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COMMERCIAL LINES INSURANCE MARKET UPDATE – FOURTH QUARTER 2022

Executive Summary

Commercial lines insurance buyers encountered mostly positive trends at the end of 2022—most segments experienced rate stabilization and, in the case of public D&O, large rate decreases. The exception to this generally positive story is the property market.

As we reported in our Q3 update, Hurricane Ian ended hopes for rate stabilization in the property market. Prior to Ian, inflation was already causing some concern in this segment because material and labor costs were driving loss costs higher. In addition to inflation, the increasing frequency and severity of catastrophic weather events were leading reinsurers to refresh their loss forecasting models. The most recent insured loss estimate is $55 billion to $65 billion, which is a staggering amount and all but guarantees a difficult reinsurance renewal season.

Most insurance companies rely on reinsurance to assume part of the risk they take, particularly when it comes to catastrophic coverage. Insurance companies accomplish this via a “treaty” with one or a group of reinsurers, and many of these treaties renew January 1st. According to our insurer partners, these treaty renewals have been difficult, with pricing increasing significantly and capacity decreasing. Furthermore, to control costs, many insurers have assumed more risk than they typically would have transferred to reinsurers in the past. This will translate to higher premiums for property insurance buyers, particularly those with catastrophic exposures. It is also reasonable to expect insurers to become stricter with respect to underwriting guidelines, especially if they are taking on more risk. We do expect these conditions to continue into 2024 as pricing models adjust.

Although property will cause pain for many insurance buyers, the other segments of the commercial lines market offer a brighter picture. The casualty market continues to stabilize—premium increases in many situations are the result of exposure increases, as opposed to rate increases.

At this time last year, we were warning our clients of rapidly increasing cyber premiums, mostly due to ransomware losses. Our cyber team now characterizes the cyber market as “transitional,” with stabilized pricing. Depending on the industry and/or risk profile, some buyers may expect some narrowing of coverage.

We’ll end this update with positive news for commercial lines buyers. The D&O segment of the market is competitive for both public and private companies. Rates are decreasing for all public companies, with the most dramatic decreases occurring for companies that have gone public recently. Private company D&O buyers did not experience the same steep increases as public D&O buyers over the last few years, but even they are receiving decreases in the D&O portion of their premium.

We are pointing out the “D&O portion of their premium” because private companies typically buy D&O in a package with other coverages like Employment Practices Liability (EPL) and Fiduciary Liability. EPL and Fiduciary Liability have their own challenges due to increased losses in those segments, so the overall private company management liability package may increase depending on the characteristic of these exposures.

D&O: Market Update

OUR POV

With an oversupply of insurance capacity and few IPOs, insurers are competing for public D&O renewal business, driving rates and retentions down for almost all companies.

MARKET TRENDS

- While mature public companies are experiencing rate relief, recent IPOs and DLs are seeing significant decreases due to higher starting premiums.
- COVID-related cases continue to be filed but other factors have moved into focus. Businesses face macroeconomic challenges including inflation, higher interest rates, the threat of recession, the war in Ukraine, choked supply chains, and a volatile stock market, which are likely to draw claims.
- The March 2020 *Sciabacucchi* ruling on federal choice of forum in the Delaware Supreme Court has led to numerous state court Section 11 suit dismissals and more stable IPO pricing. The public markets cooled significantly in 2022—IPO listings dropped to the lowest levels since 2016.

CONTEXT FOR CURRENT TRENDS

- Securities class action severity remains high. There were 92 settlements totaling $2.4B in 2022, exceeding the 2020, 2021, and 10-year medians. In 2022, 34% of all settlements were over $20M. With 463 open cases yet to be resolved, 2023 has the potential to be another notable year in total settlement dollars.
- The likelihood of a public company being sued reached a record high of 5% in 2019, when 268 lawsuits were filed, but declined in 2020, 2021, and 2022. The total number of suits dropped to 210 in 2020,182 in 2021, and 168 in 2022. The further decline in the number of annual securities class action suits filed in 2022 is another welcome decrease.
- Litigation is being driven by new and increased exposures, including cyber (data breach), privacy oversight (GDPR), #MeToo, ESG issues such as climate change, and COVID-19.
- Derivative actions are on the rise, with notable settlements (Renren, Boeing, First Energy, American Realty, Wells Fargo, etc.) tapping “A Side-only” insurance.

