QUARTER 4 | 2023

Market Trends

Commercial Insurance & Risk Management

Our Goal

Brown & Brown's Market Trends allows you to connect quickly to key topics and notable updates in the insurance marketplace. Dive deeper on any topic with our Brown & Brown team to better understand how these trends may impact your business. We welcome the conversation.

Discover

Property

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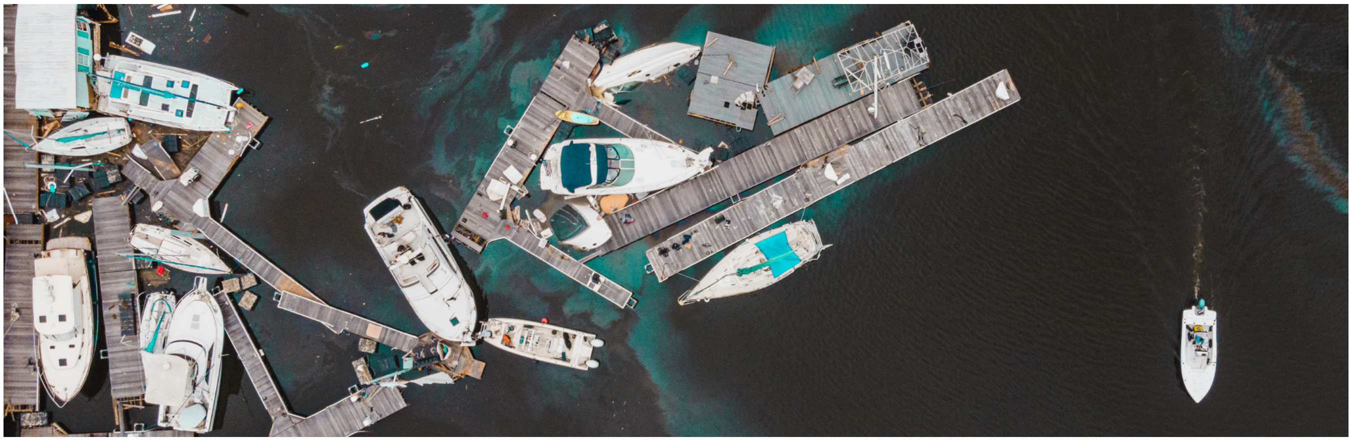

The market currently faces rate increases and capacity restrictions. These changes have more of an impact on risks in areas prone to catastrophic events (hurricanes, wildfires) engaged in high-risk operations and risks with inadequate risk control programs. Capacity continues to decrease for excess layers while costs keep rising. The capacity changes highlight the ongoing risk aversion within the reinsurance space.

Natural Disaster Impacts

Many large carriers have posted substantial underwriting losses year-over-year. The marketplace hoped for a break in the final quarter of 2022 when Hurricane Ian hit with massive losses. Hurricane Idalia added $3-5 billion of insured losses, further deteriorating underwriting losses.

The growing frequency and intensity of natural disasters remain a significant concern across the commercial property insurance industry. These catastrophes often result in severe property damage and significant financial losses for policyholders. In the first half of 2023, natural disasters cost the global economy an estimated $194 billion. In the U.S. alone, insurers footed the bill for eight multi-billion dollar events.

These costs are expected to persist and potentially worsen during the remainder of the year as hurricane season continues and wildfires spread across the Western U.S. The National Oceanic and Atmospheric Administration (NOAA) has predicted that 17 named storms will develop this hurricane season, which lasts through the end of November. Among these storms, 13 are predicted to become hurricanes or reach catastrophic strength.

Recent updates from the National Interagency Fire Center (NIFC) report that 20,000 wildfires have already burned more than 621,000 acres along the West Coast. Although this figure falls below the 10-year average, it indicates another challenging wildfire season in the months ahead.

Climate experts anticipate that natural disasters will continue to impact underwriting losses for the foreseeable future.

Casualty

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Commercial Auto

The Council of Insurance Agents & Brokers (CIAB) reports that the commercial auto insurance market has seen 50 consecutive quarters of rate increases, highlighting the persistent upward trajectory of insurance costs. The industry attributes these adverse trends to heightened loss severity, rising vehicle and labor expenses and evolving litigation patterns, all of which have contributed to the unfavorable performance of the auto insurance sector.

