Market Update

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McGriff.com

Content

About McGriff

When it comes to protecting what matters most in business and everyday life, we believe our clients should never settle for less than the best. For more than a century, we've relied on expertise, resources, and relationships to deliver insurance and risk management solutions focused on our clients' priorities and what they value most.

McGriff is a subsidiary of Truist Insurance Holdings, the fifth largest insurance broker in the U.S.* Our solutions include commercial property and casualty, corporate bonding and surety, cyber, management liability, captives and alternative risk transfer programs, employee benefits, small business insurance, and personal lines.

Our experienced risk management specialists develop highly tailored solutions while listening, learning, and executing with precision under the guidance of our four core principles:

Integrity: We do what we say, every time.

Determination: We relentlessly pursue success on your behalf.

Passion: We are specialists in our field driven to serve you.

Collaboration: We build strong relationships with teammates, partners, and you to create the best solutions.

Join the thousands of businesses, organizations, and individuals across the country who choose McGriff, a firm dedicated to building long-term relationships and helping protect your most valuable assets.

With McGriff, you'll never have to settle for less.

**Source: Truist Insurance Holdings, LLC ranking as listed in BusinessInsurance.com. July 2023*

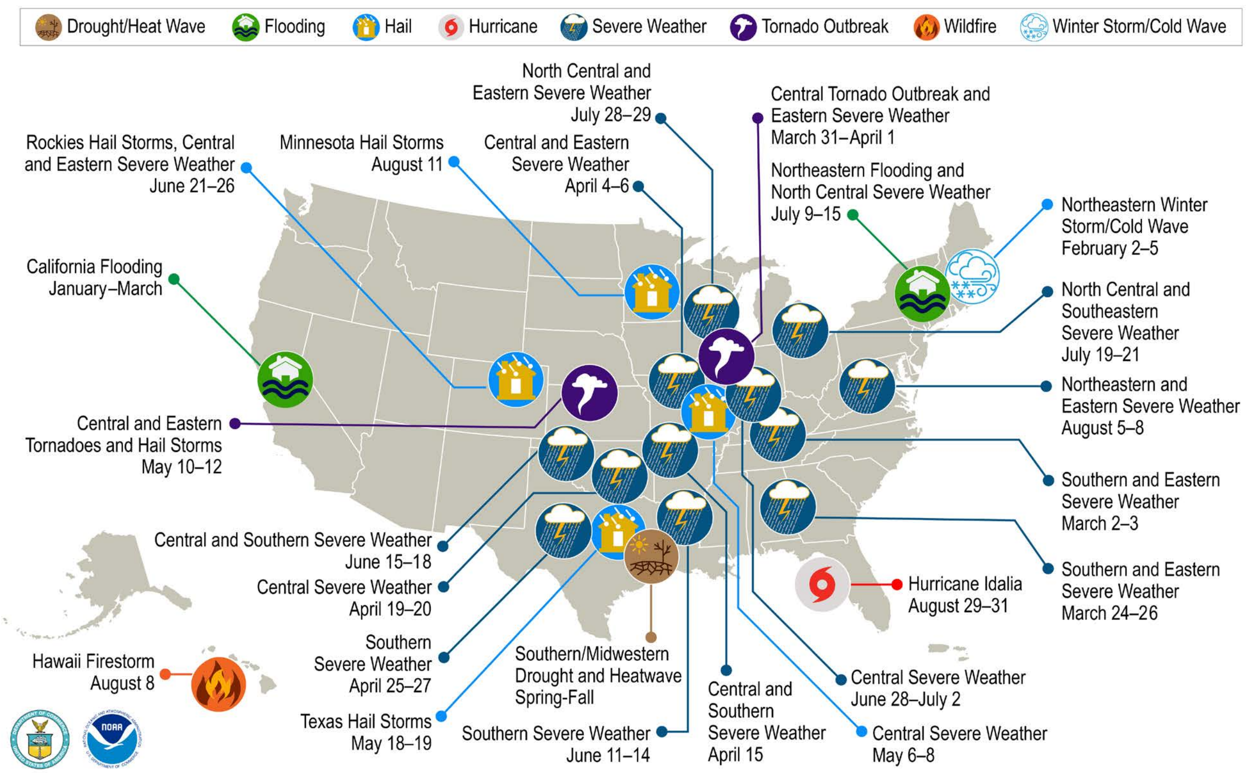
Market Overview

The Commercial Property and Automobile insurance markets are challenging as insurers continue to manage frequent and severe losses. Commercial Property rates increased an average of 18.3% for Q2 2023, according to The Council of Insurance Agents & Brokers (CIAB). Commercial Auto rates increased on average 10.4%.

Property

In the first nine months of 2023, we experienced 24 billion-dollar weather and climate disasters, according to the National Oceanic and Atmospheric Administration (NOAA). These events mark the most disasters of that magnitude on record for a calendar year, totaling more than $67.1 billion in monetary losses. The previous record was set in 2020, with 22 billion-dollar weather and climate events.

U.S. 2023 Billion-Dollar Weather and Climate Disasters



*This map denotes the approximate location for each of the **24 separate billion-dollar weather and climate disasters that impacted the United States through September 2023.***

Source: NOAA

Severe convective storms caused $35 billion in global insured losses worldwide — nearly 70% of all insured losses — in the first half of 2023, according to a Swiss Re Institute report.[1] U.S. thunderstorms are the main driver of global insured losses from natural catastrophes, well above the 10-year average, according to Swiss Re.

The costs of losses continue to rise, according to NOAA, due to several factors, including the effect of climate change on heatwaves, droughts, floods, and extreme precipitation; where and how property is built; and the value of the structures being built. Geographic areas once not considered catastrophe-prone areas have experienced severe flooding and other weather events.

As a result of severe weather events, inflation, and rising claims costs, the insurance market is increasing Property rates, scaling back on capacity, retreating from coastal areas, prompting nonrenewals, and placing greater emphasis on property values in underwriting. In addition, property deductibles continue to increase.

In this challenging Property environment, McGriff recommends the following key approaches.

Identify, Prepare, and Engage

Identify key areas of concern in the program and develop a plan to address them with multiple options at least 120 but up to 150 days in advance. Prepare senior management for potential impacts on budget/premiums, coverages, and longer quoting timelines. Even the earliest renewal submissions may come down to the wire for finalization, particularly for larger shared and layered programs with natural-catastrophe property exposures. Engage in effective and clear communication with the insurers.

Run the Numbers

Set realistic budgets based on current market conditions with multiple options. Conduct a loss analysis and consider multiple retentions and structures, including captives, parametrics, and other alternative solutions, if warranted. Many carriers now require 10+ years of losses, summarized with both gross and net of deductible loss estimates.

Data Is Key

Meet with carriers early to understand all issues and thoroughly examine potential options. Seek underwriter commitment to general renewal terms early in the process. Proactively provide renewal exposure updates, any supplementary applications, address any critical open loss control recommendations, and all supporting documentation as early as possible in the renewal process but by no later than 90 days prior to renewal. Ensure exposures are current and the submission is comprehensive and thorough.

This will ensure that you remain top of mind amidst an increasing number of underwriting submissions. In addition, differentiate yourself in the market. Let underwriters know about your risk management strategies to protect your assets.

Protecting Your Assets

McGriff's experienced Property insurance specialists will:

- Review critical operations to assist in developing or enhancing your business continuity plan.
- Assess and mitigate property risk using catastrophe modeling.
- Verify building values using Marshall & Swift software to determine adequate coverage.
- Develop solutions that best correspond with your company's goals and objectives.

Our knowledgeable claim specialists are available to consult on the following:

- Crisis events
- Catastrophic losses and ways to minimize their impact
- Litigation and expense management
- Technical coverage analysis/claim research prior to a loss being submitted to the insurance carrier
- Time element analysis to better establish the exposures that exist for business income and/or extra expense losses
- Claim auditing services including TPA and carrier claims-handling reviews
- Training and education to enhance internal and external claim management programs

Commercial Auto

In the Commercial Auto insurance market, reinsurers have been challenged by a higher frequency of large liability losses piercing primary insurance limits and hitting reinsurance limits. This has resulted in higher rates in addition to underwriters requesting detailed information on renewals. Underwriters are evaluating driver history and safety, training programs, and utilization of technology along with best practices in assessing a risk.

In addition, underwriters continue to scrutinize vehicle usage to get a better handle on Hired & Non-Owned Auto exposures. They are looking more closely at clients that may be using third parties to transport goods (freight brokering).

To help deal with the Commercial Auto market, we recommend:

- Implementing a robust driver safety program in managing commercial fleet risks; evaluating your safety program regularly.
- Providing continued driver education and training.
- Utilizing telematics and data analytics to measure drivers' safety, looking at claims trends, and proactively dealing with safety and loss control in real time.
- Incorporate cameras and other crash mitigation technology as your fleet is updated.
- Considering higher liability deductibles and alternative risk solutions such as captives.

Our experienced Commercial Auto insurance specialists can provide:

- **Loss Analysis:** We conduct an in-depth review of auto loss trends to provide you with insight into historical performance, the types of losses having the greatest impact, and where future risk management efforts might be beneficial.
- **Safety and Training Classes:** These include courses on safety leadership, driver safety training, behavioral safety training, establishing effective safety committees, and accident investigations; in addition, we offer certified consultant-led courses, such as National Safety Council Defensive Driving Courses.
- **Captive Solutions:** We have a dedicated team that advises clients who may be interested in captive or Alternative Risk Transfer (ART) options to help achieve more control over insurance costs.

