Brown & Brown

QUARTER 1 | 2024

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 property sector continues to face substantial rate increases and coverage reductions as premiums attempt to catch up with claim costs. Claim cost drivers include inflation, economic growth and accumulated insured assets in areas exposed to or susceptible to natural perils. Significant insured losses have directly affected reinsurance capacity, resulting in weak results since 2017.

A moderation of rate increases is expected in 2024 for many carriers. However, insureds with poor loss records and exposure to catastrophe losses will continue to experience a rate increase of single to double digits. Underwriters will continue to seek a combination of rate increases and “insured to value” reporting of property values. Building replacement costs have increased by 30-40% since 2020.[1] There is more scrutiny via analysis of business income calculations, formal building replacement cost estimates and onsite inspections to validate reported values. Underwriters equate under-reported values with a shortfall in premiums collected to exposures assumed.

With reinsurance capacity down and prices up, insurers retain more risk and pass increased retention and costs to policyholders. While hurricane, earthquake and flood perils have had specific limits and deductibles for decades, the increasing loss impact of severe convective storms (high wind speeds, tornadoes and hail) is driving significant changes to deductibles and limits.

While replacement cost inflation is moderating, it remains essential to demonstrate the adequacy of reported property values. Risk engineering recommendation compliance remains vital to underwriters. Engaging with risk control engineers can yield a better understanding of the risks by both parties and produce acceptable alternatives to satisfy the recommendations. Communicate your loss prevention efforts through inspection, testing, maintenance and life expectancy management of your insured property. As we move into 2024, sharing or developing a business continuity plan for critical operations, locations, and equipment are encouraged and well-received by underwriters to mitigate loss.

[1] *FMGlobal*

Casualty

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Commercial Auto

Claims activity in 2023 returned to pre-pandemic norms, and the year's combined ratio is projected to exceed 100%. Increased repair or replacement costs are contributing to higher loss costs.

Based on current consumer price indexes, these costs are expected to remain similar in 2024. Nuclear verdicts are still widespread, and while some states have succeeded with litigation reform, any impact on rates will take time. These factors indicate that single-digit rate increases will continue in 2024 for most insureds.

Specific sectors, including long-term care, healthcare and real estate, continue to experience higher rate increases as capacity continues to be challenging.

Liability

Overall pricing trends remain with low single-digit rate increases; however, predicted economic volatility could lead to higher rates due to reduced sales and payroll and corresponding premium reductions. Specific sectors, including long-term care, healthcare and real estate, continue to experience higher rate increases as capacity continues to be challenging. Less challenging classes enjoy a healthy, competitive environment. Despite some excess markets cutting back on limit sizes, the excess market continues to improve with additional competition and single-digit rate increases for many sectors.

Workers' Compensation

Workers' Compensation rates continue to drop despite the increased cost of medical care and loss control challenges presented by the labor shortage. Exposure increases from wage increases are expected in many sectors, helping bolster premiums to support increased claim costs. Single-digit rate decreases can be expected to continue.

Executive Liability

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Insurer Focus from Public to Private Business

Several established insurers, once focused on large public companies, are shifting their growth goals to target private businesses. This is attributed to the profitable nature of private companies compared to publicly traded companies. While the frequency of securities class actions continues to trend downward from the highs of 2018 and 2019, the severity of litigated matters ultimately drives insurer recalibration. Insurers targeting the private sector continue to provide expanded coverage options and reduced retentions.

Employment Practices Liability (EPL)

The ever-evolving landscape of employment litigation continues to concern customers and insurers. Emerging issues such as biometric data capture, artificial intelligence, pay equity and DEI will be at the forefront of EPL discussions in 2024.

Insurers continue to scrutinize certain states, such as California, New York, Florida, New Jersey, Texas and Ohio, for employment matters. Separate and often elevated retentions are being implemented for businesses with a high concentration of workers in these regions. Further, settlement values continue to impress, with the top ten EPL settlements in 2022 totaling nearly $600M, almost double from the previous year.[2]

Directors & Officers Liability (D&O)

As 2024 begins, public company executives have a heightened awareness surrounding cyber regulations and executive compensation, with additional challenges anticipated as the year progresses.

