COMMERCIAL LINES INSURANCE MARKET UPDATE – THIRD QUARTER 2022

Executive Summary

The third quarter is always pivotal in the insurance market because it is the peak of the Atlantic hurricane season. The number and severity of named storms, and if and where they make landfall, will impact property premiums for the remainder of the year and into the following year. The third quarter of 2022 was quiet until Hurricane Ian made landfall in Florida on September 28th. The hurricane was devastating both in terms of the cost to human life and property. Risk modeling company RMS is estimating the total insured losses to be in the $53 billion to $74 billion range.

The decelerating rate trend we noticed in the property market in the first half of 2022 effectively ended with Ian. Property insurance buyers can expect rates to head up again even if their portfolios don't include Florida properties. Inflation was an issue that property insurers were grappling with throughout 2022, and non-hurricane catastrophes have been increasing in both frequency and severity. Non-hurricane catastrophes are events like wildfires, hailstorms, tornadoes, and floods. Reinsurance capacity is expected to be constrained in 2023, and that will impact rates for all property insurance buyers.

The casualty segment is largely unchanged from Q2 2022—general liability and auto rates continue to increase, albeit at a slower pace. Casualty buyers can continue to expect to pay more for their lead umbrella layers, but their overall excess liability spend may be less than in previous quarters due to more competition in the market. Workers' Compensation continues to be profitable, and most companies can expect a decrease in their costs for this coverage.

We're finally starting to see some improvement in the cyber market. Premiums are still increasing but at a slower rate, and we're seeing more insurers competing on primary and lower excess layers. Underwriters continue to focus on security controls, and those companies that have invested in strong cyber security can expect to see the best renewal results.

Finally, the D&O market is where most buyers can expect decreases. Although the severity of settled securities claims remains high, the number of filed securities class actions decreased in the last two years, and this trend appears to be continuing in 2022. The reduced number of filed securities class actions, coupled with several new insurance carriers in this space, has combined to create a favorable market for D&O buyers, whether they be public or private companies.

D&O: Market Update

OUR POV

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

MARKET TRENDS

- Most market-leading carriers are willing to offer flat renewal premiums but increasing competition from new market entrants is often leading to a reduction in total premium, especially in high excess layers. Recent IPOs and DLs may see more significant decreases due to higher starting premiums compared to those of mature public companies.
- The economic uncertainty created by COVID-19 is still resulting in D&O litigation due to factors like misleading statements about the outbreak, deceptive claims regarding potential vaccines and treatments, and privacy concerns.
- 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 eventually more stable IPO pricing. The public markets cooled significantly through the third quarter of 2022—the number of SPAC IPO and de-SPAC listings dropped to the lowest levels since 2016.

CONTEXT FOR CURRENT TRENDS

- Securities class action severity remains high. There were 101 settlements totaling $3.2 billion in 2021, the largest total annual settlement amount in the last decade. The settlements reached through the third quarter of 2022 have exceeded the 2020, 2021, and 10-year medians, and the average and 75th percentile amounts are tracking closely with 2021 numbers. With approximately 470 open cases yet to be resolved, 2022 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 both 2020 and 2021. The total number of suits dropped to 210 in 2020 and 182 in 2021, a 13% year-over-year drop. With 125 cases filed through Q3 2022, this year is shaping up to be a repeat of 2021, with potentially another welcome decrease in annual filings of securities class action suits.
- Litigation is being driven by new and increased exposures including cyber (data breach), #MeToo, privacy oversight (GDPR), climate change, and COVID-19.
- Derivative actions are on the rise with notable settlements (Renren, Boeing, First Energy, American Realty, Wells Fargo...) tapping "A Side-only" insurance.

3.3%
Likelihood of Being Sued (decline for 2nd year in a row after 2019 all-time high)

471
Number of Open SCA Cases Pending

$11M
2021 Median Cash Settlement (10-year average $8.5M)

$32M
2021 Average Settlement (10-year average $29.6M)

Property: Market Update

OUR POV

The challenges in the reinsurance market due to Hurricane Ian will impact commercial property rates, with more dramatic increases affecting catastrophe-exposed insureds. Risk improvement must be a priority and developing a strategy for risk retention versus transfer is pivotal to a successful renewal.

MARKET TRENDS

- Hurricane Ian will impact commercial property insurance rates.
- Reinsurance capacity will be limited and costly at 1/1.
- Valuation will continue to be scrutinized, with more focus on business interruption calculations.
- This will be the year of options, including non-traditional property insurance products.
- Loss control remains a pivotal selling point for insureds.
- Insureds need to stay ahead of market reactions, developing risk strategies and anticipating carrier pain points.