3.0%

Likelihood of Being Sued (decline for 3rd year in a row after 2019 all-time high)

463

Number of Open SCA Cases Pending

$12.8M

2022 Median Settlement (10-year average $8.8M)

$25.5M

2022 Average Settlement (10-year average $28.5M)

Property: Market Update

OUR POV

Carriers have experienced increased costs attributable to rising reinsurance rates and retentions, which are being passed down to insureds. This, combined with a continued increase in the frequency and severity of events, will cause rates to rise in 2023. Risk improvement and relationships are proving to be the differentiating factors for insureds.

MARKET TRENDS

- Hurricane Ian changed the market. Reinsurance retentions and rates went up at 1/1.
- Valuation continues to be an area of focus for carriers.
- In many industries, PD values are expected to increase, with BI is likely to go down.
- Insureds may experience some restrictions or limitations in policy coverage.
- Risk improvement remains a key aspect of differentiation.
- Relationships and in-person meetings are yielding more favorable outcomes.

CONTEXT FOR CURRENT TRENDS

- Increased reinsurance costs are driving rate increases for commercial insurance carriers. Increased retentions and rates added additional expense to insurance carriers, which are pushing some of those costs to clients.
- Valuation continues to be a major focus for insurance carriers, largely led by how values were originally derived.
- Carriers are anticipating building and equipment values increasing by ~11% and ~9.5%, respectively.
- Policy wording will remain relatively consistent, with some scrutiny on strikes, riots, civil commotion, political violence, and margin clauses.
- Demonstrating risk quality and risk improvement is a key component to navigating a difficult property insurance market.
- Relationships continue to play a key role in building trust and credibility with markets. In-person meetings and site visits are resulting in better renewal outcomes.

Q1 2023 PROJECTED RATE CHANGES

5%–10%

Non-CAT accounts with favorable loss history

12.5%–20%

CAT accounts with favorable loss history

25%+

Non-CAT accounts with unfavorable loss history

40%+

CAT accounts with unfavorable loss history

Cargo and Stock Throughput: Market Update

OUR POV

The end of 2022 saw general market stability, albeit with a few key areas seeing increased focus prior to reinsurance renewals. Carriers have adjusted their appetites as a result of the new pressures and exclusions imposed during the 1/1 reinsurance renewals.

MARKET TRENDS

- Hurricane Ian led to increased focus on CAT appetite and rating.
- Russia, Ukraine, and Belarus exclusions are now required on every risk from most insurers.
- A new “Five Powers War Clause” will be required by most carriers starting in 2023.
- Static stock remains where carriers’ focus lies, and information is proving to be key.
- Underwriters require an accurate declaration of values and basis of valuation as well as detailed COPE information or surveys of larger locations.

CONTEXT FOR CURRENT TRENDS

- Many reinsurers have excluded coverages for Russia, Ukraine, and Belarus. While there is some scope for coverage to be looked at in these areas, war on land coverage is excluded, forcing us to place that risk elsewhere. Some carriers are capitalizing on the opportunity, albeit with very healthy rates.
- With coverage in this region being excluded by many reinsurers from 1/1, carriers are having to take net lines, affecting line size and appetite.
- Inflation and accumulation due to supply chain issues led to large peaks in values at certain storage locations. Underwriters are wary of this increase in ground-up exposure (or first loss exposure on excess placements), which at times can require introducing an additional carrier for capacity.
- There is increased pressure from both sides. Insurers are still looking for small increases on most SME businesses, while insureds are under pressure to keep premium expenditure to a minimum.
- Some markets are pulling out of heavily exposed CAT business with little premium to “free up” some of their CAT aggregate for larger risks. 2023 may see markets pull out of or reduce line size due to pressure from reinsurers.
- Retail risks have become challenging to place as many carriers cannot rely on reinsurance and therefore are forced to take net lines.