[1] https://www.swissre.com/press-release/Severe-thunderstorms-account-for-up-to-70-of-all-insured-natural-catastrophe-losses-in-first-half-of-2023-Swiss-Re-Institute-estimates/cea79f3c-6486-41a8-9c6e-09df260efe30

Property & Casualty

P&C premiums increased for the 23rd consecutive quarter in Q2 2023, according to the most recent survey from The Council of Insurance Agents & Brokers (CIAB). Medium-sized accounts reported an average 8.9% increase in premiums, while large accounts experienced a 9.7% increase.

Commercial Property rates continue to see the largest rate increases, at 18.3%, according to CIAB, with expectations that this will continue throughout the rest of the year and into 2024. A lack of new capacity in the market, rising property values, and sustained higher catastrophe losses are putting pressure on rates, with coastal properties in the admitted market impacted the most.

General Liability rates experienced an average increase of 5.2%, with Umbrella rates up an average of 8.1%. Moving forward, increases in Liability rates will likely be driven by Commercial Auto, where losses are increasing.

Commercial Auto pricing increased an average of 10.4%, according to CIAB, and these rates continue to spike as insurers grapple with higher repair costs and rising claims severity from inflation as well as growing litigation exposure. Fitch Ratings, in its recent report, forecasted that the combined ratio for the Commercial Auto sector in the U.S. will exceed 106% in 2023. Claim severity has risen 72% since 2013, an annual growth rate of 6.2% and a median increase of 6.3%. "Four of the last five years exceeded the median increase, a sign the process may be accelerating," said Fitch.[1]

New capacity has entered the Cyber Liability and Directors & Officers (D&O) insurance markets in the last couple of years, and the rate of increase is continuing to subside. Cyber premiums rose by only 3.6% in Q2, the strongest sign of relief for the line seen so far, according to CIAB. D&O rates were flat or increased by 1.6%.

Workers' Compensation premiums continue to remain stable, with flat or lower rates, according to CIAB.

Average Commercial Pricing Increases

By Account Size	Small	Medium	Large	Average
Second Quarter 2023	7.2%	9.8%	9.7%	8.9%
First Quarter 2023	6.2%	9.0%	11.4%	8.8%
Fourth Quarter 2022	6.5%	8.3%	9.1%	8.0%
Third Quarter 2022	6.5%	9.0%	8.8%	8.1%
Second Quarter 2022	6.4%	7.3%	7.5%	7.1%
High	20.8%	31.7%	33.0%	28.5%
High Date	4Q01	4Q01	4Q01	
Low	-10.0%	-15.0%	-15.9%	-13.6%
Low Date	1Q08	3Q07	3Q07	

By-Line Second Quarter 2023 Rate Changes Ranged from -0.7% to +18.3%

By Account Size	Commercial Auto	Workers' Compensation	Commerical Property	General Liability	Umbrella	Average
Second Quarter 2023	10.4%	-0.7%	18.3%	5.2%	8.1%	8.3%
First Quarter 2023	8.3%	-0.5%	20.4%	4.6%	8.5%	8.3%
Fourth Quarter 2022	7.3%	-1.1%	16.0%	4.9%	9.6%	7.4%
Third Quarter 2022	7.6%	-0.7%	11.2%	5.7%	11.3%	7.0%
Second Quarter 2022	7.2%	-1.2%	8.3%	4.7%	11.3%	6.1%
High	28.6%	24.9%	45.4%	26.0%	51.9%	35.3%
Low	-11.6%	-12.3%	-15.0%	-13.6%	-13.5%	-13.2%

Source: The Council of Insurance Agents & Brokers

Rate Changes in Other Lines

By Account Size	2Q23	High	Low
Broker E&O	2.2%	15.4%	-4.5%
Business Interruption	8.0%	28.8%	-10.2%
Construction	7.6%	38.7%	-10.7%
Cyber	3.6%	34.3%	-1.5%
D&O Liability	1.6%	32.4%	-8.7%
Employment Practices	2.2%	21.9%	-8.1%
Flood	7.2%	8.6%	-2.7%
Marine	3.6%	4.5%	-10.6%
Medical Malpractice	2.7%	32.5%	-4.1%
Surety Bonds	0.7%	11.2%	-2.3%
Terrorism	1.1%	10.4%	-3.6%

Source: The Council of Insurance Agents & Brokers

Property

As noted above, property continues to show the highest average rate increase in Q2 2023 at 18.3% due to relentless natural catastrophe losses. The majority of global insured losses are driven by severe convective storms (straight-line winds, tornados, hail, and severe thunderstorms).

Exacerbating these issues is a reduction in reinsurance capacity and higher reinsurance loss attachments. As insurers retain more losses internally, they are also focusing more on open Risk Control items to minimize losses from known loss expectancies.

In addition, rising inflation, labor, and materials costs continue to drive up claim costs, with underwriters stressing the need for accurate insurance to value (ITV) that is supported by appraisals and other documentation.

Insurers also continue to push reductions in coverage such as excluding flood from the named-storm definition, roof valuation clauses (due to age), occurrence limit of liability endorsements (removing blankets), and ever increasing deductible changes including percentages, per-occurrence minimums and, in some cases, per-location deductibles for severe convective wind in non-coastal areas. We also see some carriers no longer writing Property coverage for older buildings and on coastal barrier islands or within 1,000 feet of the mainland coast.

Reinsurance renewals alone are driving starting rates at 10% plus. If carriers experienced 15% or more effective with Jan. 1, 2023 reinsurance renewals and then again at the mid-year, they are passing these rate increases to insureds.

Insureds with minimal losses, low catastrophe exposures, and favorable occupancies will likely see continue to see mid-level rate increases moving into 2024, while accounts with losses, significant Nat-Cat-exposed portfolios, or high hazard occupancies continue to experience double-digit increases.

General Liability

The severity of General Liability rate increases have moderated over the last year; although, we may see an acceleration in 2024, depending on the backlog of lawsuits being addressed post pandemic and subsequent settlement and verdict amounts. According to a report from IVANS, Q3 2023 premium renewal rates experienced an increase compared to Q2 2023, averaging 5.43% versus 5.21%.[2]

Accounts with favorable loss history continue to see moderate rate increases, while those with losses and tougher classes of business continue to experience higher rate volatility.

Automobile

The Commercial Auto insurance industry in the United States has produced a combined ratio greater than 100% in 11 of the last 12 years. The only exception was in 2021, when pandemic-related lockdowns resulted in a 25% decrease in reported Commercial Auto Liability claims, as well as related declines in judicial activity and reserve development, according to Fitch.

In addition, higher general inflation levels, increased auto part costs, skilled mechanic labor shortages, and liability costs are likely to exacerbate the negative consequences of greater loss severity on Commercial Auto performance. According to Fitch, the average statutory closed-claim payment in Commercial Auto Liability grew by 18% in calendar year 2022.[1]

- Insureds with a significant Auto exposure and losses are seeing double-digit rate increases.
- Greater underwriting scrutiny continues on vehicle usage, the quality of drivers, driver training, and utilization of telematics.
- Diminished capacity on tougher classes of business and when losses are involved continues.

Workers' Compensation

Workers' Compensation remains flat or may continue to see slight decreases for well performing accounts while some accounts with poor loss ratios are experiencing increases.

Umbrella/Excess

We expect to see an increase in rate hikes in the Umbrella and Excess layers for Commercial Auto driven risks as social inflation (large court awards and settlements) continues. Capacity for lead Umbrellas remains restrictive, with carriers typically not offering more than $5M to $10M in primary layers. Umbrella attachment points over the primary General Liability and Auto remain a concern.

Intermediate Excess Liability ($5M to $25M)

Rates in the low Excess attachments tend to follow the trend of the lead Umbrella markets, with incumbents particularly concerned with maintaining relativity of price per million over expiring. Shorter limits continue to be the norm. In general, the lead Excess Layer ($5M xs $5M) continues to see rate lift as carriers continue to restrict capacity, resulting in less competition and higher premium levels. Pricing tends to flatten out and become more competitive the further above the lead $10M layer of Umbrella/Excess coverage required in the middle-market space.

High Excess Liability (over $25M in limits)

Few carriers are providing large limits in this space (still mostly $10M to $15M layers with very few providing $25M worth of limit before attaching excess of $50M to $100M), depending on class. However, more available capacity in this space creates the opportunity to market and drive competition to mitigate rate lifts on these higher layers of coverage. Add to this, by marketing and restructuring towers, some savings may be achievable rather than relying on incumbents often only interested in maintaining relativity. With that said, typically the year-over-year final result remains less of an increase to closer to flat rather than true premium reductions. With ratable exposures on the rise again, a flat rate is even more difficult except at the higher attachments.

Cyber Liability

The Cyber insurance market continues to stabilize with low-digit increases. Additional competition in the market and greater client success with cybersecurity and mitigation practices have ushered in lower premium increases and decreased retention levels and sublimits.

Inflation

Inflation continues to impact the Property insurance market, including Builder's Risk. Industries such as Construction are dealing with rising material costs and higher labor wages. Property carriers continue to verify building values using proprietary software or industry-recognized Core Logic (aka Marshall & Swift) software to calculate reasonable insurance-to-value.

[1] https://www.fitchratings.com/research/insurance/us-commercial-auto-insurance-profits-struggle-amid-inflation-litigation-27-09-2023
[2] https://www.ivans.com/news/press-releases/2023/ivans-index-q3-2023-results-released/

Aviation

Since our Spring Market Update, rates in the Aviation insurance market have continued to stabilize, ranging from flat to modest reductions.

Although reinsurance rates increased in the first two quarters of 2023, policyholder premiums were not impacted. Capacity continues to increase, driving competition and desire for carriers to retain existing business and support a broadening appetite for new business.

Hull War Market

While the most significant rate increases continue to be within the Aviation Hull War market, primarily impacting higher-valued aircraft, we are seeing settlements from the Russia-Ukraine conflict involving Hull Aviation War losses, which could result in lower claims costs and stabilized hull war rates in the future.

