increases to the extent they did in 2020.

## Rate prediction

**+5% to +15%**

**Social engineering and other forms of cybercrime continue to drive dialogue with clients, yet embezzlement schemes will forever be the crux of crime coverage and should remain on companies' radars.**

**Driven by the continued frequency and severity of loss, crime underwriters remain focused on two areas:**

## Social engineering

- Social engineering coverage remains largely sublimited, yet some underwriters have expressed their intent to narrow coverage further.
- Social engineering deductibles are increasing to match overall policy deductibles.
- Higher limits or sublimits are only available to those with best-in-class policies and procedures.
- Both commercial and financial institution (FI) insurers are adding belts and suspenders language to ensure that social engineering losses will not be covered outside of the explicit social engineering fraud insuring agreement.

## Cyber

- Insurers continue to evaluate their cyber aggregation. Select insurers have enterprise-wide initiatives to delete, exclude or clarify cyber-related coverages (e.g., extortion and destruction of data).
- Excess crime insurers examine the strength of the underlying policy exclusions (e.g., indirect or consequential loss and confidential information) and, in some instances, attempt to add their own exclusionary language instead of following the underlying contract.

**Challenged industries and geographies remain unchanged from 2020.**

- Challenged classes of business include, but are not limited to, non-governmental organizations, gaming, casinos, ATMs, cryptocurrency and cannabis. These industries are experiencing rate increases above the range indicated above.
- London insurers continue to take corrective actions across their books, leading to material price increases, higher deductibles and reduced capacity.

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# Fiduciary

## Key takeaway

The hard market caught up to fiduciary liability in 2020, and we expect more disruptive change through 2021 as losses and regulatory uncertainties persist.

## Rate prediction

**Commercial (plan assets up to $50M):** +5% to +15%

**Commercial (plan assets $50M to $500M):** +20% to +50%

**Commercial (plan assets above $500M):** +25% to +70%

**Financial institutions:** +15% to +50%

**Underwriters continue to step up their scrutiny based on disturbing trends.**

- **Underwriting focus:** Particularly with commercial risks, underwriters are focused on plans with assets greater than $500 million, where previously the cut-off had been at $1 billion. Insurers are seeking detailed information about fees, record keeping and investment.
- **Retentions/sublimits:** Insurers are looking sharply at retentions. First-dollar coverage has become increasingly challenging to obtain. Increased retentions of six to seven figures are becoming commonplace for specific exposures, e.g., prohibited transactions/ fees and broader-reaching mass/ class actions. Some insurers may only offer a sublimit of liability or exclude prohibited transactions/ fees coverage. Marketplace results will vary with plan asset size, plan governance and claim history.
- **Blended coverage:** Many organizations, including financial institutions and private/non-profit companies, continue to buy fiduciary liability coverage as part of a package policy, but they too may be subject to the challenges noted above.
- **Buyers struggle with primary market concentration, but is some relief in sight?** For many commercial risks, although a small number of insurers continue to lead most large programs, some traditional financial lines markets that have not historically written fiduciary risk have begun to enter the space and may provide limited alternatives on a case-by-case basis.
- **Rate prediction qualification:** Rate increases noted above refer primarily to minimum premiums. Increases may be higher or lower depending on the insured's expiring pricing. Minimums in price per million of coverage can vary substantially among risk classifications, particularly 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 been the subject of a prohibited transaction claim, or if they face significant employee stock ownership plan (ESOP) exposures.
- Smaller plans may experience less underwriting scrutiny, though this may change if smaller plans become the target of increased litigation. Excessive fees claims have been made against companies with plan assets as low as $44 million (Miller, Ben, "Behind the 2020 401(k)-Fee Lawsuit 'Explosion'", January 20, 2021).
- Any organization, however, may be treated as challenged in the current environment. Underwriters may consider companies that do not have a regular cadence of benchmarking fees, have not had an RFP in several years, and/or utilize revenue sharing, to have elevated exposure.

**Broader economic challenges continue to increase risks.**

- While not likely the principal cause of fiduciary pricing pressure, broader economic uncertainties contribute. Uncertainties include the pace of business re-openings post-pandemic and stubborn unemployment.
- If the pandemic worsens, for example, with a resurgence of COVID-19 cases as the economy begins to open, the market could harden further.
- The potential for stock market volatility accentuates ESOP risks. Although the stock market is currently up, corrections are foreseeable.

- Cutbacks in benefits (i.e., 401(k) matches) and/or workforces may lead to claims and potentially larger class actions.

**Litigation persists as regulatory and legislative developments emerge.**

- **Prohibited transaction/fee claim frequency is on the rise...significantly:** There were approximately three times more prohibited transaction/fee cases filed in 2020 than in 2019 – substantially more than in prior years as well.
- **Expansion in the types of claims:** Prohibited transaction/fee case successes have expanded and diversified the types of claims being filed. Newer claims include those pertaining to reduced benefits due to the use of allegedly unreasonable mortality table assumptions, as well as COBRA notice deficiencies.
- **Influence of social media on stock value fluctuation:** As we mentioned in our D&O report, the influence of social media in the manipulation of stock valuation and trading recently emerged like a tidal wave, leading to swift and significant swings in the stock prices of several high-profile companies. How much risk does this present to key investment options in employer plans? Is it a short-term phenomenon or will it be sustained? We will be monitoring the situation closely.
- **The change in presidential administrations has yielded changes in regulatory tone regarding environmental, social, and governance (ESG) investing:**
  - In 2020, the previous administration's Department of Labor (DOL) issued rules requiring retirement plans to prove that ESG investment options were "economically indistinguishable" from other plan options, thus ensuring fiduciaries prioritized investment return over the perceived social priorities of ESG fund options.
  - In March 2021, the new administration's DOL announced it will not enforce the rules, saying it intends to revisit the rules and that it may issue new guidance. In doing, so, the new administration is underscoring that investor protections should derive from the accuracy and fulsomeness of risk disclosures, while discounting purported distinctions between profitability and social value.
  - This is a developing story that may give rise to reduced regulatory pressures in this area.
- **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 pooled employer plans (PEPs), which allow employers to join together and delegate both investment and plan administration fiduciary obligations to pooled plan providers (PPPs). In November 2020, the DOL announced a final rule establishing registration requirements for PPPs. Companies using PEPs and PPPs should review their fiduciary liability insurance wording to ensure it is broad enough to address emerging exposures contemplated in PPP/PEP arrangements.
- COVID-19 relief legislation:
  - In March 2021, the American Rescue Plan Act (the Act) provided pandemic-related financial support to families as well as temporary COBRA and Affordable Care Act subsidies.
  - The Act also extended funding stabilization for single-employer pension plans, modifications to executive compensation rules, as well as financial assistance for certain multi-employer pension plans.
  - We will monitor any impact the Act may have on fiduciary liability and the fiduciary liability insurance marketplace.

**Buyers should keep on an eye on key loss drivers.**

- **Fees/suitability:** Fee cases continue to drive loss development. The cases generally assert that fees paid to financial institutions have eroded employee retirement plan assets and less expensive, non-proprietary investment options should have been offered. These suits are not limited to large plans. A wave of cases involving 403(b) plans has impacted the higher education and healthcare sectors.
- **Financial institutions:** Organizations whose plans maintain proprietary funds will continue to face the most challenging renewals.
  - **Have you already been the subject of claim activity?** A financial institution that has already been sued may not be viewed as a better risk to a new insurer, given the possibility that subsequent claims may differ enough from the previous claim to put another limit of liability in play. Also, increasingly, incumbent insurers adjusting a claim will push for increases in premium, retention and/or restrictive language.

- **No claim yet?** Not so fast: Organizations that have not been the subject of claim activity may also not be viewed as a better risk. 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. Incumbents may press for rate increases and restricted terms and conditions. Other insurers will likely show limited interest.
- **Opportunities to moderate and spread adverse terms over time?** In some instances, adjustments in rate, retentions and other terms and conditions may come so fast that insureds may be able to negotiate ways to spread these adjustments over time.
- **Limit adequacy:** With prohibited transactions/fees litigation pushing claim frequency and severity, buyers should be vigilant in reevaluating limit adequacy. The fiduciary market is steadily hardening, consistent with other financial lines markets. It might be challenging to add capacity, but opportunities are still available.


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# Financial Institutions – FINEX

## Key takeaway

Rates and retentions continue to see upward pressure, but capital inflow, market expansions and corrective portfolio measures in the financial lines space are yielding a deceleration of rate increases. Buyers should keep their eye on changes in coverage terms.

## Rate prediction

**D&O – Publicly traded financial institutions:** +12.5% to 20%

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

**Side-A/DIC:** +10 to +20%

**D&O/E&O – Asset managers (excluding private equity/general partnership liability)**
**Large market:** +10% to +15%
**Middle market:** +5% to +10%

**Bankers professional liability (BPL)**
**Large market:** +10% to +20%
**Middle market:** +10% to +30%

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

**Tough underwriting continues to be driven by concerns with market volatility, increased litigation costs, evolving COVID-19 risks, economic uncertainties and systemic risk. There is some positive news, though, with new excess capacity leading to a deceleration of rate increases and reinvigorating competition in the marketplace.**

- Over the past two years, insurers have demonstrated strong pricing discipline in primary and excess layers, with significant attention on right-sizing excess increased limit factors (ILFs). We anticipate that the majority of ILF corrections are behind us, and excess pricing recalibration will moderate. The corrective rate and retention actions have revived insurer interest for new business, including risks they may have declined in the past.
- While insurers will continue to closely manage overall risk aggregation, we expect most insurers will be comfortable with the capacity they currently have deployed. We expect that capacity from new entrants, refreshed and/or expanded appetites for some insurers and a more favorable outlook on risk profiles will offset any reductions in capacity that may occur.
- The areas most impacted by COVID-19 have been insurance company professional liability (ICPL) and employment practices liability (EPL).
- In these areas, underwriters have incorporated more questionnaires as part of the placement process, more restrictive coverage and increased rates and retentions. These trends will likely continue throughout 2021. Communicable disease exclusions generally have not impacted financial institutions.
- We have started to see some tightening in coverage, as well as clarification of coverage relating to silent cyber, but this trend is limited to select insurers for now. Lloyds syndicates are grappling with the recent silent cyber regulatory mandate to clearly state whether they will or will not provide affirmative cyber coverage on non-cyber policies.

**The financial institution D&O marketplace continues to see rate increases, but with some moderation.**

- Insurers carefully managed their capacity and corrected rate in 2020, but many insurers believe D&O remains underpriced.
- Financial institution public D&O median rate increases peaked in Q3 2020 and ticked down slightly in Q4 2020. For mid-year renewals, indications point to low double-digit increases and upward pressure on retentions.
- Private D&O rate trends are slightly more favorable, in part because the focus has been on retentions instead of rate. Private financial institutions were largely spared the pullback in entity coverage seen in the commercial space.
- Side-A insurers have sought to strengthen pricing, focusing on increasing minimum premiums, in response to derivative claims and increased litigation costs. Side-A minimum premiums are in the range of $5,000 to $7,000 per million of limit.
- Excess recalibration is expected to taper, with lower ILFs now averaging 70% or more and inverted ILFs (decreasing with attachment) largely being eliminated.

- Merger and acquisition activity among financial institutions slowed in much of 2020 due to the pandemic but picked up at the end of the year. Inorganic growth strategies are being reviewed as institutions continue to face compressed margins, declining fees, a need for digital transformation and an increasing need for scale and product diversification. Strong signals indicate that 2021 will be an active year for M&A. Underwriters are focused on acquisition and divestiture activities and how that changes the risk profile of insureds. Extended reporting period (tail) pricing factors have also increased.