In 2022, the Federal Highway Administration reported a notable increase in vehicle miles traveled, adding 29.3 billion miles compared to the previous year. Despite the surge in travel, the fatality rates exhibited a slight decrease, from 1.37 to 1.35 per million vehicle miles traveled. This data contrasts with 2021, which saw a concerning 10.1% spike in fatalities. These statistics underscore the complex and ever-evolving landscape of road safety and highlight the importance of ongoing efforts to address and mitigate traffic-related fatalities.

Liability Market

The ongoing influence of nuclear verdicts continues to significantly impact auto, general and umbrella liability claims outcomes. Plaintiff attorneys increasingly resort to mass tort actions that employ reptile tactics involving various media channels to disseminate potentially inaccurate information. Sometimes, these tactics are funded by third-party investors, aimed at overwhelming the courts and applying pressure for inflated settlements.

A notable development in the Excess Liability market is the introduction of a Biometrics exclusion, reacting to the evolving development of risk assessment. Underwriters are now incorporating specific questions into their underwriting process to assess the potential for adding the waiving of biometrics exclusions.

Another new exclusion includes Access or Disclosure of Confidential or Personal Material or Information, is set to take effect in December. This revised version includes new language explicitly addressing "health and biometrics information," emphasizing the insurance industry's response to emerging privacy and data protection concerns in an increasingly digitized world.

Workers' Compensation

In 2022, the occupational medical sector saw the impact of inflation. This contrasts with the Bureau of Labor and Statistics Consumer Price Index for Urban Consumers, which recorded high single-digit rate changes for housing and food. At the same time, energy experienced a substantial 25% increase. However, the Workers' Compensation market favors insureds, witnessing five consecutive quarters of rate decreases.

Employers have observed that while there is a high demand for skilled workers, the "Great Resignation" phenomenon may be tapering as employees increasingly negotiate schedules that allow flexibility. The availability of remote work options has significantly influenced current employee turnover trends. Many employers have responded by implementing hybrid work arrangements as a retention strategy to accommodate the preferences of their skilled workforce, further reshaping today's employment landscape.

Executive Liability

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The Executive Liability insurance landscape is marked by evolving dynamics, from heightened regulations to shifting IPO trends and legislative changes. As the market softens, organizations are urged to proactively address risk and compliance to navigate this transforming landscape effectively.

D&O: Cyber Regulations

The spotlight on cyber-related exposures within the D&O insurance realm continues to intensify. Notably, regulators are monitoring companies failing to adequately secure or disclose cyber incidents. This increased scrutiny is prevalent among public companies, where incident disclosure has long been expected and extends to a more comprehensive review of cybersecurity practices.

The U.S. Securities and Exchange Commission (SEC) recently adopted final rules pertaining to cybersecurity disclosures. These rules mandate companies to disclose material cybersecurity incidents as they occur and require annual disclosure of material information concerning their cybersecurity risk management and governance. This heightened regulatory environment underscores the growing importance of cybersecurity in the D&O insurance space.

D&O: SEC Executive Compensation Requirements

The SEC starts the new Executive Compensation Clawback Requirements this year. Publicly listed companies must approve and disclose a written policy on how they will recover erroneously awarded incentive-based compensation in the event of a restatement. The exposure for Insureds is on a No-Fault Basis. Discussions are currently going on in the market on what coverage(s) will be available.

Public Company: IPO Trends

The IPO landscape is experiencing a noticeable shift in the public company sector. Currently, there are 105 IPOs, reflecting a significant decline compared to the 181 IPOs in the previous year. This marks the second consecutive year of diminishing IPO numbers, following a historic high of 1,035 IPOs in 2021.

With over 1,500 companies going public since 2020, capacity, with resulting premium dollar increases, has benefitted insurance carriers. These events, combined with the entry of new markets into the space, create a scenario conducive to a softening insurance marketplace.

Nevada Liability Legislation

On July 21, Nevada approved legislation that limits the erosion of liability lines due to defense costs, impacting customers domiciled in Nevada. Effective October 1, 2023, this law applies to certain policies, but its implications vary.

Further details can be found in the release from the Department of Insurance.