Additionally, competitive stand-alone solutions for hull war products are emerging as alternate solutions to placements within current Aviation policies, further indicating stabilization of the hull war market. This could change with recent developments in Israel.

Pilot Scrutiny

Scrutiny continues to be focused on pilot age and training. Companies with unqualified pilots and those without a recurring pilot training program find capacity limited. Pilot and aircraft age is also a concern for underwriters, with limited market competition available.

Pilot shortages remain challenging as more captains retire, resulting in a dearth of qualified individuals. According to the Regional Airline Association, more than half of pilots working today will hit the mandatory retirement age of 65 in the next 15 years, and younger pilots are not making up for those aging out.

Aircraft Values

Values for aircraft have stabilized, with rates flattening since the first two quarters of 2023. Clients should remain vigilant in reviewing aircraft values to account for inflation, high repair costs, and extended repair timelines.

Looking Ahead

In the final quarter of 2023 and the first quarter of 2024, we expect to see a healthy amount of capacity which will continue to put pressure on the market to soften further. We expect improved availability of increased limits for businesses whose limits were previously reduced. Favorable rate reductions will continue for newer aircraft with well-trained and qualified pilots.

Planning ahead and partnering with an innovative broker will be key to capitalize on competition, capacity, and coverage as we navigate the softening market conditions.

Energy

The Energy sector has always had a dynamic insurance market that reacted to traditional factors such as loss trends, technology evolution, supply and demand, and broad economic factors. While the trends were not always easy to predict in real time, the cause and effect of them were relatively known and measurable outside of a few landmark events (i.e. 9/11, 2008 financial crisis).

Power, Midstream, and Downstream

In the recent months and years, the market has seen greater influence from non-traditional causes like geopolitical tensions, regulatory changes, the litigation environment leading to nuclear verdicts, technology booms, interest rate instability, and a society and economy still settling into a “new normal” post global pandemic. Traditional market factors might suggest that we should be nearing the end of this prolonged hard market – significant adjustments were made over the past 18 months and results for most carriers have improved. However, the Energy insurance market is struggling to measure the ultimate impact of these new factors. Uncertainty in a market yields conservativity, which is where we find ourselves today and looking into 2024.

Coverage Line	Capacity Outlook	Pricing Outlook	
Property (Non-Cat)	Stable	Flat to 10%	BI rate increases higher than PD
Property (Cat)	Potential Increase	10% to 35%	Depends on the final results of 2023 hurricane season
Renewables (Property)	Stable	5% to 10%	Weather factors critical
Excess Liability (Mutuals)	Potential Reduction	10% - 30%	Wide range dependent on mutual, attachment and limit
Excess Liability (Commercial)	Stable	Flat to 10%	

Property

In 2023, our Property book has seen low-to-mid single digit rate increases on average. While the rating pressure is down from 2022, the overall premium impact has been somewhat offset by a continued market effort to push up replacement cost values. While adjustments for some clients have been warranted, the market has used a broad brush in their approach on the issue and individual considerations should be considered.

Across all sectors, the Insurance Information Institute reported that replacement cost trends were less than inflation by 1.4% (as of Q3) and 3.3% in 2022. For retiring plants, we have seen an uptick in the utilization of alternative valuation methods including ACV, Debris-Removal Only, and Functional Replacement Cost. Inflationary factors continue to be a focal point on Business Interruption (BI) and clients with significant BI exposure have typically seen some combination of higher rate increases, increased waiting periods, and/or reduced Indemnity Periods. Long lead times for critical equipment (i.e. transformers) and spares continue to impact BI losses. Loss ratios for insurers in 2023 are much improved after a challenging 2022 and have been bolstered by a relatively quiet named-windstorm season.

Liability

The Maui wildfires were a tragic and landmark event for the Liability market in the Power sector as another non-California state saw a massive event. As Liability programs are largely driven by the mutuals (AEGIS, EIM, Cedar Hamilton) in terms of coverage and pricing, any changes to their view on wildfire coverage in 2024 will have a ripple effect within the entire program.

The major coverage change in 2023 was the AEGIS amended wording for Failure to Supply on the heels of Winter Storm Uri. In addition to the aforementioned wildfire coverage, areas of focus for 2024 will be PFAS (more exclusionary language), auto liability attachment levels, and ESG factors (including Climate Change exclusionary language).

Nuclear verdicts continue to impact the Excess Liability market with the top five states being Florida (punitive damages), California and Texas (trucking), New York (NYLL), and Georgia (premises liability)[1]. Average rate changes varied based on carrier and attachments with AEGIS in the 10% to 15% range, EIM 25%, and excess commercial capacity <10%. The rise in frequency of severe claims has hit EIM particularly hard and it continues to evaluate the best path toward stability for its members including higher attachments and reduced limits (both overall limit and wildfire).

Cyber Liability

AEGIS remains the only lead for insureds looking to utilize their mutuals on Cyber programs. Despite favorable loss ratios, multiple years of increases and cutting capacity in 2023 (down to $50 million from $80 million), AEGIS has maintained that their current rates are inadequate for the future. Rate increases were 15%+ in 2023 and are expected to be 10%+ in 2024. While all the mutuals have sought increased rate this year, the commercial market is down 5% – 10% on average. London markets have dominated the commercial Cyber market; however, an influx of domestic capacity/interest has improved the competitive environment for buyers.

In terms of coverage, Power/Energy insureds should be mindful of the Lloyd's mandated war exclusions which went into effect earlier this year. In response, the McGriff Cyber team crafted a manuscript war exclusion specific to the Energy industry to avoid many of the pitfalls found in the stock versions from the LMA.

Recent claims trends include a rise in successful ransomware attacks on utilities and increased costs surround incident response and regulatory compliance. Cyber attackers are targeting all types of companies in the Energy space with no discernable trends in size or sector.

Renewables

Renewables growth continues to boom with an estimated 35GW of solar and wind added in 2023. Supply chain issues have improved on the solar side (aided by the addition of several domestic manufacturing facilities) while challenges remain for onshore wind – and even more so for offshore wind. ESG initiatives have kept capacity stable despite several years of challenging underwriting results.

Weather perils are at the forefront of Renewables underwriting and insurers continue to take a conservative approach with sublimits for weather perils, including severe convective storm (SCS). Swiss Re reported that insurance and reinsurance industry paid out $35 billion in SCS losses in the first half of 2023 with 70% of those occurring in the US. While that is not specific to Renewables, the market is changing their view on secondary perils (like SCS and wildfire) to align with traditional CAT perils more closely. As markets allocate finite capacity to various underwriting disciplines, the Renewables space – which has a proven track record of SCS losses – will face material pricing increases or capacity restrictions, if not both. In order to mitigate these impacts, we are assisting clients in site selection with modeling, internal benchmarking, and in-house engineering support.

Tax Insurance

Tax insurance continues to play a significant role in facilitating transactions in the Renewable Energy space. It continues to provide certainty for tax equity investors related to qualification for and quantification of the renewable energy tax credits they are relying on as a significant part of the investment's ROI, while also providing developer credit and recapturing risk protection. With the recent issuance of IRS transferability and direct-pay guidance, Tax insurance is also being used to facilitate the purchase and sale of tax credits between buyers and sellers. Buyers of tax credits are requiring Tax insurance to mitigate the risks associated with tax credit qualification and quantification, recapture, and seller credit. Sellers of tax credits are using Tax insurance proactively as a credit enhancement tool in lieu of a parent indemnity and/or credit guaranty in order to free-up balance sheet liquidity.

Due to a lack of familiarity with the inherent risks associated with newer technologies, such as CCS, hydrogen and nuclear, and some of the novel tax credit qualification criteria under the IRA, such as PWA, energy community and domestic content bonus adders, participants in the Renewable Energy space have pushed for an expansion of coverage beyond what Tax insurance traditionally provided. Fortunately, the Tax insurance markets have responded very favorably, working with insureds and their advisors to develop creative solutions and policy mechanics to address their unique needs. For example, we are currently working with the Tax insurance markets to insure a project's qualification for the "domestic content bonus adder" even without access to the underlying manufacturer data, an issue that was initially viewed by the insurers as an obstacle that would be very hard to overcome from an underwriting perspective.

New insurer participants, both domestic and abroad, continue to enter the U.S. Tax insurance space, which has created an insured favorable market due to increased insurer demand for premium and an overall lack of material claims. It should be noted, however, that the IRS has started to more aggressively audit and challenge certain aspects of renewable energy tax credit matters (i.e. qualified basis step-ups), and given the size of the contemplated renewable energy transactions and incentives going forward, it is almost certain greater IRS scrutiny will continue to increase. The IRS received significant funding as part of the IRA to upgrade its systems, technical capabilities, and workforce. Furthermore, the IRS has explicitly stated that large transactions/corporations and complex partnership structures are going to be areas of increased IRS audit scrutiny and focus going forward. What this means for policy terms and pricing going forward is hard to say, but it almost certainly will increase the demand for Tax insurance in the future.

Upstream

Reinsurance and Capacity Overview

As detailed in our Spring 2023 report, the impact of large reinsurance price increases and structural changes negatively impacted our underwriters in the first half of 2023. There are also several upstream losses in the market that have impacted expected profitability for 2023 and are projected to erode a large percentage of non-cat related premium in 2023. While there have not been large losses related to Named Windstorms at this writing, other catastrophes such as wildfires, floods, and earthquakes around the world are aiding reinsurers narrative for more rate rises coming into the 2024 renewal season.

Named Windstorm (NWS) Capacity and Rating

While 2023 brought some shrinkage of capacity for Gulf of Mexico Named Windstorm capacity, specifically shelf assets, the addition of Probitas dashed underwriters vision of capacity constriction and resulted in lower premium increases for NWS coverage. We can expect underwriters to continue to intimate their internal struggles to maintain their NWS capacity since insurers and reinsurers' financial backers are obtaining higher return on their capacity for other classes of business, particularly for GOM Coastal properties.