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

- Asset managers: Asset managers continue to be viewed favorably. The market remains stable as an abundance of capacity moderates rate increases. Retentions are generally remaining flat, although middle market risks are seeing minimum retentions of $250,000. Middle market asset management is a targeted growth area for insurers. However, the possibility of a repeat of the Reddit/Gamestop short-squeeze is keeping insurers alert. If there are other instances of extreme market volatility emanating from social media platforms, initial responses from insurers may drive premium increases back up.
- Insurance companies: While some sectors are seeing new entrants spark competition, the market for insurance companies has not improved. Most primary carriers are using the lack of viable alternatives to push for higher retentions. Most carriers have already reduced limits for ICPL, and additional scrutiny awaits buyers hoping to place layers of $10 million or more. Markets are adding exclusionary language to cap pandemic business interruptions. Life insurers' investment portfolios have been subject to greater scrutiny, while the issue of "cost of insurance" remains a significant concern. Sales and marketing coverage for life insurers is difficult to obtain, with many markets affording only sublimits, higher split retentions or excluding the cover altogether.
- Banks: BPL continues to be challenged by high claim frequency and severity. Primary capacity continues to be very limited with some insurers pulling back from banks with more than $10 billion in assets. Some excess BPL markets have shied away from new business in light of COVID-19-related risks. BPL premiums continue to trend higher, with double-digit increases, particularly for those facing COVID-19 uncertainty regarding their credit and loan portfolios. Retentions are being reexamined and may be increased to mitigate premium increases. Broad coverage is generally still available, though some insurers are reassessing their portfolio; some may be less willing to expand the scope of cover for lending liability, regulatory and investigations and may be reluctant to narrow exclusions.

**We continue to monitor several coverage trends.**

- **Boundary cyber risk:** More insurers are adding cyber and privacy exclusions on non-cyber lines (e.g., E&O, EPL) to clarify coverage. D&O insurers are also asking more cyber-related underwriting questions. As insurers continue to assess their silent cyber exposures, we recommend reviewing any new limitations or exclusions alongside cyber policies to ensure that coverage is being addressed appropriately.
- **Extended reporting periods (ERP):** Some insurers are considering removal of pre-determined ERP options where allowable by law. There are strategies that can be deployed to address this trend.
- **Shareholder derivative demand investigation (SDDI) costs:** Some insurers are looking to reduce or remove coverage for SDDI costs due to increased losses. Insureds may be able to maintain meaningful SDDI sublimits by securing drop-down sublimits higher up the tower.
- **Cost of corrections:** Some insurers have tried to limit coverage to only liquid asset classes and/or trading errors. The recent stock price manipulation drama has brought this coverage under heightened scrutiny. Reductions in coverage can be mitigated with early negotiations on wording and, if needed, increased retentions.

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# Aerospace

## Key takeaway

The air travel industry hopes for a revival as the pandemic wanes, but insurance buyers may continue to face a hard market.

## Rate prediction

**Airlines:** +25% to +40%

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

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

**Airports:** +15% to +25%

**General aviation:** +20% to +40%

**Space:** Increases to be expected, percentage range not applicable

**While some feel confident that summer 2021 will bring about significant growth in air travel, at least domestically, demand is 65.9% down in comparison to 2019, according to the recent IATA statistics.**

- Regardless of what 2021 brings, the most dismal days of 2020 are behind us, and the ongoing progress of COVID-19 vaccine distribution suggests reason to be hopeful.
- Having said that, we anticipate the repercussions of market unprofitability will persist. Underwriters continue to push for rate increases, regardless of loss history, and strive for limit reductions on certain risks.

**Airlines:** Prior to the implementation of global travel restrictions, 2020 was expected to be a year of premium recovery for the airline insurers. However, significant credits were issued on adjustable policies, and 2020 proved to be another loss-making year.

- Global airline premiums are still insufficient, with 2020 now expected to total $1.5 billion compared to the $2 billion that was originally predicted; the steep drop mostly a result of the large, grounded fleet credits that were applied. Insurers applied minimum premiums of between 85% and 90% on their year-end 2020 renewals to protect their go-forward premium base.
- Despite ongoing efforts to achieve better rate adequacy, we expect more market consolidation.
- New capacity in 2020 helped deter massive rate increases at year-end renewals, while estimated losses were lower than expected.

**Aircraft lessors/banks**: Hard market conditions continue, but insurer appetite remains strong in this segment.

- Anticipate current market conditions and steady rate increases to continue through 2021. One exception may be hull war rate increases, which we think will likely taper off from those seen throughout 2020.
- 2020 saw a significant increase in claim activity, namely repossession expenses, which were offset to a great degree by the increasing premium base.
- Overall market capacity remains adequate, especially for those profitable insureds with a growing fleet.
- Oversight on underwriting from insurer senior management continues, with a focus on technical records, repossession expenses and ground accumulation exposures.

**Aircraft product manufacturers and service providers:** Rate increases are still expected on renewal business with heightened selectivity when it comes to new business, especially on loss-active accounts.

- Large loss reserves continue to impact this sector's overall underwriting profitability.
- Insurers remain concerned about higher-limit exposures and premium inadequacy, as grounding limits remain under scrutiny.
- While insurers preserve a case-by-case underwriting mantra, most buyers can anticipate rate increases regardless of loss history.
- Maintenance, repair and overhaul service providers (MROs) and ground handlers can anticipate a decrease in viable capacity due to loss activity.

**Airports and municipalities:** Rate corrections are to be anticipated as hard market conditions continue.

- Most previously horizontal programs are being placed vertically due to reductions in capacity and/or appetite, especially if limits exceed $250 million.
- Creative structuring is more prevalent, with excess layers becoming increasingly more attractive to insurers.

- Marketing remains necessary if municipal boards want competitive options – assuming any can be found.
- Insureds can expect non-aviation excess limit reductions, such as excess employer's liability and excess auto, as well as more clarified exclusions, like cyber.
- COVID-19 exclusions are also being added to excess employer's liability, when applicable.

**General aviation:** This sector continues to experience significant rate increases, especially within the rotor-wing segment, where U.S. exposures are being evaluated more closely.

- Insurers are taking a two-pronged approach to underwriting. First, applying rate increases and second, imposing coverage reductions and/or restrictions, especially pertaining to non-aviation coverages and extra expenses.
- Insurer upper management continues to enforce strict underwriting guidelines, enforcing minimum premium parameters and requiring detailed underwriting information, specifically regarding pilot experience and simulator-based training.
- Rotor-wing operators can anticipate domestic markets reducing their line shares, whereas overseas appetite has grown slightly since 2020 – although limit reductions can be anticipated across the board.
- Buyers are contemplating limit layering and non-conventional structures as insurer appetites continue to vary.
- Broad policy provisions remain a thing of the soft-market past, with excess non-aviation coverages being reduced or eliminated, hull deductibles being reintroduced, or increased, and credit opportunities – such as lay-up returns, profit commissions and good experience returns – being removed altogether.

**Space:** Since the rate corrections applied in 2019 and 2020, this sector has settled into a more profitable underwriting and pricing approach.

- Greater risk differentiation is based on limit requirements and technology-based risk variations.
- The market's annual premium income-target is $750 million, up from an average of $500 million from 2013 to 2020. Had insurers met that target in 2020, they would have enjoyed a profitable year.
- 2020 market income was hampered by pandemic-related project delays, in addition to several large market-wide claims.
- One insurer recently exited the market, while two others have decreased their capacity.
- New insurers/capacity have come into the market to replace some exited/decreased capacity.

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# Construction

## Key takeaway

While the overall acceleration in rate increases suffered over the last two years may be mitigating, rates generally continue to rise across all lines of business and all geographies.

## Rate prediction

**General liability:** +5% to +20%

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

**Workers compensation:** Flat to +5%

**Umbrella: (lead):** +50% to +75%

**Excess:** +50 to 150% (or more – depending on operations, geography, risk profile)

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

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

**Professional liability:** Flat to +10%

**Contractors pollution liability:** Flat to +10%

**Project-specific/controlled insurance programs:** +5% to +15%; +10% to +25% for excess

**Subcontractor default insurance:** +5% to +10%

**As the construction business normalizes, exposures will increase, maintaining upward pricing pressure.**

- With the COVID-19 pandemic beginning to wane, many contractors are seeing projects that were shut down, mothballed or delayed during the pandemic begin to come back online, raising exposures, such as contract revenues, payrolls and potentially increased vehicle counts.
- These increased exposures will be met in the insurance marketplace with continued increases in pricing.

**While we expect continued rate increases across all geographies and lines of business, it should be noted that these rate predictions are *national averages.***

- They are not predictive of an individual program renewal or the insurance cost attributable to a specific project.
- Operational exposures, historical loss experience, risk management protocols implemented by the contractor, geography of operation as well as historical pricing remain critical factors that can significantly impact renewals or individual project pricing.

**Construction risk managers should consider several proactive steps.**

- Employ analytical tools to evaluate the efficacy of current program structures. As exposure bases may have fluctuated during the pandemic, it is critical to refresh all analytical modeling. Do not rely upon historical model outputs since key program components such as loss forecasts and collateral requirements are significantly influenced by exposure data.
- The increased use of video conferencing has made it more efficient to meet with insurers; contractors should use this technology to strengthen relationships with incumbent insurance carriers. Introduce key stakeholders from your organization. Raise credibility by connecting ownership and senior leadership of your organization to your insurance carrier partners.
- Take time to develop new relationships outside of a marketing effort. In a highly dynamic market, it is critically important to have potential market alternatives. It is not easy to develop a relationship with a potential carrier while negotiating a challenging renewal or project pricing terms.
- In addition to providing comprehensive and accurate renewal data, allow ample time for the renewal or project underwriting process. Begin the renewal process a minimum of 180 days prior to program expiration.
- Any project that was delayed or shut down during the pandemic will require a review of program pricing. Given current market conditions and especially in circumstances where an insurance carrier is no longer viable or has exited the construction market, obtaining extensions has become exceedingly challenging and costly.
- Consider use of alternative risk transfer (ART) program structures: begin discussions very early, as much as a year prior to renewal, as use of ART structures may involve a lengthy education process for internal stakeholders, owners and insurance carrier partners.

## General liability (GL)

**Rates in the construction general liability marketplace continue to trend higher. However, the rate of increase appears to be moderating across North America.**

- To attract lead umbrella capacity, many contractors have been forced to compete for their primary casualty placements. The increased competition for primary casualty has helped to slow the pace of primary GL rate increases for contractors with a quality risk profile.
- Risks with challenging exposures, such as wildfire, street and road construction, or with historically adverse loss experience continue to suffer steep increases.
- Underwriting scrutiny and information requirements continue to escalate. Construction underwriters have experienced a significant increase in submission flow, making risk differentiation more critical than ever. Poor submission quality, lack of comprehensive underwriting data or unreasonable timing expectations will almost certainly result in a poor marketing outcome.
  - New carriers may require even more extensive underwriting data and significant lead time.
  - All applicable analytical tools should be utilized and refreshed with new data.
  - As exposures and loss experience may have fluctuated due to the economic and construction downturn due to COVID-19, it is more critical than ever to revise all forecasts, loss projections, collateral requirements, etc.
  - Carriers are actively seeking best-in-class risks.
  - Take advantage of virtual meetings to engage multiple stakeholders in the renewal process. Carrier capability presentations that include members of a buyer's leadership (owner, president, CFO) significantly increase the perceived credibility of the opportunity to the carrier, which in turn increases the likelihood of obtaining competitive terms, particularly with new carriers.
  - Similarly, strong incumbent relationships should not be taken for granted. If anticipating a challenging renewal, buyers should reengage with the leadership team at the incumbent market.
  - Loss control visits have moved to a virtual platform in many cases, so advance preparation for these discussions is key — get the right people on the line after supplying supplementary documentation to facilitate a more productive dialogue.

## Auto liability

**Year-over-year percentage increases have leveled, but rates are still climbing. Better-than-average loss ratios with small, lighter fleets will see the lower end of this range (+5%). Poor loss ratios or large, heavy fleets will see the higher range (+15%) or above. Jurisdictional considerations (e.g., Cook County, IL, Southern California, Florida) can also impact the level of increase.**

- Q4 2020 saw an average rate increase of 13.44%, marking four consecutive quarters with double-digit increases (Q4 WTW 2020 Casualty State of the Market).
- According to AM Best, 2020's auto liability combined ratio stood at 109 despite double-digit, year-over-year increases in premiums. The growth in incurred losses and loss adjustment expenses outpaced premium hikes; 2020 was the tenth consecutive year with a combined ratio more than 100 for commercial auto.
- AM Best reported that 2019 was the auto liability segment's worst accident year in a decade, as losses reached $4 billion.
- Commercial auto insurers have pushed price increases for 37 consecutive quarters with no indication of reversing course. While miles driven are down because of COVID-19, loss severity continues to increase  Q4 WTW 2020 Casualty State of the Market).
- Auto physical damage pricing continues to rise, often faster than auto liability pricing. Comprehensive and collision claims can escalate quickly due to increased technology in vehicles — as we often say, a bumper is no longer just a bumper; it is also a sensor and a camera.
  - Auto physical damage deductibles for comprehensive and collision are also climbing, with some carriers setting a minimum of $2,500 for light trucks.
  - For autos priced at $50,000 or more, deductibles could be as much as $5,000; the higher the cost new, the higher the deductible.
- Fleet size has become a significant component of underwriting evaluation, attachment point and pricing.
  - Insurance buyers with moderate to large schedules (excess of 500 units) may be forced to increase primary limits to a minimum $2 million combined single limit (CSL) or obtain an auto liability buffer layer to enable them to purchase excess coverage.
  - Vehicle usage data (miles driven, location, etc.) is becoming required submission information.
  - Buyers must be proactive regarding fleet safety. Those with robust driver safety programs are generally able to obtain more competitive pricing.