CONTEXT FOR CURRENT TRENDS

- Hurricane Ian made landfall in Florida on September 28, 2022, and will significantly impact reinsurance portfolios.
- Reinsurance capacity is expected to decline, putting pressure on reinsurance rates and insurers' ability to self-insure part of their portfolios.
- Increased reinsurance rates mean increased costs for insurers, which will have a trickle effect on rising rates in the commercial property market.
- Accurate valuation continues to be a key focus for insurance carriers, adding costs to current property programs and possibly creating the need for higher policy or catastrophe limits.
- Options such as increased deductibles, co-participations in programs, and parametric insurance must be considered in 2023.
- Risk improvement continues to be a major selling point for insureds. Reducing loss expectancies and demonstrating a commitment to risk quality will result in outperforming the averages.

2.5%–7.5%
Non-CAT accounts with favorable loss history

10%–15%
CAT accounts with favorable loss history

20%+
Non-CAT accounts with unfavorable loss history

30%+
CAT accounts with unfavorable loss history

Cargo and Stock Throughput: Market Update

OUR POV

Hurricane Ian has caused some knee-jerk reactions, with windstorm rates beginning to soar. Rumors of new entrants set to join the market at the start of 2023 may stabilize rates, absent further industry losses and constrictions in reinsurance capacity at 1/1.

MARKET TRENDS

- Inflation has led to a significant increase in stock values.
- Consolidation of goods requires higher limits and puts pressure on primary layer rates.
- Technical rate and adequate valuation continue to be a focus.
- Loss prevention and thorough COPE details have become bare minimum for storage locations.
- Ample capacity for general risks has prevented significant rate increases.
- New market entrants has led to continued movement of insurers and brokers.

CONTEXT FOR CURRENT TRENDS

- Global supply chain challenges, increasing business costs, and inflated selling prices led to dramatic stock value increases for many insureds.
- Insureds are consolidating goods into fewer locations. This increases the exposure in primary layers, leading to higher rates and a need for higher program limits.
- There is increased focus on "technical rate" for first loss exposures at these ever-growing locations.
- Some insurers are shifting towards naming locations on excess policies and requiring notification of significant growth so they can rate accordingly.
- Markets are requesting detailed COPE and risk reports for larger locations due to an increase in large industry stock losses.
- Many "traditional" London markets are looking towards the future and hoping to get involved in new products or new "Insurtech" solutions. Considering the supply chain crisis, there is a growing realization among insurers that there are gaps in the market where coverage is not currently provided.
- Forecasters predict dramatic reinsurance rate increases at 1/1, which some larger CAT markets are already trying to incorporate into their CAT pricing. The market continues to quantify the financial effect of Hurricane Ian.

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 underway. WC remains profitable for insurers while GL and auto rate increases are slowing with increased competition. Lead umbrellas are challenging due to ongoing increased large claim activity, while high excess remains competitive.

MARKET TRENDS

- Primary casualty insurers continue to seek rate increases on GL/Auto overall for the 19th 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, the market's combined ratio is trending up.
- With aggressive corrections to rates, limit deployment, and attachment points over the last two years, the high excess market has stabilized. Lead umbrella insurers continue to achieve rate increases due to sustained large claim activity and limited competition.

CONTEXT FOR CURRENT TRENDS

- Nuclear verdicts continue to create headlines as potential large losses await trial in the backlogged court system. Social inflation and litigation financing have increased pressure on settlements to avoid unpredictable jury verdicts.
- 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. Providing detailed data on a fleet's radius of operations can be beneficial.
- 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 new exclusions on communicable diseases, abuse and molestation, assault and battery, PFAS, and Russia/Ukraine/Belarus.

By-Line Q2 2022 Rate Changes Ranged from -1.2% to +11.3%

	Auto	WC	GL	Umbrella
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%
Q3 2021	7.40%	-0.30%	6.30%	16.90%
Q2 2021	6.80%	0.30%	6.00%	17.40%

Source: CIAB Q2 2022 Rate Survey

Cyber: Market Update

OUR POV

We're in a transitional market: Prices are still up, but increases are moderate for good risks. Security controls remain the focus of underwriters.

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
- CISOs are highly scrutinized.
  - Security controls remain a focus of underwriters, who look to third-party scanning tools often.
  - Continual improvements to security posture are necessary.

CONTEXT FOR CURRENT TRENDS

- Regulatory settlements are on the rise.
  - California Consumer Privacy Act (CCPA): Sephora was fined $1.2 million for violations by the California attorney general.
  - Biometric Information Privacy Act (BIPA): Even non-technology companies are getting hit—BNSF Railways just lost at trial, resulting in a $228 million judgment.
  - California Privacy Rights Act (CPRA): Coming January 1, 2023—expect more enforcement and no cure period.
- Chief information security officer (CISO) scrutiny is rising.
  - Uber CISO: Convicted of criminal liability surrounding a 2017 data breach
  - SolarWinds CISO: Named in shareholder class action after a 2020 breach, impacting D&O insurance policies

Price increases moderating

54% → **31%**

Trailing 12-Month Median Price Increase → Third-Quarter 2022 Median Price Increase

Source: Woodruff Sawyer's *Cyber Insurance Data*

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