Upstream Property and Well Control

For accounts that do not require over $35 million in capacity for Well Control, we find renewal rates have remained consistent through 2023 ranging from flat to a 10% increase for risks (non-windstorm exposed). However, due to high-pressure/high temperature (HPHT) well control losses earlier in the year, accounts with HPHT profile wells have proven more difficult to place with potentially higher rate rises regardless of historical loss records. Additionally, coverage forms and conditions are continuing to be under scrutiny by underwriters.

Underwriters continue to focus on property valuations, citing the need to adjust scheduled values to reflect inflationary trends for materials and services. If underwriters do not see proper adjustments on valuations and/or clients do not have a compelling narrative about flat valuations year-over-year, underwriters are quoting higher rate increases and/or adding coinsurance clauses to the terms and conditions of the policy.

Upstream Casualty

Upstream Casualty continues to be a challenge, especially for accounts with exposures near or on the water, in certain basins, and in jurisdictions where underwriters perceive a continued hostile litigation environment. Markets are continuing the push for more restrictive terms and conditions, exclusions, increased deductibles/ self-insured retentions, and even warranties containing prescriptive risk management processes.

The loss of market through J.H. Blades the first week of January is continuing to impact the market. Its absence as a dominate market that provided up to $75 million in capacity has created significant price increases and reduction of coverage. Additionally, several markets (e.g. Berkley and Travelers) have significantly reduced the total capacity per account. Optional markets for the primary General Liability and Lead Excess are quoting higher rates with reduced terms and conditions. The lower attachment excess layers continue to be difficult and expensive to place as they are now seen as burn layers due to nuclear verdicts in the court systems. On a positive note, some of the earlier liability cases are now going through the appeals process and thereby reducing the size of some verdicts. The hope is that the market will level out over time.

Strategies to Manage through the Market Cycle

What strategies have helped reduce negative impacts on our clients' renewals?

The key for renewals has been to allow extra time to assure a total grasp of the client's internal procedures and willingness to prompt change where needed, the client's ability and/or willingness to take on larger retentions where applicable, analysis of options for tightened or restricted coverage, and the willingness to consider alternative markets. McGriff remains committed to facilitating meetings with our internal loss control and analytics teams, as well as with our trading partners, to assist our insureds with internal procedures and practices that could positively impact renewal results for our insureds in 2024. McGriff also creates a range of options from underwriters to afford clients a matrix of data points to enhance decision-making.

[1] US Chamber of Commerce Institute for Legal Reform

Cyber

The Cyber insurance market continues to stabilize, with the hard market cycle of 2021-2022 mainly in the rearview mirror. Although there were some small premium increases in the first quarter of 2023, flat to negative premiums for Cyber renewals have become the norm. Carriers have a better handle on exposures, while clients have improved their cybersecurity measures to prevent and respond to threats more quickly, enabling insurers to be more competitive in their pricing.

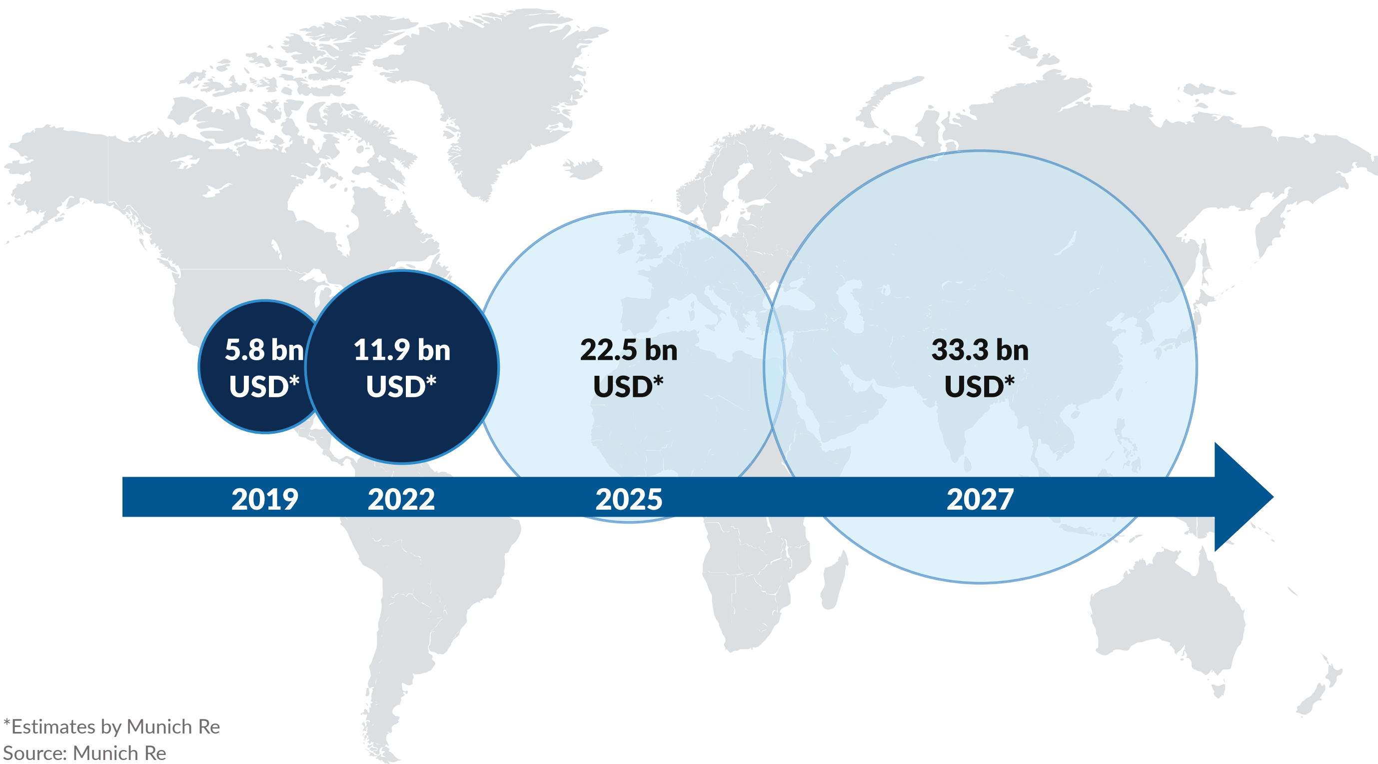
Overall, self-insured retention levels for most clients have stabilized. Cyber insurers are offering more meaningful premium savings in return for clients' taking on higher retentions.

Clients will see either flat renewals or savings, depending on industry class, revenue size, loss history, cybersecurity enhancements, and previous renewal rates (whether or not there was a big rate adjustment last year).

Demand for Cybersecurity and Insurance Continues to Grow

According to a recent cyber survey by Moody's, spending on cybersecurity by companies and organizations rose 70% between 2019 and 2023. In addition, according to reinsurer Munich Re, the total volume of Cyber insurance will reach an impressive $33 billion by 2027.[1] Government and regulatory bodies' increasing focus on systemic cyber risks and the imperative of information sharing are expected to further support the need for insurance coverage.

Global Cyber Insurance Market: Demand Continues to Grow



*Estimates by Munich Re
Source: Munich Re

War Exclusion

In August 2022, the London Market Association (LMA) emphasized five essential requirements that Lloyd's syndicates must adhere to in drafting any variations of war exclusions for stand-alone Cyber insurance policies. The LMA requires all syndicate war exclusions to address:

- Losses arising from war
- Exclusion of significant state-backed cyberattacks (major detrimental impact on the victim nation's ability to function or defend itself)
- Clarification of intent for collateral damage (computer systems located outside of the victim nation)
- Robust basis for parties to agree on how nation-state attacks will be attributed
- Clear definitions of all key terms

Lloyd's prefers one war exclusion version to be adopted by most Cyber insurance policies to restore market consistency. Given significant debate over the various versions and variations of each of these, McGriff expects it will take longer for a consensus to emerge and possibly not in 2023 as the year-end approaches.

Presently, war exclusion options vary considerably, and clients should evaluate all factors in deciding on the best approach; we recommend analysis by outside counsel and caution against non-concurrency unless unavoidable.

Trends: What to Watch

Resurgence of Ransomware Activity

While there were fewer ransomware threats in 2022, attacks are on the rise again. According to data from Chainalysis, victims paid ransomware groups $449.1 million in the first six months of this year.[2] This figure did not approach $500 million for the entire year of 2022. If the current pace of payments continues, the total sum for 2023 may reach $898.6 million, according to Chainalysis. This would make 2023 the second-highest year for ransomware earnings after 2021, when attackers extorted $939.9 million from victims.

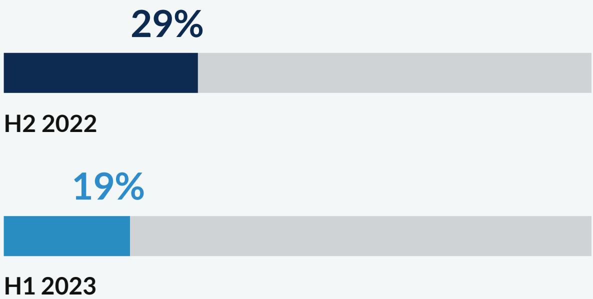
Most recently, MGM Resorts International and Caesars Entertainment were victims of ransomware attacks. Scattered Spider claimed responsibility for the MGM breach and a later one at Caesars. The hackers used ransomware developed by ALPHV, also known as BlackCat, a secretive organization infamous for offering ransomware-as-a-service. According to Scattered Spider, one of its hackers utilized "vishing," or voice-based social engineering attacks over the phone, to access data. The hackers demanded a ransom payment to return the data. MGM opted not to pay the hackers for the return of its stolen data, while Caesars decided to pay nearly half of the $30 million in ransom demand.