- Poor experience in other casualty lines (general liability and/or workers compensation) may exacerbate overall program pricing increases as carriers are unable to offset auto pricing increases. Few carriers are willing to write monoline auto liability, leaving a limited marketplace for those placements.
- More claims are being litigated, with verdict outcomes often in seven or eight figures.
  - High-value verdicts mainly stem from traumatic brain injury claims (TBI), negligent entrustment/ driver selection, distracted driving and the influence of social justice movements. Eight-figure nuclear verdicts are startlingly common.
  - A rise in third-party litigation finance is further encouraging lawsuits.
- Auto concerns are not just relevant to practice programs. In controlled insurance programs (CIPs) or project-specific policies, contractors on site are generally responsible for providing comprehensive automobile liability insurance.
  - While coverage can usually be provided by the contractor's practice policy, hired and non-owned coverage is increasingly not included, or limits are inadequate. In these scenarios, we may recommend adding the coverage into a project CIP.

## Workers compensation

**Workers compensation rates for contractors continue to hold steady across the U.S. Contractors with strong risk management and safety protocols, along with favorable loss experience, should continue to see flat to limited rate increases.**

- While the marketplace for workers compensation remains stable, buyers will find it harder to off-set premium increases in other lines, notably general liability and commercial automobile, with reductions in workers compensation.
- While workers compensation carriers are closely monitoring the potential impact of the COVID-19 pandemic on losses, rate increases attributable to the pandemic have yet to materialize.
- Throughout the COVID-19 pandemic, construction has been generally considered a critical industry, so workers compensation exposures, payroll and the respective workers compensation classifications have not been significantly impacted.
- While other industries may have benefitted from an increase in the use of telecommuting, this was of course not applicable to construction.
- Reduced access to medical care attributable to COVID-19 may extend the duration of a workers compensation claim, potentially driving up overall costs.
- Workers compensation continues to perform well in the aggregate; however, there are signs that construction could encounter difficulties ahead.
  - The construction industry continues to have the highest incidence of workplace fatalities of any industry (U.S. Bureau of Labor Statistics).
  - Since 1999, indemnity claim severity has increased by 85% (WTW Q4 2020 Casualty State of the Market).
  - Addiction, suicide and the overall deteriorating mental health of the construction labor force continue to present serious challenges.
- The availability of qualified, experienced laborers continues to be problematic. Should contractors be forced to rely on less experienced employees or an aging workforce, an increase in workplace injuries could result.
- Markets are still demonstrating a broad appetite for workers compensation construction opportunities, but program complexity continues to grow.
  - While there are some monoline workers compensation carriers, overall carrier interest and competitiveness are markedly increased when workers' compensation is combined with other primary casualty lines.
  - While the overall workers compensation market is reasonably stable, some geographies continue to be challenging, e.g., California, Florida, New Jersey and New York. In New York, underwriters are especially guarded due to labor laws.
  - As the market for most lines of business has significantly hardened over the last two years, many contractors have been forced to reevaluate their insurance program structures. Many have opted for increasing deductibles or retentions to off-set overall premium increases. While this has been a strategy deployed by many, it should only be considered after comprehensive review of analytical data. When increasing deductibles, significant consideration should be given to adding clash deductibles and aggregate stop losses to limit program volatility.

- Exploring alternatives should not just be about changing retentions and carriers. Investments in new or emerging pre-loss risk control strategies should be evaluated. Ergonomics, employee wellness, mental health initiatives — these programs can both improve workers compensation results and raise employee satisfaction and retention.

## Umbrella/excess liability

**While new capacity has recently come into the umbrella and excess marketplace, and the pace of rate increases may be decelerating, contractors have yet to see any meaningful relief. Contractors are also experiencing significant restrictions in coverage. We expect these conditions to continue throughout 2021.**

- With the number of insurance carriers willing to write unsupported lead umbrellas (i.e., where the same carrier does not write the primary casualty) falling nearly to zero, many contractors have been forced to market their primary casualty program in an effort to attract additional lead capacity.
- Contractors have been forced to consider non-admitted umbrella and excess markets to obtain competitive options. While these non-admitted options provide basic coverage and limits, they often come with more restrictive coverage, including communicable disease exclusions and anti-stacking limitations.
- While individual risk selection is important, many excess underwriters have become heavily focused on the relative pricing of their applicable quoted layer. Greater attention is being given to the pricing "per $million" of coverage provided by carriers below their respective layer than to the pricing of the individual risk itself.
- Carriers are gravitating toward underwriting on a portfolio level as opposed to underwriting on the merits of an individual account. This leads to the class/type of construction being the primary focus of the carriers' underwriting and pricing.
- To fill out large excess towers, buyers are seeing carriers quota share individual layers as the carriers look to reduce their total exposure and share it with others. This often results in increased pricing because finding quota share partners at equal pricing for a respective layer may be difficult. Synchronizing coverage terms in a quota share arrangement can also be a challenge.
- Recent significant increases in the pricing of lead umbrella and lower excess layers has not resulted in a significant increase in the number of carriers willing to offer terms.
- Terms and conditions once easily obtained, such as excess of wrap, have become increasingly challenging and/or expensive to obtain. For excess wrap, the contractor must be able to provide comprehensive data pertaining to historical involvement in wrap-ups to obtain even a modicum of coverage. Further, anti-stacking endorsements and manifestation and communicable disease exclusions have become exceedingly difficult to remove. Primary and excess carriers are also limiting the overall capacity extended to an individual buyer by capping per-project aggregate limits; some direct umbrella/excess markets are now unwilling to provide per-project aggregates at all.

## Controlled insurance programs (CIPs)

- A combination of natural disasters, social inflation and a trend toward nuclear verdicts have driven CIP pricing upward, and this is expected to continue through 2021. In general, capacity is shrinking, and carriers are being strategic about how they deploy it.
- Carriers are being inundated with submissions (submission flow is up 60%), so they are selective with terms and conditions, capacity and will price risks accordingly. Preparing a clear and detailed submission is crucial.
- For rolling programs buyers are finding it more difficult to obtain favorable terms and conditions. Furthermore, carriers are beginning to restrict open enrollment and specify a set number of projects over the policy term.
- Term extensions for projects delayed by COVID-19 are generally negotiable. However, obtaining extensions on placements with carriers/facilities that have either exited the project space or heavily utilized reinsurance in the original placement can be exceedingly costly to obtain.
- Carriers are cutting back significantly on their willingness to offer large limits. Only a handful of carriers offer a full $25 million in the first $50 million of a tower. Quota share program structures are becoming prevalent.
- Reinsurance rates continue to increase, as the industry has paid out losses due to natural disasters, COVID-19, wildfires, hurricanes and riots.
- Residential capacity continues to tighten, especially for wood frame apartments and for-sale condos.
- Buyers need to involve a larger number of carriers to fill out excess towers. This exacerbates pricing increases.

- Certain geographies (New York, Florida and California) are considered tougher states for condominiums, and capacity for those geographies has been reduced. Other states may feel the trickle-down effect from carriers pulling back – meaning fewer players in the states that traditionally haven't faced these pressures.
- Terms and conditions are tightening, as carriers are no longer providing broad terms, i.e., term limits or one-time reinstatements versus annual reinstatements.
- Regarding COVID-19, most carriers now require communicable disease exclusions, which are difficult if not impossible to remove.
- Policy term extensions are becoming increasingly difficult to obtain – often resulting in significant additional cost and reductions in coverage grants.
- Liability rates for CIPs are increasing by 5% to 15% for less complicated projects, with most of the price increase being driven by the cost of umbrella and excess towers. More complicated projects with difficult exposures will experience larger rate increases in both primary coverage and excess.

## Builders risk

**The builders risk market has morphed into a two-tiered market – most new, ground-up construction projects are seeing relatively competitive terms and conditions, while the market is proving difficult for any project with unique or challenging exposures.**

- Projects that have significant natural catastrophe exposures, unique construction methods and technologies, poor general contractor loss experience, etc., are seeing restrictive terms and higher pricing. In addition, renewable programs should expect continued rate increases and/or changes to terms and conditions.
- Gathering considerable and accurate underwriting information is a prerequisite to obtain quotes and is adding to lengthy quote turnaround times. Furthermore, underwriters are pressing harder for subjectivities to be satisfied prior to binding.
- Carriers remain focused on raising water damage deductibles. To assure contract certainty and potentially avoid non-compliance with construction contract obligations, clients should thoroughly review all contractual requirements pertaining to acceptable water damage deductible levels prior to executing contracts.
- Carriers are reluctant to offer coverage extensions such as LEG 3 and damage to existing property on certain projects. If and when offered, higher rates and/or deductibles usually apply.
- The pandemic has prompted remote claim handling and inspections that were formerly executed on the ground at project sites. This has driven the need for carriers and insureds to adopt new reporting technologies and data security control.
- Extensions for ongoing projects continue to be the most challenging aspect of the marketplace, as COVID-19 further disrupts more and more projects.
  - Project schedules are constantly changing due to the pandemic.
  - All extensions are difficult, even for buyers with no losses. Factors that contribute to a worsening of extension terms include prior losses, heavy cat exposures, changes from original scope, lengthy extensions, quota share structures and significant facultative reinsurance support.
  - Carriers are pushing significant rate and deductible changes, removing or reducing certain coverages, and in some cases simply walking away from projects.
  - Buyers must plan for any planned extension need and gather as much up-to-date and accurate information about the reason(s) for the extension as possible. It's never too early to begin the dialogue with carriers.
- The wood frame market continues to be challenging as several large fires in 2020 and early on in 2021 will put further pressure on an already tough class of business.
  - Rates remain on an upward trajectory and we expect that to continue through first half of 2021.
  - Although there is some new capacity, overall market capacity has declined because several carriers have either decreased their appetite or exited the space entirely.
  - Reinsurance costs are also adding upward pressure on rates.
  - Robust project site security measures continue to be pushed by carriers. Depending on the size and scope of the project, these measures (including approved third-party surveillance) may be mandated.