During the height of the hard market in 2020, the D&O liability market experienced average premium increases of 16.8%. In 2023, rate increases fell to -0.3%.[3] This downward pricing trend is expected to continue through the first half of 2024, with exceptions for specific industries (e.g., cryptocurrency, cannabis) and companies with significant claim activity or highly leveraged balance sheets.

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 specific policies, but its implications vary greatly. As a result of months of concern from insurers and Nevada-based companies, the Nevada Department of Insurance recently instituted regulation R029-23A to amend the original Bill 398, which outlines explicitly the applicable insurances subject to the bill. This does not apply to D&O, Employment Practice Liability, Fiduciary Liability and Cyber Liability insurance. Connect with your legal counsel for more information on how this could impact your business.

[2] *DuaneMorris Class Action Review 2023*

[3] *Council of Insurance Agents & Brokers, Q2 2020, Q3 2023*

Executive Compensation Clawback Requirement

The SEC started 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.

Several Bermuda insurers are developing monoline insurance policies tailored to cover executive compensation exposure. Under the SEC rules, corporations are prohibited from purchasing insurance on behalf of company executives. As a result, executives interested in buying the insurance will need to connect with an appointed broker with access to Bermuda insurers. The final mechanics of the policies are still a work in progress.

Impacts of Artificial Intelligence

Artificial intelligence (AI) continues to be a primary focus in most industries, as employers now have various algorithmic decision-making tools to assist them in making major employment decisions such as recruitment, hiring, promotions and dismissals. The EEOC resolved the first known AI-related settlement for $365,000, where a tutoring company was charged that the AI software utilized for pre-employment screenings rejected women over age 55 and men over 60. Adding to the complexity of AI, the Biden administration issued an executive order in October establishing new standards for AI safety, security and privacy. Companies utilizing AI could face new regulatory obstacles and business exposures, especially if this new technology becomes integral to a company's business enterprise.

Environmental, Social & Governance (ESG)

ESG continues to present challenges for companies. As businesses publish quantifiable ESG goals, failing to progress or achieve these targets increases the likelihood of litigation from shareholders or consumers. Conversely, some corporations have embraced the "green hushing" philosophy or are not publicizing their ESG commitments and goals.

Cyber Risk

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Rate Trends

Rates in the cyber insurance market are stabilizing on primary policies, currently averaging a reduction of 1% to 5%, although individual results are scattered. For buyers who saw meaningful decreases in 2023, pricing is anticipated to be generally flat in Q1 2024.

Carriers face considerable pressure to grow their books of business, creating competition for customers with strong controls. Insurance companies are more willing to offer broader coverage, lower retention and, in some cases, higher limits than in years past. Retentions are trending down, particularly for large risks, who previously faced the most significant increases.

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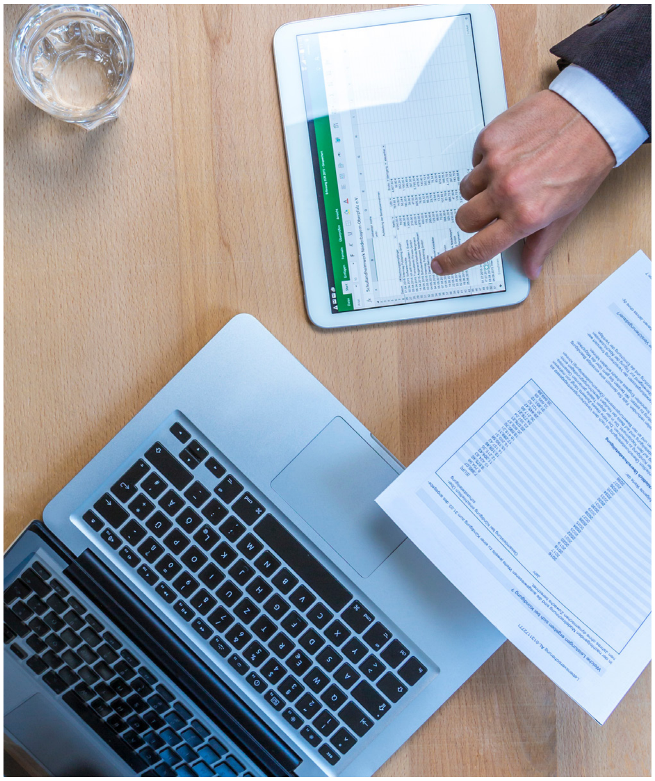
After several years of high competition from insure-techs, some traditional markets are revising pricing strategies to expand their footprint in the small and middle markets.