While overall ransom demands from cybercriminals continue to trend upward, according to data provided by cybersecurity expert Arete, ransom was paid in just 19% of cases in the first half of 2023.

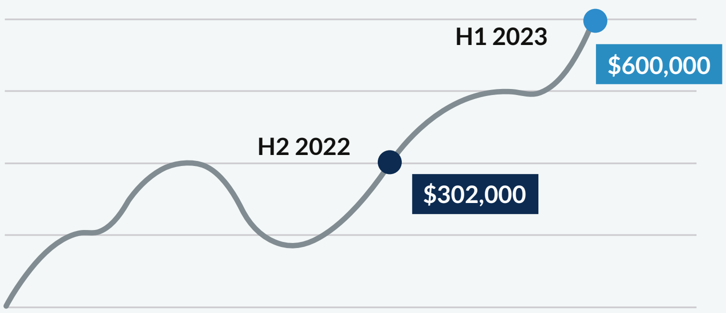
Depending on the continued frequency and severity of ransomware claims, we may see the Cyber insurance market harden once again.

Ransom Demands and Payments

Percentage of Time a Ransom is Paid



Median Ransom Demand



Source: Arete

Systemic Risk

In June, a Russian cyber-extortion ring exploited a weakness in the widely used software MOVEit. Many organizations use the application to securely transfer data and share files. Meanwhile, hundreds of commercial companies (including the BBC, Shell, British Airways, Boots, and Zellis) and government agencies (including the United States Department of Energy, the Louisiana Office of Motor Vehicles, the Oregon Department of Transportation, the Minnesota Department of Education, and the Nova Scotia government) confirmed being impacted by the attack. Unlike the sophisticated SolarWinds hacking effort, the MOVEit attack was relatively superficial and detected quickly, according to the Cybersecurity and Infrastructure Security Agency (CISA). However, it underscores how vulnerable companies and our supply chain remain to assaults.

FTC Enforcement

Pixel Tracking: The Federal Trade Commission's (FTC) pixel tracking enforcement program primarily focuses on cracking down on the transmission of health-related data to social media and advertising platforms. Class-action lawsuits were launched against healthcare organizations for using tracking codes on their websites and exchanging sensitive patient information with Facebook and Instagram for advertising. Industry is now looking at whether the FTC will restrict pixel monitoring enforcement to healthcare firms or extend enforcement to many other industries whose websites and apps track other data such as financial, location, and biometric information.

It is important to identify all trackers on your website and apps and understand what data they collect, where the data travels, and why. Once you have identified all trackers, the data they collect and communicate, and to whom it is transmitted and for what purpose, be sure your privacy policy and other publicly visible privacy representations are clear and provide users with opt-in choices. Underwriters are increasingly looking at a company's practices regarding cookie preferences and opt-in selections.

In addition, review the practices you had in place prior to implementing best-practice changes on your website and apps. This is an area that could cause issues down the road. Also, ensure there is integration between your marketing practices and legal oversight.

Children's Privacy

Regulators are looking at not only products aimed at children but also products children are likely to use. Many digital platforms will need to enhance their privacy policies. Opt-out and consent tools will not suffice, as certain state laws ban the use of children's information for marketing or sales purposes, putting the onus on businesses to build different tracking for dealing with children's data.

Artificial Intelligence

The FTC's enforcement in the artificial intelligence (AI) field is under consideration and will certainly evolve with time. Most recently, the agency said it's "keeping a close watch on the marketplace and company conduct as more AI products emerge. We are ultimately invested in understanding and preventing harms as this new technology reaches consumers and applying the law."

For now, the most likely enforcement priorities to emerge appear to be regarding advertising claims and publicly facing privacy statements about AI goods, user controls that function as intended, and the possibility for AI products to produce biased or discriminating results. Strengthening these areas should significantly lower your risk of FTC enforcement in the AI setting. Examine your AI advertising claims to ensure they are accurate and not misleading. Check the consistency of your privacy assertions with your real data practices. Also, ensure that your AI systems' outputs are neither prejudiced nor discriminatory.

New SEC Cybersecurity Rules for Public Companies

The Securities and Exchange Commission (SEC) established new cybersecurity guidelines, including one rule that requires corporations to disclose a cyber breach within four days of concluding it is serious enough to be material. According to the SEC, the rule would allow for delays if the Justice Department were to deem them necessary to preserve national security or police investigations.[3]

Companies will also be required to describe their efforts to identify and control cyber threats on a regular basis. They must also identify all board committees overseeing cybersecurity and how those committees are informed of cybersecurity risks.

In light of the new SEC rules, carefully review your Cyber insurance and other insurance policies that may help navigate a more aggressive regulatory environment. Review your Cyber insurance policy to help meet compliance obligations following a cybersecurity incident and to determine coverage for data breach response experts. These experts include privacy counsel, IT forensic investigators, crisis management, forensic accountants, and other specialists best equipped to quickly and thoroughly investigate and report on matters that require disclosure. At the same time, you should also be mindful of obligations to your carrier, which include strict requirements to report incidents promptly and the use of pre-approved breach response vendors.

Key Takeaways Regarding the SEC Rules:

- **Incident Response Plan:** Provide a thorough briefing on these new rules to all parties in charge of incident response and reporting.
- **Disclosure Controls:** Ensure that their disclosure committees, or those individuals responsible for making materiality and disclosure decisions, are directly connected to the incident reporting team.
- **Recordkeeping:** Document very carefully the date on which the company determines that an incident is material and the process used to make this determination (considering the four-day deadline for filing the incident report).
- **Four-Day Trigger:** Remain mindful that the four-day disclosure deadline operates independently of any other provisions of law (such as state or local data protection laws) that may permit or mandate a delay in notifying the public about material cybersecurity incidents.
- **Tracking Minor Cybersecurity Incidents for Potential Aggregation.** Advise your company's information security teams of the importance of tracking minor cybersecurity incidents to decide whether or not they are related under relevant SEC guidance and would need to be aggregated in the company's materiality determination with a view to potential public disclosure.

Looking Ahead

The Cyber market remains strong and continues to grow as more companies purchase coverage and strengthen their security protocols.

Organizations must continually remain vigilant evidenced by the rise in ransomware, systemic risks perpetrated by threat actors, and today's increasingly proactive regulatory environment. We have provided some of the minimum cyber risk controls that underwriters will inquire about in order to price the risk and offer coverage features to address your exposures.

Underwriting Requirements

While some markets are more flexible in their baseline credentials across all systems and networks, the following issues are still considered essential to securing Cyber insurance and maintaining incumbent breadth of coverage:

- IT budget dedicated to security, experience and tenure of IT leadership, and relevant security certifications
- Overview of privacy governance structure in place
- Multifactor authentication for remote desktop access to networks, access to web email, and use of domain administrator accounts
- Endpoint protection platform/endpoint detection and response
- Email filtering solutions for malicious links or attachments, including the ability to automatically detonate and evaluate attachments in a sandbox
- Disabling administrative rights for ordinary users
- Patch management philosophy and cadence
- Backup procedures
- Cybersecurity awareness training, including employee phishing training and testing
- Robust practices for the management and protection of service accounts within domain admin groups
- Formalized incident response plan and disaster recovery/business continuity plans
- Vendor management
- Analysis of cookies/pixels

[1] https://www.munichre.com/landingpage/en/cyber-insurance-risks-and-trends-2023.html

[2] https://www.chainalysis.com/blog/crypto-crime-midyear-2023-update-ransomware-scams/

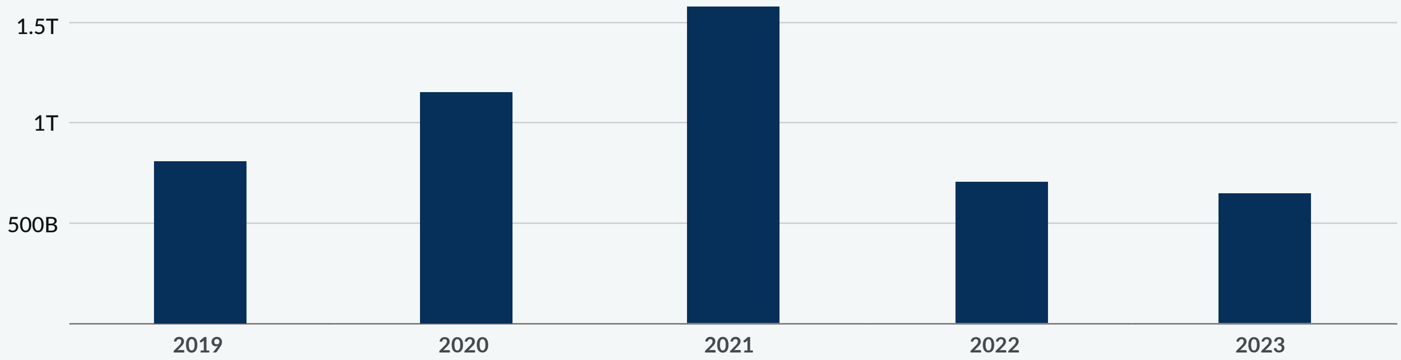
[3] http://www.sec.gov/news/press-release/2023-139

Public Company Directors and Officers Liability

The Public Directors & Officers (D&O) market continues its softening trend due to an increase in insurance capacity and reduced demand as SPAC and IPO activity have dropped. Fewer high-profile mergers and acquisitions and public offerings have occurred, due to high interest rates and greater antitrust scrutiny. To date, private equity deal volumes have slumped 48% to $313.73 billion compared to the same period last year, according to Reuters.