## Professional liability

**The construction professional indemnity/liability market remains relatively competitive, although carriers are evaluating capacity deployment and retention levels and increasing underwriting scrutiny relative to certain coverage enhancements.**

- The market is continuing to show signs of hardening in some areas, creating some challenges for contractors. For 2021, we expect rates will remain flat to +10%, with increases of more than 10% for contractors with adverse loss experience.
- Adequate capacity and continued competition are keeping rate increases manageable compared to other P&C insurance lines. However, we are starting to see upward pressure on rates and retentions, especially for project-specific capacity.
  - Total U.S. capacity continues to be in excess of $300 million, with additional capacity available through London, Bermuda and other international markets.
  - While there is still significant total capacity in the market, carriers are generally restricting capacity for any one risk.
  - Protective indemnity and rectification coverages are now included in standard forms offered by key carriers, but terms and limits can vary considerably, and we are seeing added underwriting scrutiny for these enhancements.
  - Some underwriting authority is being removed from the field, leading to a longer underwriting process.
  - Professional liability coverage has generally not been impacted by COVID-19; however, project delays due to the pandemic are creating some challenges with policy term extensions and extended reporting periods on project-specific placements.
  - Some carriers are beginning to add COVID-19/communicable disease exclusions, more commonly for programs with combined contractors professional and pollution liability forms. Wording varies greatly from market to market, with some limiting the exclusion specifically to COVID-19, some including broad viral exclusions and some limiting the exclusion to pollution coverage only.
- Project-specific placement solutions vary based on the party (contractor/engineer/owner) procuring the insurance; regardless, we are seeing increased underwriting scrutiny, motivating brokers and underwriters to find innovative solutions for evolving contract structures.
  - Market capacity for architects and engineers (AE) project-specific solutions has contracted, especially for large project-specific placements. At least one major market has reduced its capacity by 80%.
  - Many carriers in the contractor's professional liability market are reserving project-specific capacity for existing clients.
  - Large design/build infrastructure projects continue to produce adverse loss experience for the AE market, creating risk allocation challenges for contractors, particularly when employing design-build contract delivery.
  - Buyers can expect underwriting scrutiny of coverage enhancements, such as rectification/mitigation. Underwriters are also conducting detailed contract reviews related to insurance requirements, limitations of liability and contractor assumption of design responsibilities.
- Challenging market conditions continue in London, Australia and the rest of the world. The restricted capacity and price increases that have been experienced the last few years are expected to continue.
- There is continued interest in owner-procured professional indemnity policies for further protection on project risk.
  - Increasing project values create a corresponding rise in professional liability risk, yet many contractors and design professionals do not carry limits that adequately address these larger exposures.
  - Traditional project-specific professional liability policies covering all design risk on a project can still be obtained, but many buyers prefer the cost efficiency of professional liability products that offer a protective indemnity coverage approach.
  - Shrinking capacity for architects and engineers and continuing pressure for contractual limitations of liability are driving increased demand for owner-procured protective indemnity (OPPI) for projects.
  - Protective coverage procured in rolling programs by project owners continues to attract interest.

## Contractors pollution liability

**With construction activities looking to make a rebound with the waning of the COVID-19 pandemic, demand for contractors pollution liability (CPL) coverage is steadily increasing and may reach historic levels by the end of 2021. Fortunately, the environmental insurance market will be ready to meet this demand.**

- Although the marketplace continues to offer ample carrier choices supporting a broad appetite for risk, rates in 2021 are expected to tick upwards due to the high potential for the discovery or exacerbation of pre-existing pollution conditions.
- Incumbent markets will attempt to increase rates on their multiyear renewals, but increased appetites from their competition will keep premiums in check for clients with excellent loss histories. Elsewhere, modest increases (relative to other standard lines of coverage) will prevail for most products.
- As expected, habitational, hotel, hospitality and hospital risks are seeing the highest rates due to an increase in claim activity in these sectors.
- Site pollution and contractors pollution wrap-up products continue to be coordinated to address both pre-existing and construction-related exposures of project sites on a more comprehensive basis.
- The following exposures are fueling the need for CPL coverage: pollution exposures during work and after completion, indoor air quality, Legionella, mold and water-related issues, application of chemicals, installation of building products, excessive siltation, emergency remediation expenses, contractor-owned locations, beyond-the-boundaries scenarios, and transportation and disposal of construction debris.
- COVID-19 and communicable disease exclusions are increasingly commonplace on CPL forms, although coverage for mold and Legionella remains available. Each carrier's form needs to be evaluated for potential coverage.
- Requests to extend or modify project-specific policies for resuming construction activities continue to be met with resistance by carriers concerned with potential exposure to COVID-19 claims.
- As buildings and jobsites begin to reopen during the later stages of the COVID-19 pandemic, expect to see an increase in the number claims involving indoor environmental quality issues — such as mold and Legionella bacteria.
- Claim activity related to redevelopment of brownfield properties continues — although carriers try to limit exposure by adding exclusions associated with historic fill, dewatering and voluntary site investigations

## New York general liability

**Labor law exposure continues to drive rate, minimum premiums and high retention levels for both contractors and developers in New York. The umbrella liability market continues to experience the greatest hardening and volatility, impacting all program structures.**

- In Q1 2021 we saw legacy carriers exit this market as well as new carriers enter with fresh capacity.
- Market activity and submission flow are up heavily as contractors exhaust all potential options.
- New carriers will aim to capitalize on premium increases ranging upward from 50% premium-to-limit ratios. Depending on trade classification, certain carriers are requiring 100% premium-to-limit on primary general liability.
- Rate increases can be significant for contractors forced to restructure their primary and excess programs as incumbent appetites change.
- While new primary capacity enters the New York marketplace, excess carriers are reluctant to attach above newer players with little or no experience in New York, driving excess pricing further upward.
- Historically, London markets have provided solutions when domestic carriers pull back. Due to poor overall results, however, London has reduced its available capacity and now demands higher rates and attachment points.

## New York CIPs

**CIPs remain a common strategy for coverage certainty and unified terms and conditions on larger New York projects. The minimum construction value to implement a CIP continues to rise due to high retention levels and minimum premiums on liability.**

- The minimum general liability retention in New York is in the $3 million to $5 million range, depending on project size and scope (WTW Q4 2020 Casualty State of the Market).
- With the influx of carriers offering general liability-only programs with small uncollateralized retentions, it has become increasingly common to bifurcate workers compensation and general liability programs, thus mitigating overall collateral requirements of more traditional two-line (GL/WC) large deductible programs. However, standard markets continue to be price-competitive on dual line program offerings, so there is a trade-off.
- Creative solutions feature "pay-as-you-go" options for both collateral and premium payments.

- Lead umbrella pricing (up to $10 million per occurrence) continues to be a challenge, with carriers seeking up to 100% premium-to-limit, depending on the project exposures.
- Due to restrictions in excess capacity, we are seeing reduced limits and more quota share arrangements throughout the tower.
- Project extensions have been challenging, particularly those with London participation as certain Lloyds syndicates have sold their books of business to run-off companies.
- Capacity has diminished specifically in the excess space since London has essentially exited the New York construction market.
- On mid-sized projects ($50 million to $300 million), combined owner-general contractor liability programs remain cost competitive for both commercial and residential projects.

## Subcontractor default insurance (SDI)

**As the global pandemic eases, delayed projects will resume, and new projects will be funded. Those combined with ongoing large capital projects will drive owners, developers and general contractors to seek solutions for both the near- and long-term risk of subcontractor default. SDI carriers continue to add capacity in anticipation of continued growth in demand in 2021 and beyond.**

- The SDI marketplace now has seven carriers with programs, including five that we consider actively engaged in the product line. Four of those five are now capable of offering single limits of $50 million or greater per loss.
- With the introduction of new capacity and thus choice, buyers should review current policy terms, conditions and pricing.
- Underwriting in the current environment will continue to present challenges in the near term. SDI carriers are often skeptical of contractors who are altogether new to SDI, and virtual underwriting meetings may not be sufficient to build trust.
- Historically, the extent of default and failure often directly correlates with the steepness of economic downturns and subsequent recoveries.
- For the near term, contractors will have to make special efforts to confirm a subcontractor's financial, operational and safety capabilities. We expect contractors to consider a balance of SDI and subcontractor bonds to get through this period of uncertainty.
- As we prepare for recovery in 2021, access to qualified subcontract labor continues to be an ongoing concern.
- Despite current uncertainties, the SDI marketplace is robust. Markets are responding responsibly with some adjustments to their program offerings. In addition to the overall increase in market capacity, the recent entrance of a new carrier offering significant limits, without legacy exposure, provides an additional option for both the near and long term.

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# Energy

## Key takeaway

***Downstream***

As in other lines, we are in a two-tiered market. Conditions have eased for the most sought-after programs – but not for the remainder.

***Upstream***

A two-tiered market has developed between offshore property and other E&P business on one hand and midstream, offshore construction and smaller business on the other.

## Rate prediction

**Downstream**

**Favored programs:** +12.5% to +20%

**Where technical rating adequacy yet to be achieved:** +20% to +30%

**Upstream**

**Major loss-free operating programs:** +5% to +7.5%

**Midstream, Offshore Construction & loss-impacted programs:** +12.5% to +75%

**Offshore contractors:** +7.5%

**Onshore contractors:** +7.5% to +12%

**Land exploration and production (E&P):** +10%

**Midstream:** +15%

## Downstream

**Positive factors restrain the hardening process for the most sought-after business.**

- A much-improved loss record led to a generally profitable 2020 – and decelerating rate increases are expected for the balance of 2021.
- An increased premium pool, a result of increased rates charged in the last 24 months, promotes market interest in the attractive risks.
- We have also seen increased capacity, with no major withdrawals this year.
- Some buyers are approaching the marketplace with a strategy of retaining more risk.

Negative factors mean the hardening process continues for the rest.

- We await the possible impact of the recent Texas cold weather losses.
- The energy sector is affected by the unprofitability of related sectors, including power, mining and renewables.
- Insurer management is exerting pressure to maintain pricing discipline and increased rates.

COVID-19 has impacted business interruption (BI) values.

- Oil prices plummeted at the start of the pandemic.
- Dramatic reduction in economic activity has also led to revenue reductions for many downstream companies.
- Current volatility in oil prices and economic activity is likely to have a profound effect on the volatility of downstream BI values for the foreseeable future.
- New market clause LMA 5515 factors in maximum percentage of the margin of error between actual and declared values BI, as well as any premium adjustments – so it is vital for buyers to keep values up to date and accurate if full the quantum of future BI claims is to be paid.

A two-tiered market is now in place:

- Tier One: Good clean risks where insurers are closer to what they believe to be rate adequacy after two years of rate increases – rate increases are less than they have been (+12.5% to +20%).
- Tier Two: Programs still not at perceived technical adequacy are seeing harsher treatment (+20% to +30%).

## Upstream

**Positive factors limiting continued market hardening:**

- Capacity is now at record levels ($9 billion), with no sign of withdrawals.
- Some insurers now have significant growth targets, fueling competition.
- Reinsurance cost increases at January 1 were more modest than anticipated.

However, negative factors ensure that the overall hardening dynamic remains.

- The sector suffered a decline in E&P activity and in BI/loss of production income values during the COVID-19 crisis.
- Continued losses in other parts of the property and casualty portfolios of insurers weigh on this sector.
- Underwriters face continued management pressure to maintain pricing discipline and increased rates.

Overall, a benign loss record has kept the portfolio profitable for insurers.

- 2020 continued the benign overall loss record of the previous three years.
- Premium income was impacted by lack of E&P activity, but we expect total premium will fall only 5% compared to last year.
- Lloyds statistics point to overall profitability, although offshore property results are much superior to onshore property and operators extra expense (OEE).

Offshore construction portfolios continue to deteriorate.

- This subsector has seen a significant disparity between premiums and losses for each of the last three years, with losses outpacing premiums.
- One major leader has withdrawn from this portfolio entirely.
- Others maintain a presence, but the enthusiasm for subsea projects in particular is much diminished.

A two-tier market has opened.

- Tier One: Major E&P programs, smaller lease operators, offshore and onshore contractors can expect smaller increases (+5% to +12.5%).
- Tier Two: Midstream, offshore construction, smaller and loss-impacted programs can expect to pay more (+12.5% to +75%).