Q1 2023 PROJECTED RATE CHANGES

0%–5%

Accounts with favorable loss history and a focus on risk management

10%–20%

Accounts with unfavorable loss history or those that do not meet rate adequacy for underwriters

Casualty: Market Update

OUR POV

Stabilization of the casualty market is ongoing. WC remains profitable for insurers while GL and auto rate increases are slowing due to rate adequacy and competition. Lead umbrellas remain challenging due to ongoing large claim activity, while high excess remains competitive.

MARKET TRENDS

- Primary casualty insurers continue to seek rate increases on GL/AL overall for the 21st consecutive quarter to keep up with loss trends.
- Workers’ compensation is the most competitive and profitable line of coverage, but with wage and medical inflation impacting indemnity claims and potential frequency increases given the return to in-office work, rate decreases may begin to fade.
- The high excess market has stabilized, with increased capacity and competition. Lead umbrella insurers continue to achieve rate increases due to sustained large claim activity and limited competition.

CONTEXT FOR CURRENT TRENDS

- Large verdicts and settlements continue to impact the market as cases await trial in the backlogged court system. Social inflation and litigation financing are putting upward pressure on settlements to avoid unpredictable juries.
- Organizations with large auto fleets, high-hazard products, or significant premises exposures are facing difficult umbrella renewals. Using buffer layers to increase attachments can help mitigate premium increases. Healthy capacity in higher excess layers has increased competition and stabilized the market.
- Incumbent casualty insurers are generally seeking rate increases and are facing rate pressure from competing markets.
- Enhanced technology in vehicles coupled with supply chain issues is resulting in increased auto physical damage and third-party PD claims. Longer repair times are also affecting supplemental claim costs like rental car reimbursement.
- Carriers continue to refine coverage terms and conditions. Insurers seek to apply exclusions for biometric liability, abuse and molestation, assault and battery, PFAS (forever chemicals), wildfire, and Russia/Ukraine/Belarus.

By-Line Q4 2022 Rate Changes Ranged from -1.1% to +9.6%

	Auto	WC	GL	Umbrella
Q4 2022	7.30%	-1.10%	4.90%	9.60%
Q3 2022	7.60%	-0.70%	5.70%	11.30%
Q2 2022	7.20%	-1.20%	4.70%	11.30%
Q1 2022	5.90%	-0.50%	3.90%	10.50%
Q4 2021	8.00%	0.30%	6.40%	15.00%

Source: CIAB Q4 2022 Rate Survey

Cyber: Market Update

OUR POV

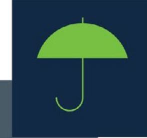
We're in a transitional market:
Pricing has stabilized but underwriters continue to carve out coverage at renewal.

MARKET TRENDS

- Competition is increasing. More carriers are competing for primary and low excess placements.
- Coverage restrictions hit the market:
  - Systemic risk exclusions
  - Non-breach privacy (GDPR, CCPA, BIPA)
  - Media liability
  - Dependent business interruption and system failure—largely sublimited
- The technology sector remains a tougher class than other cyber risks:
  - Concerns about systemic and widespread risks remain high at cyber insurance carriers.
  - Layoffs in the tech sector are leading to claims of employees taking data.

CONTEXT FOR CURRENT TRENDS

- Erosion of Wrongful Collection coverage in response to claims
  - Increases in claims for violations of federal wiretapping and Video Privacy Protection Act laws
  - California Privacy Rights Act (CPRA) implementation suggests increased enforcement
  - Multiple carriers are now refusing to provide coverage for wrongful collection of data, which previously was added to the privacy liability section of a cyber policy
- Systemic risk is becoming a priority concern for cyber insurance carriers
  - The threat of a single attack has downstream impacts on many companies all at once



65% of underwriters believe cyber policy **coverage** will **contract slightly.**

The area we expect most change in 2023 is contracted coverage. Look for changes specifically around systemic risk and coverage for privacy regulations.

Source: Woodruff Sawyer's *Cyber Looking Ahead Guide 2023*

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