Global M&A Activity

(Deal volumes in Q3 since 2019)



Note: All figures in US$
Source: Dealogic

While the banking sector is underperforming and we saw several bank failures in the first quarter of 2023, the D&O market so far has not been affected.

There are several headwinds, however, that create uncertainty, along with new disclosures, updated accounting rules, and other factors that could impact the D&O market and put pressure on rate adequacy.

Resurgence of an Active Regulatory Environment

The current regulatory environment is much more difficult today, with a litany of new rules from the Federal Trade Commission (FTC), the Department of Justice (DOJ), and the Securities and Exchange Commission (SEC).

Antitrust Scrutiny

Private equity deals and transactions in the healthcare and technology sectors continue to attract heightened antitrust scrutiny. The FTC initiated landmark monopoly litigation against Amazon, accusing the company of fighting efforts by sellers on its online marketplace to offer products less expensively on other platforms. The FTC has asked the court to issue a "permanent injunction ordering Amazon to stop its unlawful conduct."

The FTC and European antitrust authorities are also currently scrutinizing Pfizer's $43 billion acquisition of Seagen. In July, the U.S. antitrust watchdog requested additional information as part of its merger investigation.

It's important to note that the FTC settled its antitrust lawsuit against Amgen's $27.8 billion acquisition of Horizon Therapeutics. A judge also ruled against the FTC's challenge involving Microsoft's acquisition of gaming studio Activision Blizzard. The watchdog is appealing the Microsoft-Activision ruling, although the tech giant has stated it expects the acquisition to go through.

SEC Cybersecurity and Disclosure Rules

The new laws mandate that all publicly traded corporations in the U.S. report cyber incidents. Domestic companies must disclose material cybersecurity events in Form 8-K filings. They must also disclose the material impact of a cyber event on the financial condition and operations of the organization within **four business days**.

Additionally, publicly traded corporations in the United States must provide cybersecurity risk management and governance information in their annual Form 10-K and Form 20-F filings, including board proficiency and supervision of cybersecurity issues.

Following are some high-level steps for all companies to consider:

- Boards of directors should establish a system for cyber-risk management that involves senior stakeholders.
- All cybersecurity frameworks should include training and testing.
- Companies must invest in cyber resilience and preparedness for cyber-threat response.
- Cyber threats should no longer be viewed as a surprise but rather as expected or unavoidable, necessitating business planning, supply-chain readiness, and continuity planning.
- All third-party providers should be subject to cyber rules, processes, and practices.
- Regular risk assessments, incident investigations, and recovery plans must be included in cyber strategies, policies, and procedures.
- Companies must also test the adequacy and efficacy of cybersecurity policies and processes and keep them up to date in order to comply with all applicable rules and laws.

Environmental, Social, Governance (ESG) Rules

Increased scrutiny from government agencies, investors, and consumers related to ESG issues has heightened the risk of litigation as companies deal with environmental, social, and governance initiatives. For example, there's a great deal of focus on the "governance" component of ESG and how companies handle diversity in the workforce and their boards of directors. In the past three years, more than a dozen companies have had to defend themselves against shareholder lawsuits resulting from their commitment to diversity and equity and from statements about those efforts that were purportedly misleading, according to a report by Reuters.[1]

There is also increased scrutiny over company "greenhushing," where a company is silent regarding its approach to environmental goals, and "greenwashing," in which a company overstates its investment in environmentally friendly initiatives and sustainability or makes false or inflated claims about the environmentally beneficial nature of its products, services, or business generally. Companies committed to providing suitably qualified and reliably supported environmental advertising claims have frequently succeeded in response to greenwashing challenges. Wherever possible, such assertions should be substantiated publicly, transparently, and specifically. On the other hand, leaving environmental advertising claims unclear, unqualified, or incomplete is potentially inviting a lawsuit.

New cybersecurity rules from the SEC, adopted in July and set to take effect on December 15, 2023, require publicly listed companies to comply with numerous incident reporting and governance disclosure requirements.

Expansion of Clawback Rule

The SEC issued the final rules for implementing the clawback provision mandated by the Dodd-Frank Act. In broad terms, the final rule requires publicly traded businesses to create, implement, and publicize a policy for recouping erroneously granted incentive-based compensation to past and current senior officers following "an accounting restatement due to material noncompliance." The rule looks back three years from the year preceding the restatement's effective date.

The SEC regulation increases the number of affected companies and individuals within a company. The ruling applies to all listed companies, including emerging growth companies, smaller reporting companies, foreign private issuers (with a limited caveat), and controlled companies, as well as companies whose only listed securities are debt securities or preferred stock. In addition, although the term "executive" is not explicitly defined by the SEC, the new ruling applies at minimum to the president; principal financial officer; principal accounting officer or controller; vice president of the companies in charge of a principal business unit, division or function; and any officer who performs a policymaking function.

The SEC rule is a no-fault regulation that does not assess wrongdoing. It expressly prevents a public corporation from indemnifying officers in the event that the clawback rule is applied and from paying or reimbursing the premium for D&O insurance on their behalf. Any existing D&O coverage that provides indemnity for the return of erroneously awarded compensation in an actual compensation clawback incident would be rendered ineffective once the final exchange regulations are implemented.

The D&O market is currently looking at addressing this exposure and may offer a solution by year-end.

Corporate Alternative Minimum Tax (CAMT)

As discussed in our Spring Market Update, a key provision of the Inflation Reduction Act is for billion-dollar corporations to pay a 15% minimum tax on the adjusted financial statement income they report to shareholders. There is uncertainty about whether the CAMT calculation used will lead to increased tax liability and result in shareholder lawsuits alleging a breach in fiduciary duties for failing to manage the company's tax liability properly.

Claims Activity

Although the claims environment has improved, we have seen trends continue in two areas. According to Cornerstone Research, the first half of 2023 experienced an increase in securities class-action filings over the second half of 2022. However, the pace of filings is in line with the semi-annual average from 1997 to 2022 (and considerably lower than the peak in 2019).

Derivative litigation has continued to be a problem for carriers due to (1) the increase in frequency/severity of claims and (2) most derivative settlements are Side-A claims. Since 2019, there have been 11 settlements in excess of $100 million. Nine of the top 10 settlements over the last 20 years have been paid during the previous four years.

Looking Ahead

The D&O market for public companies remains soft as we close 2023, with rate savings expected to persist as we head into 2024. Companies should take this opportunity to ensure their insurance program fits their risk profile. Don't underestimate the frequency of losses in a highly regulatory and litigious environment and high legal costs.

[1] www.reuters.com/legal/legalindustry/litigation-risks-that-companies-face-an-age-esg-2023-09-26/

Construction

The total construction spending rate is up 5.5% year over year as of July 2023, according to data from the U.S. Census Bureau. The increase is due in part to projects previously planned, designed, and permitted. Although the general economy is declining, the construction economy is still increasing.

The current state of the construction economy is healthy. As noted, the total construction spend throughout the industry is up from $1.86 trillion (June 2022) to $1.97 trillion (June 2023).

On the residential side, private single-home spending was down 15%, while multifamily spending was up 24% year over year. The non-residential spending rate is up 16.5%, with lodging, healthcare, educational, sewage and waste disposal, conservation and development, water supply, and highway and street spending experiencing the most significant increases over the last year. The Build America, Buy America part of the $1.2 trillion Infrastructure Investment and Jobs Act is responsible for boosting public entity spending.

Insurance Market Overview

Interest rates and insurance are correlated. Due to regulated investing requirements, insurance companies are limited to fixed-income investments such as bonds and treasury notes. Given the current state of the bond market, due to the inverse relationship between interest rate and bond premium, insurance carriers are relying more on their underwriting income to remain lucrative.

> Changes in interest rates can impact the profitability of the insurance marketplace. Insurance carriers rely on underwriting income as well as investment income to remain profitable.

The global Property insurance market continues to be hit hard, as billion-dollar weather events have increased in both frequency and severity. High construction (materials and labor) inflation following the pandemic has further fueled losses and ultimately resulted in rate increases. Capacity restrictions from reinsurance further exacerbate the situation, specifically in the Builder's Risk market.

Valuation issues continue. Many insurers believe full correction on insurance to value (ITV) is years away to adequately underwrite and price a risk. Clients should remain ahead of ITV by showing markets that replacement costs they provide are accurate estimates of the cost of reconstructing after a catastrophe.

Builder's Risk

As of October 10, there have been 24 confirmed weather/climate disaster events with losses exceeding $1 billion each to affect the United States; the 1980–2022 annual average was 8.1 events per calendar year. Hurricane Idalia and the Hawaiian firestorms are just two examples of these catastrophic, insurance upending events.

Catastrophe exposures and capacity constraints have put a great deal of pressure on the markets offering Builder's Risk insurance. It is much more challenging for high-hazard projects in catastrophe-prone areas, with rate increases reaching 25% or more. Non-high-hazard projects in catastrophe areas have experienced 5% to 15% increases.

We are also seeing increasingly more issues with project extensions for Builder's Risk coverage and obtaining favorable terms for carriers to provide extended policy periods. Some insurers are issuing surcharges on rates or increasing deductibles for extensions.

Insuring wood frame construction remains difficult, with fewer insurers willing to write a frame project. As a result, projects over a certain size may require the capacity of multiple insurance companies to provide the necessary limit.

Water damage losses continue challenging the Builder's Risk market, with insurers increasing the deductibles.
Aside from floods, plumbing failures cause about 50% of all Builder's Risk claims.

Liability: General, Excess, & Auto

The rates for General Liability and Excess Liability markets have moderated with single-digit increases. The Construction industry is experiencing greater stability and consistency from insurers. The Umbrella/Excess market continues to be controlled mostly by the insurer that writes the primary casualty lines. The capacity for unsupported lead Umbrellas remains slim, however, some markets do participate, with additional expressed desire to offer capacity for leading contractors. New entrants into the Excess market have provided additional capacity and competition.