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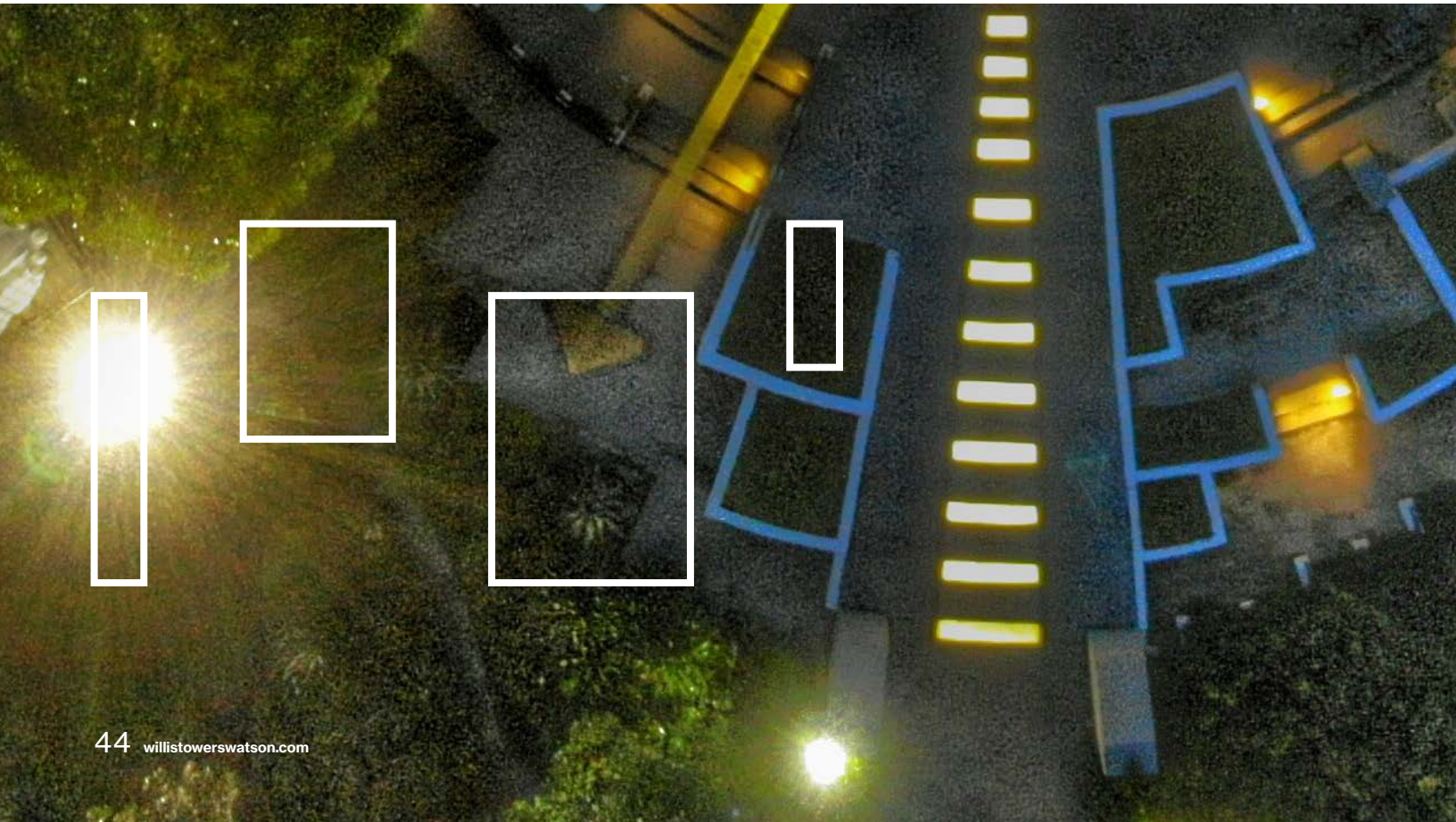

# Environmental

## Key takeaway

Breakthrough innovations in environmental analytics are creating opportunities for buyers to better manage their environmental risks, enhance their insurance coverages and make risk management decisions supported by data, analytics and modeling.

## Rate prediction

**Contractors pollution liability:** Flat to +10%

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

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

**An increase in M&A and construction activity rebounding from COVID-19 slowdowns and delays could herald a record year for environmental placements in 2021. Fortunately, the environmental insurance market (comprised of over 40 carriers) will be ready to meet this demand.**

- Incumbent markets will attempt to increase rates on their multiyear renewals, but increased appetites from their competition will keep premiums in check for clients with excellent loss histories. Elsewhere, modest increases (relative to other standard lines of coverage) will prevail for most products.
- Former excess-surplus lines carriers, previously focused on distribution through wholesalers, entered the retail environmental market in 2020 and are expanding their underwriting capabilities/capacity with expectations of gaining market share in 2021.
- Clients facing hardening conditions in the property and excess casualty markets are strategically locking in multiyear operational environmental programs (i.e., two to five years, where available) to mitigate future market uncertainty.
- Analytical tools are being employed to visually represent a buyer's exposure to emerging exposures, such as perfluoroalkyl/polyfluoroalkyl substances (PFAS) and glyphosate, as carriers and regulators continue to formulate their respective coverage and regulatory approaches to these chemicals.
- The top five global risks identified by the 2020 World Economic Forum are environment-related (extreme weather events, climate change, human-made environmental disasters, biodiversity loss, natural disasters). While the current environmental insurance marketplace may address many of the resulting remediation and tort exposures associated with these events, it will take a combined effort with colleagues in parametric insurance and alternative risk transfer to develop holistic solutions that cover the other economic exposures that are currently beyond the scope of what the marketplace offers today.

**Environmental insurance carriers continue to assess their current forms and future position relative to bacteria, viruses and communicable diseases in the wake of COVID-19.**

- As predicted, affirmative coverage for bacteria, viruses and disinfection costs have all but disappeared from site pollution forms in the wake of the COVID-19 pandemic.
- COVID-19 and communicable disease exclusions will be more commonplace on contractor's pollution liability forms, although coverage for mold and Legionella remains available. Each carrier's form needs to be evaluated for potential coverage.
- Requests to extend or modify project-specific policies for resuming construction activities are being met with resistance by carriers concerned with potential exposure to COVID-19 claims.

**We are watching several claim trends.**

- As U.S. EPA and state environmental agencies implement groundwater cleanup guidance for PFAS, and other "emerging chemicals of concern," insureds are experiencing increased claim activity associated with both site investigation and third-party litigation.
- As buildings and jobsites begin to reopen during the COVID-19 pandemic, we expect to see an increase in the number of claims involving indoor environmental quality issues — such as mold and Legionella bacteria.
- Claim activity related to redevelopment of brownfield properties continues — although carriers try to limit exposure by adding exclusions associated with historic fill, dewatering and voluntary site investigations.

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# Healthcare professional and general liability

## Key takeaway

Most carriers have premium growth goals for 2021, which is a typical precursor to increased competition for business; however, these growth goals are counterbalanced by a continued pull-back on terms and conditions and a push for increased rate. Carriers are focused on the limits-to-premium ratio and their capacity deployments are consequently limited; this is substantively impacting the amount of capacity available.

## Rate prediction

**Primary:** +5% to +15%

**Excess:** +15%

**By segment**
**Hospital:**+5% to +25%
**Allied health: +**5% to +15%
**Physicians:** +5% to +15% (particularly venue dependent)
**Loss-affected accounts and tough venues:** highly variable rate increases

## Hard market: rate and coverage

- While most healthcare insurers are seeking to grow prudently and judiciously in multiple healthcare segments, they show overwhelming interest in the allied health segment. However, carriers are still being selective, which means that clients need to differentiate themselves through superior claim outcomes and COVID-19 responses.
- Rates will continue to rise in all segments of healthcare as markets maintain their focus on key variables: loss history, venue, historical rate decreases, exposure growth (especially physician onboarding over the last 10 years).
- The focus on restricting terms and conditions will continue with sexual abuse, COVID-19, opioids and silent cyber at the top of the list. Most carriers are attaching cyber exclusions to medical malpractice policies. We urge buyers to ensure that policy language provides a carve-back for bodily injury arising from cyber events.

## Hard market: the capacity

- Substantial withdrawal of capacity has impacted North American healthcare risks, with less than $500 million now available in Bermuda, London and the U.S. (~$185-200 million in the U.S., $190 million in Bermuda and a bit over $100 million in London). Most of this decrease in available capacity is due to markets reducing their deployed capacity on individual risks from $25 million to $10 million or less.
- There were several key insurer exits in the summer of 2020; yet another large malpractice insurer withdrew from the hospital segment in March 2021.
- New entrants have joined the major markets (Bermuda, London and the U.S.), but the new capacity is considerably short of offsetting the gaps created by market exits and the reduction in deployed limits. Thus, large and complex risks are utilizing their captives and self-insurance vehicles to assume greater risk in their programs. This increased risk retention is often through mid-tower SIRs or captive assumptions to complete their insurance towers.
- Self-insured retentions and deductibles at the bottom of programs are still increasing, both on a per-claim/occurrence basis and in the aggregate (where applicable).

## Pandemic year two

- COVID-related exclusions are not mandated on all accounts, with a few notable exceptions: all senior care risks, those clients that have submitted broad COVID-19 batch notices and those with high profile COVID-related incidents. Hospital or integrated delivery systems with robust senior care or home health operations are starting to see COVID exclusions applied to those exposures.
- Most markets have received thousands of COVID-19 incident notices, predominantly from the senior care segment, but also from hospitals and allied health risks. Very few markets have more than a handful of asserted claims, so carriers will be closely monitoring these notices to determine whether COVID-19 claims will be portfolio events or isolated incidents.
- Multiple markets in London, Bermuda and the U.S. are clarifying their batch language specific to COVID-19, inserting language that states that COVID-19 alone does not create the causal/related link necessary to batch claims together.
- Markets are focused on getting updated information from clients about their pandemic response, vaccination distribution, insights on state-by-state immunity, COVID-19 incidents and claims management.

## Hard market and captive usage

- As rates and retentions rise and carriers continue to introduce limiting language, more healthcare entities have expanded the use of their captives.
- This may be partially driven by an organization's preference to pay premium into their captives and collect corresponding underwriting profits (as commercial carrier pricing is set to exceed expected losses).
- Another driver is the ability to have more control over policy language, terms and conditions, potentially allowing for more robust claim coverage than is available in the standard marketplace.
- At the nexus of the two approaches lies the ability to finance multiple lines of risk in the captive and create a vehicle that smooths out volatility while still providing comprehensive coverage.
- Finally, a captive's access to the reinsurance market may allow for swing-rating, broader coverages or other solutions.

## What's coming?

- Illinois House Amendment 2 to State Bill 72 proposes a 6% prejudgment interest rate on personal injury, malpractice and wrongful death cases; interest will begin accruing on the date the action is filed and the accrual period is capped at five years. The amendment to the bill is currently awaiting State Senate approval.
- New Mexico House Bill 75 proposes that hospitals lose their eligibility to obtain coverage under the state patient compensation fund and as of this writing is awaiting the governor's signature.
- The COVID-19 pandemic has propelled digital health onto the global stage, as healthcare providers around the world seek to leverage technology to help combat the crisis. Innovations in digital health will continue to shape how healthcare is provided, introducing a new risk landscape for the healthcare industry to navigate.

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# Special contingency risks - kidnap and ransom

**Key takeaway**
The special risks insurance markets are finalizing the removal of cyber extortion coverage from their policy forms.

**Rate prediction**
**-5% to +5%**

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

- As restrictions and lockdowns have eased, the incidence of kidnap activity has returned to pre-COVID-19 levels in several countries. While the decline in international travel has led to a perceived reduction in risk, our data shows an increase in the numbers of local nationals kidnapped.
- Moreover, criminals have continued to invest in schemes, such as virtual kidnaps (victims are tricked into believing a kidnap has occurred and pay a quick ransom), to exploit the current environment and maintain a cashflow to fund further illicit operations.
- Cyber extortion has also continued unabated, as many technology-related crimes are not impacted by lockdowns or reductions in social and business interaction. Indeed, the steep rise in 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.

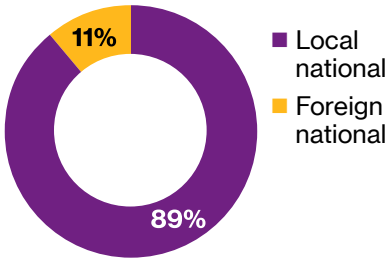
- Most insurers have now introduced blanket exclusions for cyber extortion, applying the exclusion on virtually all new and renewal business.
- Those still offering coverage for cyber extortion are being very selective. Underwriters have strict guidelines for industries deemed more susceptible to cyber extortion threats. Coverage restrictions include:
  - Sublimiting coverage to reimbursement of extortion/ransom payment, adding annual or policy aggregate limits and sublimiting crisis consultancy fees and expenses
  - Excluding legal liability (i.e., judgement, settlement and defense costs)
  - Limiting or excluding reimbursement of expenses (i.e., forensic analysts, public relations consultants and legal advice)
  - Amending the "other insurance" clauses to clarify that coverage applies in excess of any other valid and collectible insurance
- For those few programs that do not have a cyber extortion exclusion, very small limits/sublimits may apply to cyber extortion business interruption.

**Interest in active assailant coverage is growing.**

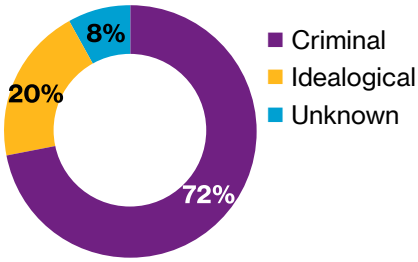
- In addition to the traditional K&R policies, the special risks market continues to develop and promote policies that respond to a broader range of security-related perils.
- We have seen special risks insurers, as well as other specialty insurers, show greater interest in active assailant coverage 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 (as a result of both physical and non-physical damage) and indemnification of a variety of incident-related expenses.
- These solutions go beyond traditional terrorism and/or political violence coverage and are increasingly being used to complement traditional policies.