Competition on layered programs is increasing, often resulting in a reduction in 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 previously 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. Increased capacity gives buyers more options from a wider group of carriers.

On large accounts with sizable premiums, carriers are more willing to increase limits from $5M to $10M. For small to middle-market businesses, carriers typically maintain $5M limits. 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 & Coverage Limitations

The frequency of cyber insurance claims is still increasing, specifically in professional services, education and manufacturing sectors. Business email compromise, ransomware and cybercrime claims are expected to continue to drive claims activity throughout 2024. This increase in overall claims dollars creates some cause for concern regarding rates.

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 privacy claims activity, underwriting the exposure more diligently and, in many cases, adding language to clarify intent or narrow their coverage.

Additionally, carriers continue to raise questions 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.

While the immediate effect of new SEC cyber guidance appears limited to directors' and officers' liability policies, the market is closely watching potential impacts on cyber policies. 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.

Multinational

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Multinational Casualty

The multinational casualty marketplace remained constant throughout 2023, with the trend expected to continue into 2024. Overall, rates are holding flat from a portfolio perspective, and there are limited material fluctuations specific to individual lines of business or regional litigious developments.

From a casualty perspective, new risk profiles, primarily driven by new technologies and resulting risk considerations, continue to generate evolving exposure profiles for carriers across all global markets. These have yet to generate more than nominal rate variability as broad growth and global expansion have increased the overall exposure basis to offset these newer unknown risks. Multinational markets continue to explore efficient solutions to implement global programs effectively while availing transparency throughout the process, relying predominantly on technology as the enabler.

Impacts of Global Conflict

The conflict in the Middle East has generated numerous new considerations, mainly related to human capital and the need to evaluate operations more deeply in conflict areas. Travelers, foreign-based employees and those with third-party exposure in these locales must continue to explore proactive solutions utilizing services embedded within global insurance products and those procured separately.

The casualty market continues to provide capacity, albeit more restrictive and selective, primarily focused on supporting existing global customers and limited appetite for new global entities with material concentrated exposures in areas with active conflict. The application of war and terrorism exclusionary language has been more explicit, if not already embedded within global carrier forms.

Tax Considerations and Global Regulation

Multinationals are increasingly evaluating risk finance structure options as tax considerations continue to present an ever-increasing total cost on a weighted basis with increasing regulatory requirements and taxation for in-country insurance products. Examples include premium tax applications and increases by jurisdictional authorities in countries and regions such as Argentina, Australia, Europe and the United States. These developments trigger the further heightened upfront need for detailed analysis to ensure global programs provide cost-effective and compliant solutions in an evolving regulatory environment.

The global program premium allocation model has evolved beyond a fair and equitable evaluation, with recommendations from insurance and tax specialists essential in the increasingly complex regulatory tax environment.

Surety

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Construction & Infrastructure

The Broadband Equity, Access & Deployment (BEAD) Program, which provides upwards of $40 billion for placing affordable high-speed internet throughout the rural United States, has found a conditional programmatic waiver of their letter of credit obligations in the latter half of 2023. These changes now allow Letter of Credit (LC) requirements to be waived if the applicant commits to having a surety bond issued in its stead. Each state will decide on acceptance of surety instead of LCs through 2024 as funds continue to be disbursed. Both public and private entities sponsor these projects, but public-private partnerships have traditionally fallen into a gray area regarding surety bond programs. While the federal government offers support across infrastructure and construction initiatives, many will seek advice from other organizations leading the charge.