However, Commercial Auto insurance continues to experience double-digit increases as large verdicts drive up rates. Auto Liability remains one of the more challenging and unprofitable lines of business in the insurance market. Rising costs of healthcare coupled with the increasing frequency of nuclear verdicts continue to have negative impacts on premium. Underwriters are stringently analyzing insured's safety procedures and paying particular attention to those with a large and heavy fleet. It is critical to have the right attachment point for Auto to obtain Excess coverage. Many carriers are also mandating the use of telematics.

Professional & Pollution Liability

Rising loss costs and increasing exposures pressed pricing upward in the Professional Liability space; however, new capacity entering the market has dampened the increase, creating a moderate pricing environment overall. Rates for Professional Liability insurance are flat to a 10% increase.

The Pollution Liability market remains stable with low single-digit rate increases for companies that have a clean loss history. The market has had many new entrants over the past decade and remains competitive.

Cyber Liability

Cyber Liability insurance continues to soften as we see rate reductions for most contractors – a complete turnaround from a couple of years ago. The market change is due to improved loss ratios, greater client cybersecurity measures, and increased capacity in the Cyber market. Carriers continue to require clients to provide documentation demonstrating that sufficient controls are in place.

Insurers increased line sizes, expanded appetite, and removed some restrictive terms required during the past few years. However, underwriting remains rigorous, focused on controls and loss history, with particular attention to biometric information collection, operational technology, supply chain risk, and geopolitical environment in Eastern Europe.

Cyber Liability insurance not only protects you in the case of a cyber security event, but carriers will also require/recommend best practices to stop a loss from occurring in the first place. In today's environment, a cyberattack is not a question of "if", it is a question of "when".

Contractors Equipment

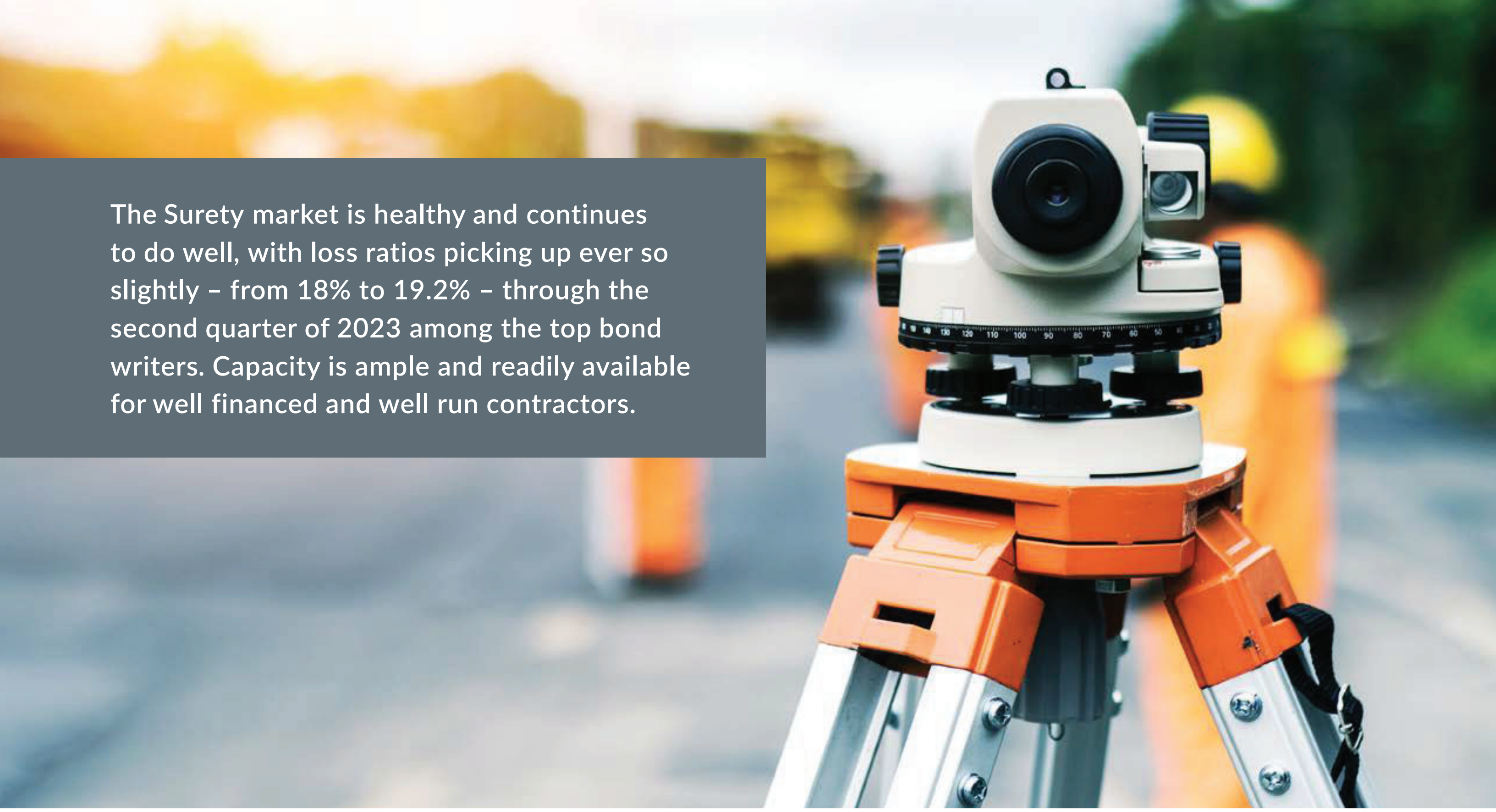
The market for Contractors Equipment continues to face rate pressure due to losses from theft, vandalism, and weather-related events. Contractors with large losses are seeing significant rate and deductible increases. Also, this segment is challenged with valuation issues on insured equipment.

Workers' Compensation

Workers' Compensation is a standout as a profitable line for insurers, as they continue to pass flat rates to slight rate reductions on to clients, barring individual loss history. This line of coverage is frequently the costliest for contractors and fortunately has been the most stable over the last decade. The ability for contractors to control the frequency of claims and having more effective return-to-work programs has helped mitigate increases due to medical cost inflation.

Contractors benefitting from lower rates are generally those with lower experience modification rates (EMR). This is a direct correlation to how safe, on average, your company is. The lower the rating, the safer the company, in comparison to their cohorts. Two things you can do to decrease your Workers' Compensation rates:

- **Focus on Safety** – Revamped training, daily tool-box-talks, use of wearables, updating safety gear, and increased discipline surrounding failure to adhere to safe practices can all lead to lower premiums.
- **Bundle Workers' Compensation** – Bundling Workers' Compensation with other lines such as Auto and General Liability under one carrier will often provide a lower rate. Bundling is not provided in monopolistic states: Washington, Wyoming, North Dakota, and Ohio.



The Surety market is healthy and continues to do well, with loss ratios picking up ever so slightly – from 18% to 19.2% – through the second quarter of 2023 among the top bond writers. Capacity is ample and readily available for well financed and well run contractors.

Surety

We are closely watching a couple of red flags that could result in an uptick in Surety costs in the future:

- There were record backlogs of projects and deterioration in balance sheets heading into the pandemic, which could have led to general construction failure. However, the PPP program, of which those in the construction industry represented roughly 45% of the recipients, helped prop up balance sheets. Now that delayed projects are back on track, many contracts for these projects did not consider today's inflationary environment, escalated labor and material costs, and labor shortages. As a result, many general contractors and subcontractors are absorbing these additional costs. In some cases, projects were canceled – all of which could impact balance sheets moving forward.

  Underwriters are paying close attention to interim financial statements and work-in-progress schedules to review legacy projects and how they will affect a contractor's balance sheet.
- Although we have not seen a tremendous uptick in defaults, when they do occur, the losses are severe, with payouts multiples of penal sums to complete the work. Sureties, in lieu of taking over a project and completing it or hiring a replacement contractor, are writing checks and walking away. When this occurs, it dramatically increases a Surety's loss ratio. If this continues, we could see increased reinsurance costs and constriction of capacity.

Looking Ahead

It is important to manage expectations when projects require Builder's Risk extensions and to consider utilizing alternative retention structures when appropriate or even shifting coverage placement for some extensions when needed. In addition, be sure to remain in front of carrier relationships and send in all information and applications well in advance of renewal. We also recommend adopting a more conservative approach when looking at projects during the bid stage and in forecasting premiums.

Public Entity

The Property insurance market remains the biggest challenge for Public Entities due to the frequency and severity of natural catastrophe losses over the last five to six years, elevated inflation, higher property replacement costs, underinsurance concerns over incorrect or outdated property valuations, and limited capacity and higher rates from reinsurers.

Property

According to the National Oceanic and Atmospheric Administration (NOAA), the United States has already seen a record number (24) of billion-dollar weather and climate disasters in 2023, totaling more than $67.1 billion.

As a result of these factors, we are seeing Property rate increases on average between 10% and 40% in the Public Entity sector, depending on natural disaster exposure and losses. In addition, carriers are reducing limits, employing more stringent terms and conditions, and deploying less capacity. For example, carriers once deploying $500 million in coverage are now offering $100 million at higher rates.

The Bottom Line

Inflation and catastrophe risk will continue to drive reinsurance Property rates. As a result, insurance buyers will experience premium hikes at upcoming renewals, with insurers pushing for higher rates in the tough Property market with no immediate end in sight.

Property Valuation

Insurers continue to look at property valuations and put pressure on insureds to raise values to align with increased construction costs. If property valuations are not assessed and updated annually, Public Entities will face significant financial challenges in the event of damage or loss.