Figure 1. **SCR 2020 Kidnap Facts**

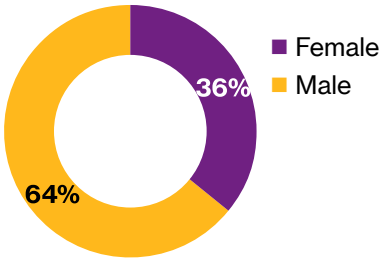
**Victim origin**



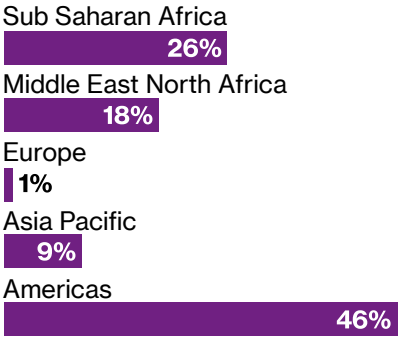

**Motivation of kidnap**




**Gender of victim**




**Incident location**




Source: http://www.scr-ltd.co.uk/#&panel1-1

**Top Kidnap Risks**

1. Nigeria
2. Mexico
3. Iraq
4. Venezuela
5. Colombia
6. DR Congo
7. Afghanistan
8. Cameroon
9. Mozambique
10. Phillippines

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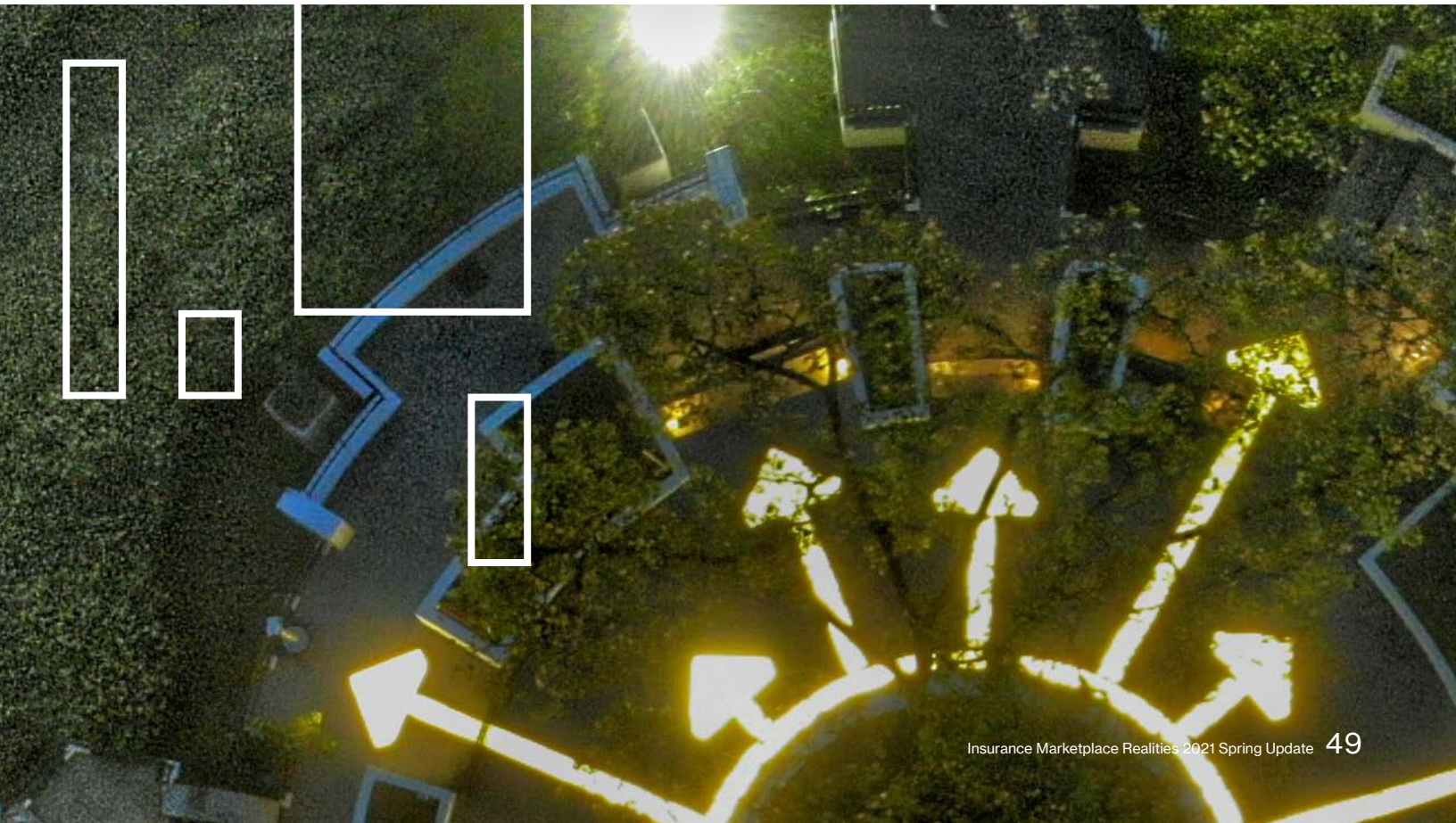

# Life sciences product & professional liability

## Key takeaway

With the overall market stable, COVID-19 exposures continue to dominate the conversation along with cybersecurity concerns over connected medical devices and the ability of traditional insurance products to adequately address such risks.

## Rate prediction

**Flat to +10% for most product classes**

**Life sciences companies remain focused on COVID-19 countermeasures.**

- With the dramatic increase in companies manufacturing, distributing and selling COVID-19 products in response to the pandemic, underwriters in the life sciences space are inundated with submissions. Coupled with a trend toward more detailed and diligent underwriting, turnaround times are longer than ever.
- Those insureds with new COVID-19 products who are already in the life sciences space are viewed more favorably by underwriters than new entrants, given the likelihood of greater experience in dealing with the FDA.
- Insureds should understand how the PREP Act and CARES Act may provide immunity from claims related to manufacturing, testing, developing and distributing their products, which are collectively called "covered countermeasures."
- Adherence to FDA, state and other guidance is critical, as are the contractual risk transfer provisions between parties collaborating on such products.
- Insureds with any direct patient care will be carefully underwritten for potential transmission exposure and could see communicable disease exclusions.

**The product and professional liability marketplace continues stable for life sciences buyers, with the majority of renewals resulting in moderate, single-digit rate increases. Those with unfavorable FDA interaction or litigated product classes continue to experience higher than average rate increases.**

- There has been no significant change in the overall capacity available for life sciences risks, and changes in appetite have been limited to a few carriers.
- A handful of carriers have recently released new product liability policy forms, which, as always, should be carefully reviewed for nuances in coverage and reporting requirements.
- Carriers are attaching exclusionary endorsements to product liability policies to eliminate ambiguity with respect to cyber liability. Carve-backs must be negotiated to preserve original coverage intent with respect to bodily injury and property damage.
- Cybersecurity concerns surrounding connected medical devices and other mobile health technologies remain at the forefront. The intersection of product, professional and cyber liability for these risks requires thoughtful and coordinated program design. The insurance marketplace is struggling to evolve as quickly as the technologies being underwritten.

**We include a broad range of subsectors under the category "life sciences:"**

- Pharmaceuticals and biotech
- Generic pharmaceuticals
- Medical device and technology
- Nutraceuticals
- Contract research organizations
- Contract manufacturing organizations
- Laboratory developed tests (including tests for COVID-19)

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# Managed care E&O and D&O

## Key takeaway

The market remains hard and in rapid flux. Rate increases may be starting to level out, but they are still significant, as is carrier insistence on retention increases, especially for antitrust and class action claims.

## Rate prediction

**Overall:** Hard and changing rapidly

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

**Public managed care organizations:** +25% or more

**All other managed care organizations:** +10% or more

**Capacity problems and coverage restrictions continue, and while the impact is being felt more by for-profit entities than non-profits, non-profit managed care organizations (MCOs) of significant size face similar challenges.**

- The hard market has extended to hybrid MCOs, provider-owned MCOs, and smaller entities as well as more traditional entities.
- Carriers continue to segment their business between Blue plans, non-Blue plans and public companies.
- Coverage restrictions are increasing, especially for Blue plans. Key coverage concerns include antitrust and cyber/third-party privacy claims. Political and regulatory uncertainty is adding further complexity to the marketplace.
- Given the need for and use of reinsurance in this industry sector, it should be noted that reinsurance for managed care risks is similarly facing capacity limitations, coverage restrictions and rate increases. Reinsurance carriers also have increasingly serious issues with antitrust exposures, concerns that are no longer limited to Blue plans.
- Systemic risk plagues MCOs, and managed care E&O and D&O carriers continue to assess their entire portfolios as they manage their capacity and exposure to aggregation risk.
- The market continues to shrink, with two carriers recently announcing they are no longer accepting new managed care E&O business. These moves are especially disruptive since one historically wrote risks that no other market would consider.
- Some good news: An excess carrier entered the market and is writing managed care E&O and D&O, including Blue plans.
- No new offshore capacity has entered the market. Bermuda and London are high excess markets only. Domestic carriers and their offshore counterparts closely coordinate capacity.
- Buyers can help themselves obtain the best possible terms by hosting carrier renewal meetings and providing submission materials well in advance of renewal dates. These materials should include complete claim information, membership breakdown by type of member, and a complete list of managed care core and non-core services. Individualized underwriting is key.
- Analytics is another key in responding to the hard market. Broad and reliable analytics can support optimal selection of retentions, limits, captive use and alternative risk transfer options across the entire entity. While product line analytics can help an MCO employ the best program for a specific risk, entity-wide risk analytics can help build the most efficient program for the entity as a whole.
- Alternative risk transfer solutions such as captives should be considered together with commercial market placements to achieve optimal efficiency, effectiveness and return on investment (ROI).

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

- *Antitrust:* Over the last 25+ years, the managed care industry has been involved in many antitrust claims. The current *In Re BCBS Antitrust Litigation* is but one example. Antitrust claims can take many forms, follow various legal theories and may be prosecuted in state, federal and foreign jurisdictions. They can be filed by members, providers, competitors and governments. They can be class actions, but many are not. They require specialized legal representation and are expensive to defend. The resulting losses are not always 100% covered. Coverage for these claims is tightening significantly.

- *Network security and privacy:* Cyber risk is a top risk for every MCO. MCOs maintain large amounts of protected data on millions of members, send and receive billions of dollars monthly and collect biometric data. Efforts to obtain this information by foreign governments, criminal enterprises and other hackers are an everyday occurrence. Claims related to lost business income, ransomware payments, breach response expenses, and first- and third-party losses are all on the rise. While there is capacity in the marketplace, buyers must take note of coverage restrictions, the need to dovetail coverage terms with other lines, and the difficulty of determining proper limits.
- *Government fines and penalties:* Because MCOs are so tied to government reimbursement, the likelihood is high that plans will be the subject of a government investigation, False Claims Act action, whistleblower lawsuit or administrative fine/penalty. Beyond restitution, damage awards, fines and penalties, defense costs alone can exhaust a risk transfer program. International regulatory compliance is another risk in countries (e.g., the UK, EU, India) where many MCOs now have business operations.

**The market impact of COVID-19 is still unclear.**

- The impact of the pandemic and the ensuing economic downturn on this segment is still unclear after many months of healthcare management during the crisis. Most of the adverse impact will be financial: medical loss ratio, workers compensation and employee benefit claims as well as those related to remote work and return to office.
- However, the pandemic itself is unlikely to have a significant impact on rates or coverage terms in the near future. The pandemic-related risks associated with managed care entities of all sizes and types are financial/first-party loss related. Such risks are not generally covered under managed care E&O policies.