CLICK HERE TO READ MORE

Underwriting Scrutiny

Overall, the market is experiencing a softening rate environment. However, underwriting standards remain dependent on claims history, financials and jurisdiction. Organizations with financial challenges and higher claims frequency are subject to increased scrutiny from underwriters, particularly concerning retentions and limits.

A recurring theme from the previous quarter is the heightened scrutiny surrounding internal controls related to Fiduciary Liability, Commercial Crime and Employment Practice Liability (EPL). The main areas of concern are excessive fee cases for fiduciary and social engineering/ impersonation fraud for crime/ bonds. Carriers increasingly request additional information regarding an organization's controls, which may require supplemental applications.

Financial Institutions

In the third quarter, KeyBank announced the need to reset its target earnings, leading to a shift in share price. This raised concerns over potential bank liquidity misrepresentation, resulting in a shareholder lawsuit. The market is closely monitoring this situation and its potential ramifications.

While the overall impact of such incidents remains limited, financial institutions are under continued scrutiny, underscoring the need for robust risk management and transparency.

Cyber Risk

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Rate Trends

Rates in the cyber insurance market are stabilizing on primary policies, currently averaging 1% to 5%, although individual results are scattered. Carriers face considerable pressure to grow their books of business, creating competition for customers with strong controls. To compete, carriers are more willing to offer broader coverage, lower retention and, in some cases, higher limits. Retentions are trending down, particularly for large risks, who faced the most significant increases in prior years.

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Layered programs are also gaining competition, reducing excess pricing, particularly for large towers. The increase in competition is driven by additional capacity from new entrants and markets re-entering the market after exiting due to claims activity. Price decreases will level out for higher layers in large towers as premiums reach a minimum price for capacity.

Changing Capacity/Limit Management

The market continues to see an increase in capacity, further accelerating the softening of pricing. This capacity increase gives buyers more options from a wider group of carriers.

On large accounts with sizable premiums, carriers are increasing limits from $5M to $10M. For small to middle-market businesses, carriers maintain their maximum lines of $5M. The impact of InsurTech firms is creating additional capacity. Nonetheless, underwriting standards are still high, causing greater competition for buyers with a strong security posture.

Additionally, specific industries face difficulties due to outside political or economic factors. Newer environmental, social and governance (ESG) concerns, such as coal or non-renewable energy, affect utility companies and producers of vice products like tobacco and alcohol. These pressures may extend to other industries in the future.

Claims

The frequency of cyber insurance claims continues to increase, with some carriers reporting increases in ransomware claims as high as 70%. While average ransomware payments are trending down, targeted attacks on large businesses have contributed a large portion of the overall ransom payments in 2023.

Carriers are concerned about privacy-related incidents, mainly resulting from violations of the Biometric Information Privacy Act (BIPA) and non-compliance around pixel tracking. Carriers are closely monitoring claims activity, underwriting the exposure more diligently and, in some cases, narrowing their offerings.

Coverage Limitations

Carriers continue to raise concerns about catastrophic losses, with many releasing new language limiting coverage for war or other catastrophic events. These changes are driven, in part, by reinsurance restrictions.

Another area being closely monitored is the impact of artificial intelligence. The industry is watching the implications of AI and its potential effects on coverage and risk.

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Multinational

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Multinational Casualty

The multinational casualty marketplace continues to experience flat to marginal rate reductions driven by multinational casualty carrier profitability. On a global program basis, the flat to marginal rate decreases are often based on the program's global scale and policy count, given continued satisfactory portfolio loss performance. The expense ratios and costs related to program administration often play a significant role in multinational programs' rate and minimum premium funding requirements.

The U.S. multinational casualty portfolio should be evaluated annually for alternative program structures based on loss experience, exposures and risk tolerance. Assessing the total cost of risk helps to determine if a guaranteed cost option is still the optimal solution for global insureds or if alternative structures should be considered.

Compliance continues to be a key component when evaluating multinational program structure. We continue to see increased enforcement of insurance-related rules and regulations, especially in developing markets. This increase in enforcement also generates an increase in legal documents and paperwork required to be completed at each renewal.

PFAS (Perfluoroalkyl and Polyfluoroalkyl Substances) Exposures and Exclusions

Like the U.S. domestic marketplace, multinational carriers are taking a closer look at PFAS exposures. Industry experts predict that PFAS is on the brink of substantial unfavorable developments, including class action lawsuits and broad global litigation. Several indicate that PFAS exposures will rival asbestos. As researchers better understand the potential harmfulness of PFAS, litigation has followed.