Real Estate & Energy

While most commercial real estate owners and managers expect falling revenues through 2024, many plan to use this time to improve technological infrastructure and methodologies. The cost of capital continues to increase, which has led to reduced overall spending throughout this year.

An additional concern is climate-related regulatory action. Many commercial real estate groups may need to meet carbon emissions targets, creating a need to move to greener energy, either from the grid or producing onsite. Those who elect solar assets to be a part of their portfolio should educate themselves on performance and payment surety bond risk through the development and construction phases to help mitigate their overall risk.

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Healthcare

Those who choose to renew letters of credit may continue to find the cost of capital concerning and will likely need help utilizing their capital or deleveraging their balance sheet. The next group of financial guarantees on CMS value-based care contracts is expected to be posted in mid-January, with some changes showing increased financial security from 3% to 4%. This only applies to those with federal CMS contracts who have also elected the provisional financial settlement.

Large insurance companies in the private payor sector have successfully opened the doors to surety-bond solutions and implored provider groups to negotiate better terms within their contracts. Typical surety bond rates fall around 1% fixed, whereas the average letter of credit is about 4% variable for the middle market.

Private Equity & Venture Capital

2024 presents an uncertain economic environment, resulting in differing expectations between buyers and sellers. Private equity firms are holding on to their assets longer, upwards of seven years compared to the usual five, which brings concerns that private equity firms do not want to sell due to non-optimal pricing. The exit value in 2023 has decreased by approximately $100M from 2022. This prolonged holding of assets leads to fewer sales, leaving less capital to push into new funds to stage new purchases.

Companies seeking new or additional VC funds in 2024 may face complications due to these holding patterns. Those with surety programs may ultimately see reduced capacity as funds stay in holding patterns and funding timelines continue to lengthen.

Aviation

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In the aviation sector, positive trends are expected to shape the market across various segments during the first quarter of 2024. There has been an overall improvement, with rate increases observed in historically challenging areas such as aviation general liability.

Domestic aviation insurers are strategically focused on achieving single-digit rate increases during renewals, intensifying competition for coveted business segments, including professional flown industrial aid risks, small airports and aerospace product manufacturers. The market has witnessed significant adjustments in coverage offerings, limits and rates, particularly impacting large fleets, airlines, large airports and loss-sensitive risks.

Market Impacts

Ongoing geopolitical events have significantly influenced market dynamics. The Russia/Ukraine conflict and its impacts on the aviation reinsurance marketplace have led to double-digit premium rate increases. European Union sanctions have stranded over 400 leased aircraft in Russia, valued at $10 billion, resulting in substantial hull war claims totaling $6.5 billion. Furthermore, the settlement of a $10 billion insurance claim by Aercap, related to Russia's refusal to return planes stranded after the Ukraine invasion, has marked a consequential development.

The Boeing 737 Max grounding has undergone an escalation in losses, increasing from $1.3 billion to $3 billion. This has had cascading effects on contingent liability, war risk and terrorism premiums. The exit of Tokio Marine from the aviation retroactive insurance market, prompted by losses associated with the Boeing incident, has contributed to a reduction in capacity within this sector. The 2023 Sudan conflict has also profoundly impacted the market, resulting in significant losses, including a $300 million loss from a new Airbus A330 and several Boeing airline aircraft declared total losses. The global repercussions of the Sudan Crisis on aviation carriers are anticipated to unfold in 2024. War risk renewals are also experiencing upward adjustments, with aviation insurers modifying hull war rates to counteract losses.

Challenges and Opportunities

The first quarter of 2024 presents new challenges and opportunities. Inflation has become the latest hurdle in the already challenging insurance market, propelling a continued premium increase. The aviation industry is grappling with rising oil prices, impacting overall profitability. A labor shortage stemming from increased demand for air travel and a limited supply of pilots and technicians has prompted underwriters to tighten training requirements, resulting in higher training costs for simulators and instructors.

Despite these challenges, the aviation insurance market is witnessing new entrants and a recalibration of capacity. As we progress through 2024, there is a sense of optimism as books are balanced, risks are undertaken, and retentive measures are strengthened.

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.

Find Your Solution at BBrown.com