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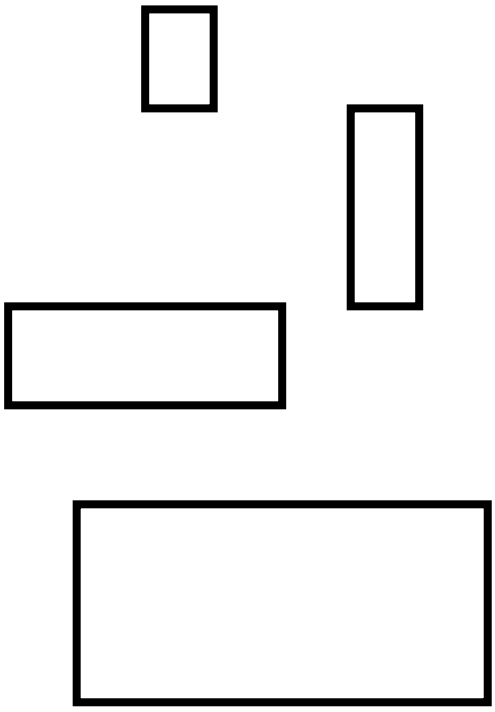

# Marine cargo

## Key takeaway

The marine market remains hard, with underwriters still seeking increases on clean business while imposing cyber and COVID-19/ communicable disease exclusions on policies that did not see them in 2020.

## Rate prediction

### London and international markets

**Hull and machinery, good loss records:** +10% to +15%
**Hull and machinery, poor loss records:** +20% or more
**P&I clubs 2021:** +5% to +10%
**P&I clubs 2022:** pending mid-2021 update but likely unchanged from 2021
**Marine liability:** +15% or more

### Domestic markets

**Hull and machinery, good loss records:** +10% to +15%
**Hull and machinery, poor loss records:** +20% plus
**P&I insurers:** +10% to +20%
**Primary and excess marine general liabilities:** +10% to +20% (greater if crew exposure exists)
**USL&H Mutuals:** Flat to +5%

**In both domestic and London/ international markets, rate increases may be higher for accounts that insurers view as underpriced given current market conditions.**

- London markets are looking to strengthen current COVID-19 exclusions.
- Large limits in London are under much closer review and subject to larger increases.
- On difficult risks, London is not the easy answer that it was; more underwriting data and understanding of the risk is required.
- Changes in capacity are impacting the U.S. market, with quota share structures becoming more the norm.
- Markets are continuing to review the capacity they deploy, with reduced line participation, especially on excess layers.

**Underwriting in the current environment is demanding.**

- Underwriters are requiring substantially more data for renewals and new business.
- The high number of buyers marketing their business is overwhelming underwriters, whose time to review is limited.
- Underwriters remain under scrutiny by their senior management. This negatively impacts the renewal process from the buyer's perspective.

**Light at the end of the tunnel?**

- Although increases are still being demanded by underwriters, these increases may be leveling off or at least decelerating and underwriters are relaxing, although liability rates may still be hardening.
- Underwriters are starting to be more aggressive in efforts to win back business they lost due to knee jerk reactions during 2020, especially in London.
- We expect more buyer-friendly trends during the second half of 2021.
- We will be watching closely to see what losses develop from the Suez Canal closure after the grounding of the Ever Given.

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# Marine hull and liability

## Key takeaway

While rates continue to rise, the percentage increases are decelerating, and the market is becoming more predictable.

## Rate prediction

**Transit only (U.S.)**
**Good loss experience:** +10% to +15%
**Marginal to poor loss experience:** +15% to +20% and higher

**Stock throughputs (U.S.)**
**Good loss experience:** +15% to +20%
**Marginal to poor loss experience:** +25% to +30% and higher

**Transit and stock throughput (London):** +5 to +7.5%, higher for heavy nat cat exposures

**The London marketplace was the first to modify pricing, coverage and deductibles, beginning around Q4 2018. London initially lost some market share as a result but is now trading far more positively in 2021 with more underwriting appetite, capacity and pricing flexibility. London is currently regaining market share.**

- While there is still underwriting discipline with a firm technical approach, the upward rate trend has slowed, albeit with higher levels of scrutiny for accounts with heavy natural catastrophe exposures.
- The combination of insurers looking to grow and new capacity arriving has created competitive tension and opened far more marketing options. Business is being positively remarketed (which we expect to be a feature of 2021) and London insurers are reporting significant increases in their U.S. portfolios.

**Starting renewals early continues to be critical, especially for stock throughput programs and higher risk industries.**

- Detailed renewal data is also critical and is impacting terms, conditions and price.
- Market capacity continues to stabilize, but underwriters remain focused on underwriting profitability.
- There are new entrants in the market, particularly in London.
- Quota share continues to be more prevalent as a way of managing portfolio volatility.
- Underwriters are looking hard at accounts with adverse loss experience and accounts in challenged industry segments (pharma/life science, food and beverage, automobiles and retail stock throughputs). Markets are showing little interest in covering large retail store risks.

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

- Increased retention levels are being assessed on a case-by-case basis.
- When marketing profitable business, we are still securing competitive terms, but virtually no buyers are seeing reductions in price unless they had a multi-year deal in place or there was a significant reduction in year-over-year exposures, and in both cases good historical loss experience is a prerequisite.
- Capacity has stabilized but is still being carefully deployed.
- Excess stock capacity in the U.S. market has all but dried up but is widely available in London.
- Insurers are intent on obtaining survey reports for warehouse locations.

**Broad manuscript policy terms are still achievable, but buyers should take note of several trends and coverages that are being highly scrutinized.**

- Market-wide push to include non-named windstorm events (including straight-line wind) into what were historically named windstorm aggregates
- Broad wording for spoilage, deterioration and decay
- Broad control of damaged goods cover, including fear of loss
- Coverage for voyage frustration/ extra expense
- For strikes, riots and civil commotion (SR & CC), greater scrutiny from insurers on storage, particularly on retail store exposures
- The application of policy deductibles and catastrophic perils definitions
- Strong emphasis on good risk control practices (packaging, load/ stow, temperature monitoring, theft protection, and logistics carrier and warehouse contracts)
- Marine cyber exclusions
- Communicable disease exclusions

**Insurance buyers should be ready for change.**

- Alternative risk solutions are being more heavily explored (captives, SIRs, integrated cargo/property placements)
- Analytics are playing an important role in setting terms, conditions and pricing in this changing environment. While the perils diagnostic for catastrophic modeling is the most commonly used tool, buyers are also utilizing loss trend analysis, deductible studies, heat mapping and total cost of risk (TCOR) exercises.

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# Personal lines

## Key takeaway

After a year that included a record number of named storms and five of the six largest California wildfires ever recorded, 2021 started off with the costliest winter event in Texas history, all highlighting little relief for insurance carriers and pointing to added pressure on insurers to seek aggressive rate hikes and contract limitations.

## Rate prediction

**Most risks:**
**Homes under $1,000,000:** +5% to +7%
**Homes over $1,000,000:** +7% to +9%
**Cat-exposed:** +20% to +50% with contract limitations or non-renewal
**Cat-exposed with losses:** +50% to +100% or non-renewal

**Spotlight on COVID-19**

- Many cities saw an exodus as residents flocked to second homes in more rural or exurban places.
- Wherever they landed during the pandemic, many invested in their work-from-home accommodations and should be vigilant on updating property values and informing their insurers of any re-modeling or construction.

**Property rates will continue to rise as climate change impacts the frequency and severity of storms.**

- Insurers are seeking additional premium wherever possible and applying stricter underwriting, particularly to property valuations and mandatory installation of loss mitigation measures.
- Home insurers will continue to accelerate rate to match their risk and cover higher reinsurance costs.
- California insurers dropped a staggering 31% of residential policies statewide in 2020, pushing buyers into alternatives such as the FAIR Plan, the state's bare-bones fire insurance plan of last resort, where enrollment jumped by 225%.

**Auto rates have seen modest improvement while driving behavior has worsened.**

- Even though fewer people are driving during the pandemic, riskier driving has surged, leading to an increase in fatal crashes.
- Recent lawsuits regarding pandemic-related rebates in response to the drastic fall in miles driven suggest that insurers may be required to give back even more premiums to customers.

**Liability concerns mount as large verdicts are becoming commonplace due in part to social inflation.**

- An increase in litigation activity has led insurance carriers to reduce capacity and raise pricing to reestablish profitability.
- High-profile families/individuals are being scrutinized by underwriters looking to limit their exposure to anyone who attracts media attention.

**Family offices evolve to protect household members and investments.**

- Single family offices continue to collaborate and join other families to establish efficient multifamily office structures.
- The combination of investment management, financial planning, estate and trust administration, legal work, tax/accounting and philanthropic administration has created additional coverage needs for D&O, E&O, EPLI, fiduciary liability, cyber liability and crime.

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# Political risk

## Key takeaway

COVID-19 and changing political conditions have resulted in unprecedented challenges for multinational corporations, as traditional perils have been amplified by the global pandemic. Although market conditions are challenging, we advise companies with a global footprint to act with urgency before rates increase further or capacity shrinks.

## Rate prediction

**Flat to +20%**

**COVID-19 has amplified political risks.**

- Emerging markets have experienced debt crises, resulting in defaults or a need to reprioritize contract payments.
- Currency inconvertibility and non-transfer remain popular coverages, particularly in nations dependent on commodities or tourism.

**Political violence around the world is rising.**

- As strict restrictions on movement ease globally, the threat of public protests is expected to increase.
- Myanmar experienced a military coup that displaced a democratically elected government.
- Unrest in Hong Kong continues as demonstrators protest newly enacted security laws.
- Russia has experienced pro-democracy demonstrations coalescing around the detention of dissident Alexei Navalny.

**U.S.-China tensions remain high.**

- The pandemic appears to be accelerating the trend toward economic nationalism and promotion of state champions in such strategic sectors as technology.
- U.S. has maintained tariffs on Chinese manufacturing.
- China has referenced an "unreliable entities list" potentially targeting U.S. companies and has shared details on potential damages to corporations they might place on that list.
- The U.S. continues to remove Hong Kong's special status protections.

**A new administration in Washington brings new priorities to the political landscape.**

- Renewed focus on human rights could cause tension with certain trading partners.
- The Biden administration imposed a temporary freeze on some military sales to Saudi Arabia and the UAE.
- Commitment to the Iran Nuclear Accord could foment backlash from regional powers.
- Divestment mandates remain uncertain during the administration's regulatory review period.

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

- The marketplace continues to harden.
- Some property carriers are excluding strikes, riots and civil commotion; these perils can be addressed through political risk insurance.
- Capacity for China, Brazil, Turkey, Argentina and Chile appears to be tightening.
- Carriers are maintaining highly selective postures and insisting on increased due diligence as they reassess appetite.
- We advise multinational companies to maintain a proactive approach to their global portfolio.
  - For more detail on political risks in specific industry sectors, please see our recently published reports in collaboration with Oxford Analytica:
    - Political risks in the natural resources sector
    - Managing new political risks in the technology sector

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# Senior living and long-term care

## Key takeaway

Although the reduction in available senior care liability capacity in 2020 has subsided, premium rates, program structures and terms and conditions continue to be impacted by the lack of insurers participating in this sector, especially in the excess layers.

## Rate prediction

**General and professional liability**
**Primary:**
**Favorable loss experience and venues:** +10% to +30%
**Adverse loss experience and poor venues:** Potentially higher increases

**Excess:** +30% or higher

**Property**
**Non-cat exposed:** +10% to +20%
**Cat-exposed without losses:** +20% to +30%
**Cat-exposed with losses:** +40% or higher

## Professional liability and general liability

- The overall reduction in professional and general liability capacity in each key market (Bermuda, London and the U.S.) is a result of market withdrawals and reductions in deployed capacity, particularly for new business and large and complex risks. The typical deployed excess line size has fallen into the $5 million to $10 million range, depending on attachment point and venues.
- While a limited number of new market entrants will consider senior care risks, the additional capacity has not filled the gap created by market exits in 2020. Furthermore, the new entrants are underwriting conservatively, targeting risks with good loss experience in less troubled venues.
- 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 utilized without acceptable fronting arrangements.
- We are seeing a significant uptick in the use of captive programs for primary layers on these risks.
- While rates are still increasing, the level of increase is decelerating.
- The coverage retrenchment trend continues – class action exclusions, punitive damages exclusions and reduction in sublimits are required by most carriers. Additionally, nearly all carriers are attaching COVID-19-related exclusions – typically referring to communicable diseases or pandemics.
- Insurers are continuing to monitor the rollout of vaccines, now well underway, to residents and associates. Buyers should be prepared to clearly articulate the processes and progress of vaccine distribution.
- Insurers are requesting updated COVID-19 data, including numbers of positive cases for residents, numbers of positive cases for associates, overall positivity rates, etc.
- Insurers are closely monitoring their COVID-19 incidents and claim notices. Most carriers have received thousands of notices but only a small number of asserted claims, leaving much uncertainty about COVID-19-related claim development.
- Renewal timelines continue to be longer than usual due to substantially increased submission flow, less underwriting authority at the desk level and the ongoing complexities of the pandemic.
- Clients seeking to differentiate their risks must focus on incident reporting, claim mitigation, policies and procedures.
- COVID-19 claims advocacy and strategies should look closely at batching language.