While insurers have historically argued for the lack of liability resulting from "forever chemicals" pollution, businesses have pushed back. Coverage is becoming increasingly scarce as underwriting efforts are more deeply scrutinized. The current and expected increase in global litigation and related PFAS claims requires customers and carriers to evaluate PFAS exposures proactively and thoroughly to prepare for renewal discussions.

Surety

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Construction

The American Institute of Architects (AIA) and Dodge Construction Network predict growth in the highway infrastructure and manufacturing industries, leading to more bidding and higher competition. Construction around commercial real estate looks to remain stable, whereas single-family and improvements are expected to decline. As seen throughout this year, middle-market businesses utilizing letter of credit facilities will continue to see higher rates and fees.

Healthcare

This quarter, provider groups and managed care organizations who enter federal contracts with CMS must post their securities by mid-October for 2023. Those who choose to renew letters of credit find rates continuing to rise and will likely need help utilizing their capital going into 2024. The next group of financial guarantees is expected to be posted in February.

These changes come with increased financial security on federal contracts from 3-4% for those who elected the provisional financial settlement. In the private payor sector, some large insurance companies are opening the doors to surety-bond solutions and imploring provider groups to negotiate better terms within their contracts. Typical surety bond rates fall around 2% fixed, whereas the average letter of credit is about 4% variable for the middle market.

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All industries can benefit from using traditional surety bond facilities and surety-backed letters of credit to help reduce their overall cost of capital. Maintaining a solid relationship with your broker and surety provider while managing constant communication is vital to a successful surety program.

Aviation

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At the beginning of 2023, the aviation insurance market improved across all segments, resulting in a more favorable aviation underwriting environment than in previous years. Despite this positive start, the anticipated hardening of the market began over the summer, with renewal rate increases between 5-10%.

The market continues to see rate increases in aviation general liability placements and other loss-leading areas. The immediate focus of domestic aviation insurers is capturing single-digit rate increases upon renewal. However, some are now actively competing on renewals for desirable business (professional flown industrial aid risks, small airports and aerospace product manufacturers) and insureds considering changing markets. Large fleets, airlines, large airports and loss-sensitive risks continue to be impacted by changes in coverage offerings, limits and rates.

Market Impacts

The ongoing Russia/Ukraine conflict and the aviation reinsurance marketplace continue to present double-digit premium rate increases to aviation insurers. In early September, it was indicated that increases are anticipated through 2024.

Over 400 leased aircraft, valued at $10 billion, cannot depart from Russia after European Union sanctions forced the termination of leases. As a result, the reported hull war claims total $6.5 billion. This month, Aercap, the world's largest aircraft lessor, agreed to settle an insurance claim over Russia's refusal to return planes stranded in the wake of the Ukraine invasion. This is the first settlement thus far.

Another major factor impacting reinsurance rates is the Boeing 737 Max grounding loss. The claim has increased from $1.3 billion to $3 billion, and the continued impact will have unknown pressure on the market as we move toward the end of the year. The immediate impact is on contingent liability, war risk and terrorism premiums. As a result of this loss, Tokio Marine will exit the aviation retroactive insurance market, adding further pressure and withdrawing capacity from the space. Retroactive insurance provides coverage for losses that have already occurred but have not yet been reported. Tokio Marine notified cedants it will discontinue its aviation retractive book while the Boeing loss continues to ripple through the market.

The 2023 Sudan Crisis has also contributed to significant losses. A new, privately-owned Airbus A330 and several Boeing airline aircraft were declared a total loss, resulting in a loss of $300 million to the global Aviation market. This will affect aviation carriers globally going into 2024.

Preparing for Renewals

With recent promotions and changes, aviation underwriting carriers continue to see changes in their underwriting ranks. For a successful renewal outcome, insureds are encouraged to work through any anticipated challenges and, if possible, consider renewing proactively up to thirty days in advance. Those who offer clear underwriting information and consistent safety management protocols receive the most competitive balance of rate and coverage.

How Brown & Brown Can Help

Connect with our Brown & Brown team to learn about our knowledge in your industry, how we build our risk mitigation strategies and how we can aid your business in building a cost-saving property & casualty insurance program.

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