## Property

- Insurers remain focused on creating stability and profitability during these uncertain times.
- Challenged occupancies facing sustained upward rate pressure include senior living. Geographic location and claim experience will continue to be key determinants in pricing.
- 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.
- Insurers continue to restrict many coverages previously offered, focusing on communicable disease exclusions.
- Coverage is tightening on contingent business interruption and service interruption. Buyers should be prepared for underwriter valuation concerns, reductions in sublimits and increased waiting periods.

- New opportunities for insurers are limited where engineering visits are required, giving an advantage to incumbents familiar with the sites.
- Buyers should be ready to quantify reduced rating exposures (i.e., reduction in business interruption values due to COVID-19).

## Workers' compensation

- Carriers are tightening their appetite for long-term care risks, and fewer carriers are interested in writing this business; however, there is still adequate capacity in the marketplace.
- 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.
- Carriers are removing deductible or aggregate stops on disease.
- Credit officers are more focused on liquidity and understanding the financial viability of insureds.

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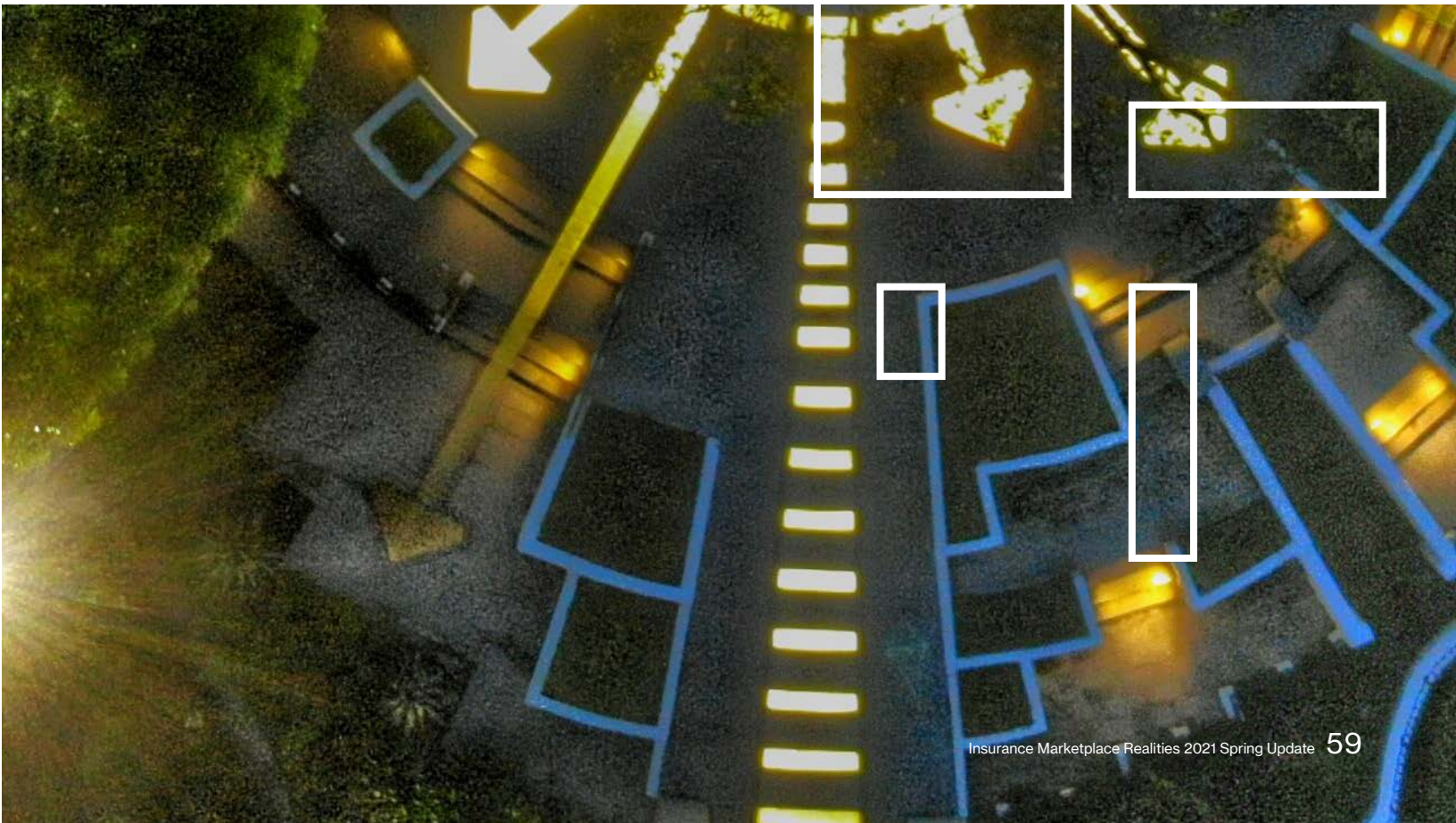

# Surety

## Key takeaway

As economies emerge from the COVID-19 pandemic and begin to stabilize, the overall surety market is expected to remain stable with ample capacity for best-in-class companies, but underwriters will still be cautious.

## Rate prediction

**Flat to +10% (varying across industries)**

## U.S. marketplace

- We continue to see an increase in the acceptance of electronically executed bonds due to the surety industry's efforts to get federal, state and local officials to issue emergency orders requiring this acceptance.
- While surety rates remain competitive for solvent companies, there has been a decline in appetite for new business across COVID-19-impacted industries, particularly the hospitality and travel sectors.
- A new market entrant and recent hires at another market illustrate ongoing optimism in the U.S. commercial surety space. This will ease upward pressure on rates and underwriting as markets compete for business in 2021.
- Though the insurance industry has been impacted with COVID-19 claims, the surety industry doesn't anticipate a rise in claims in the short term. Longer-term fallout from the pandemic, should it develop, would likely be of limited impact in the surety space.

## Global surety

- The construction sector is still postponing or canceling large projects worldwide due to economic uncertainties, supply chain and material disruptions and varying lockdown orders across the globe.
- Lessons from 2020 have prompted many companies to review and mitigate their cash flow projections, liquidity obligations and expenses, with leaders examining how to respond and move forward.
- Bonding for subcontractors on private and public projects is expected to increase in 2021. General contractors are expected to use subcontractor bonding as evidence of the subcontractors' financial qualifications post-pandemic.
- There is renewed hope that the Biden administration and governments worldwide will invest in large, sustainable infrastructure improvement plans to revive economies.

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# Terrorism and political violence

## Key takeaway

An unprecedented period of broad civil unrest and political violence losses has raised concerns about coverage applicability and availability.

## Rate prediction

**Terrorism and sabotage:** Flat to +10%

**Political violence:** +10% to +20%

**Domestic terrorism or civil commotion? Recent high-profile and costly outbreaks of violence perpetrated by extremist groups have provoked further discussion of how the terminology used to describe these events may affect the applicability of available coverage.**

- When relying on conventional property policies, businesses that have suffered protracted closures as a result of violence, but little in the way of physical damage, may find coverage does not apply, leaving them limited options.

**Stand-alone terrorism rates are stable compared to upward trending all-risk rates. However, with increased claim activity, political violence rates are trending upward now.**

- Embedded terrorism (TRIA) coverage – coverage included in property and casualty programs – remains inevitably and, at the moment, disadvantageously linked to property and casualty market fluctuations.
- Stand-alone terrorism programs continue to offer pricing stability, discrete limits and customized coverage, detached from the terms and conditions of parallel property and casualty programs.

**A "precarious situation" is developing as ISIS regroups.**

- The UN Office of Counter Terrorism warns that despite a relatively quiet period of international terrorism, the socio-economic toll and political fallout of COVID-19 could render individuals receptive to radicalization and recruitment.
- ISIS efforts to regroup and recruit have gained further momentum, and its 10,000 fighters may soon seek to exploit the distraction that the pandemic has brought to the international community's counterterrorism efforts.

**COVID-19 has accelerated innovation in the terrorism and political violence marketplace.**

- Electronic trading and automated policy administration have increased transaction speed in the Lloyds market.
- The expectation is that these efficiencies will direct more resources to program development and product design – ensuring that coverages are right-sized to the needs of clients and reflect industry-specific exposures.

**Analytics now offer greater accuracy in mapping, predicting and preventing loss from terrorism and other forms of violent attacks.**

- Analytics can help risk managers visualize exposures: risk concentrations, proximity to targets and likelihood of attacks.
- Models can help determine appropriate coverage levels. The models calculate damage to insured portfolios by applying libraries of probable attack scenarios to the exposures.

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# Trade credit

## Key takeaway

The trade credit market is currently two-tiered. Insurers have opened capacity for better risks in more appealing sectors, which offers some opportunities in 2021.

## Rate prediction

**Better risks:** Flat to +10%

**Poor risks:** +10% to +40%

**COVID-19 continues to heavily impact trade credit, but overall losses have been lower than expected.**

- Underwriters remain conservative with the hardest hit sectors (aviation, hospitality) and with retail clients who were unable to shift to omni-channeling.
- Underwriting results for the trade credit insurers were better than expected for 2020, with many insurers achieving underwriting profits. Several factors were at work:
  - Risk underwriting adjustments were made by insurers, both cancelable limit and non-cancelable limit carriers, to reduce capacity for certain sectors and for buyers with weaker risk ratings.
  - Many businesses adapted to the at-home world quickly, curtailing the expected pandemic-related losses in 2020.
  - Trade credit coverage is not prevalent in the hospitality sector, minimizing the impact of that sector's struggles.
- Insurers remain aggressive with both capacity and price across the board as they attempt to replace premium lost due to policies shed during the downturn. This is the case not only for desirable sectors but some risks in more loss-prone industries, i.e., automotive.

**The marketplace is somewhat softer for banking and private equity financing buyers.**

- Financing programs have continued to see an uptick in demand given the current economic climate. The recent headlines about the Greensill bankruptcy, supply chain finance (SCF) and trade credit insurance losses have triggered further review by insurers to ensure their underwriters are sticking to underwriting fundamentals, particularly on SCF programs.
- We're not expecting any contraction in capacity or appetite from the insurers for well-structured programs. We do, however, expect a delineation as to how an insurer views SCF submissions from a bank versus non-bank SCF submissions.
- It will be key, especially for non-bank submissions, that the structure, KYCs and other prudent underwriting measures are maintained when quoting these programs.

**In the longer term, conditions are expected to improve.**

- We anticipate rate increases will begin to decelerate and eventually flatten in the second half of 2021, as many of these policies will renew for the second time since the pandemic struck.
- In Q1 2021, some insurers took a proactive approach by reaching out to the broker community and providing a breakdown of available capacity in hopes of securing new business with a lower risk profile. This has resulted in more risk capacity for better risks. We are also seeing obligors with historically limited capacity opening for coverage.
- Many of the cancelable limits insurers, are asking policyholders to provide key customer lists for potential reinstatement of cover that had been reduced or canceled as a result of the pandemic.
- For now, buyers will continue to face double-digit increases if they are in sectors that are deemed unprofitable or if their customer portfolio offers a greater potential risk of default.

## Contact

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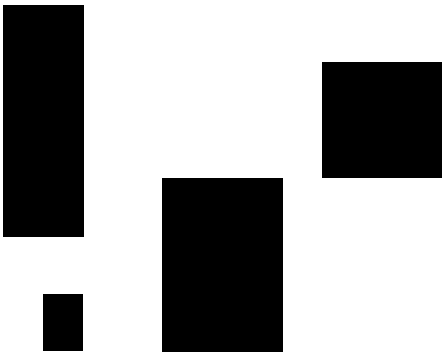

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