Aging Infrastructure

The U.S. has approximately 100,000 public school systems, which serve a variety of student and civic requirements. These include hosting sporting events and community gatherings and even functioning as emergency shelters, in addition to use for education. Estimates indicate that more than half of districts will need to repair or replace several building systems, a challenging prospect given that state capital funding for schools has been dropping.[1] Without these upgrades, in the event of loss, there is the risk of underinsurance to bring buildings up to code.

Closed Campuses, Vacant Properties

The pandemic supercharged the shift from public schools to homeschooling and private and charter schools. The federal government projects public school enrollment will fall to 47.3 million by 2030, down from 50.8 million in 2019. Even districts with rising attendance numbers in recent years are expected to shed students.

As a result, more public schools will lose funding as they continue to lose students and be forced to shutter altogether. These vacant and abandoned properties pose greater fire and vandalism exposure and a higher risk for insurers.

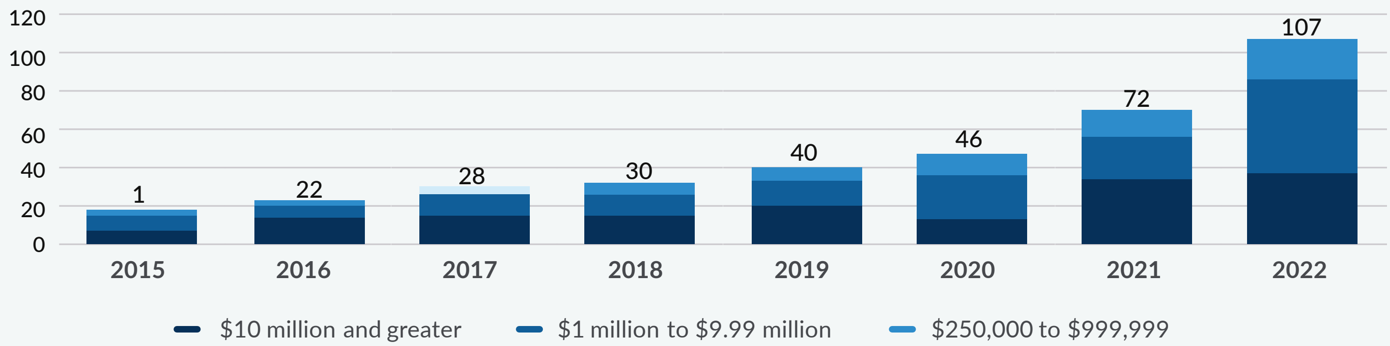
Liability

Both higher education institutions and K-12 schools continue to experience losses related to sexual abuse and molestation claims, accounting for roughly 20% of all claim costs over the past few years, according to the Large Loss Report 2023 from United Educators (UE). These claims are the driving force behind increased Liability rates for schools.

According to the UE report, other top causes of loss for claims include discrimination and wrongful termination for Educator's Legal Liability coverage and slips, trips, and falls; accidents; civil assaults; and athletic activity for General Liability insurance.

Sixty-nine of the damage awards, settlements, or ransomware payouts included in the UE report surpassed $1 million. This is much more than the previous two years' total of verdicts or settlements (31 in the 2021 report and 38 in the 2022 report, respectively). The trend is a sobering reminder of how social inflation affects claims, with significant increases in settlements and defense expenses.

Trends from 2015-2022: Damage Awards and Settlement Trends



Source: United Educators

Law Enforcement Liability

How law enforcement and policing services are mobilized and delivered is changing dramatically. Staffing shortages, shifting public perception of law enforcement, and growing violence are just some significant developments affecting law enforcement. Furthermore, body and vehicle cameras have been employed to help improve police safety, enhance the quality of evidence, and limit agency liability.[2]

Employment Practices Liability

Lawsuits stemming from age discrimination, harassment, wrongful termination, failure to promote, and other employment-related charges remain key concerns for Public Entities.

Commercial Auto

The Commercial Auto insurance market remains unprofitable for insurers due to loss frequency and severity, nuclear verdicts, the increased cost of repairs, and driver shortages. However, due to their government and sovereign immunity, Public Entities have not seen the double-digit increases other industry sectors have experienced. Commercial Auto rates for Public Entities are flat to 10% increases.

Errors & Omissions (E&O)

E&O settlements are higher for public officials, driving up rates for this coverage line.

Cyber

The Cyber insurance market has stabilized considerably over the last year, with low rate increases and rate reductions. It's important for Public Entities to employ robust cybersecurity measures to mitigate the potential for losses and for the overall insurance market to maintain rate adequacy and capacity. These measures include:

- Endpoint Detection and Response Solution
- Patch Management
- Network Segmentation & Segregation
- End-of-Life Software Management
- Remote Desk Protocol Safeguard
- Email Authentication
- Data Backups
- Multifactor Authentication (MFA)
- Employee Training

Terrorism

Rate increases for stand-alone Terrorism policies are lower, in the 5% to 10% range. However, we are monitoring the recent events in Israel and the potential impact on Terrorism insurance.

Workers' Compensation

Workers' Compensation insurance continues to usher in flat rates to slight increases. There are several trends we are keeping our eye on that could impact the market both positively and negatively:

- **Telemedicine utilization** has accelerated since the pandemic and remains relevant, providing convenience and accessibility for injured employees. It helps save time and transportation costs, provides easy access to specialists, and promotes faster recovery.
- The **increased focus on mental health initiatives** can potentially help reduce workplace accidents and lower costs.
- Entities are increasingly adopting **wearable safety technology** to reduce employee injuries and Workers' Compensation claims. These electronic devices can monitor employees' behaviors, provide real-time safety instructions, and allow safety managers to adjust the work environment.
- **Medical inflation, wage inflation, and higher employee pay** are all key contributors to the cost of coverage. While medical inflation has been relatively low due to past profitability and fee schedules in some states, we anticipate increases in the future. Wage inflation has risen as businesses increase pay to attract and retain workers, potentially leading to higher Workers' Compensation premiums.
- **Large claims** in recent years, totaling $3 million or more, have impacted the cost of Workers' Compensation insurance. These claims typically arise from severe and possibly permanent on-the-job injuries.
- The past decade has brought on an **aging workforce**. According to the U.S. Bureau of Labor Statistics, the share of employees over 55 years old in the labor force is expected to increase to nearly 25% by 2024 (up from 21.7% in 2014). Such a statistic is notable, as the cost of Workers' Compensation claims generally increases as employees age.

Looking Ahead

Work with our insurance specialists at McGriff to provide alternative risk financing and insurance structures when appropriate.

[1] Business Insurance
[2] https://business.libertymutual.com/insights/11-growing-public-entity-risks-in-2023/

Real Estate & Hospitality

The Property insurance market across all occupancies continues to experience tremendous pressure, including in the Real Estate and Hospitality sectors, as a result of inflation, reinsurance costs, and severe weather events.

According to a report by reinsurer Swiss Re, $34 billion in losses in the first half of this year marked the worst on record for convective storms.

Property Insurance

In the beginning months of 2023, reinsurance renewal rates increased significantly, impacting Property premiums in the last nine to 10 months. Additionally, whereas most insureds did not cap named windstorm (NWS) limits in previous years, they are now faced with limited NWS capacity in the marketplace, which is forcing buyers to purchase only what they need.

Property Values

Inflation continues to impact property valuations. Moving into 2024, we will see a year-over-year increase in valuations if inflation continues, even for clients whose property values experienced a correction this year. Although the cost of materials is beginning to stabilize, labor costs continue to go up, increasing the cost of rebuilding and repairs, including for partial losses.

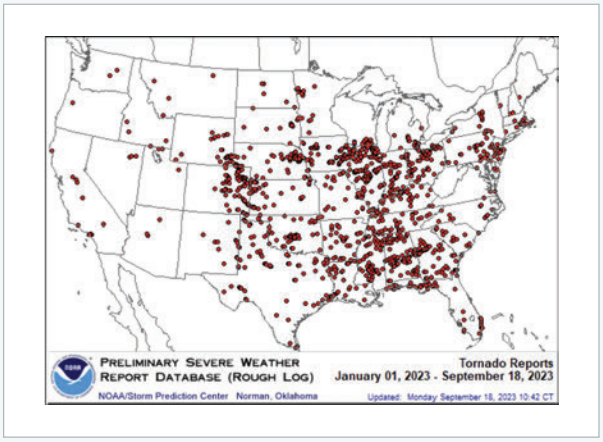
Flat values year over year will be indigestible for nearly all property markets, and valuations will continue to be a discussion at renewal. Valuations should reflect replacement cost for building and contents and updated business income values will need to be provided/reviewed by insureds. Margin clauses will continue to be a topic of discussion if insurers feel valuations are not in line.

Severe Weather Events

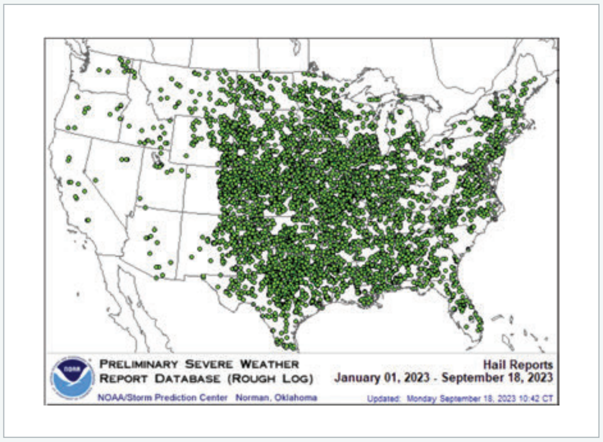
Natural catastrophes continue to batter the Property insurance market. In addition, unusual weather events hit more extensive and diverse geographic areas, such as the tropical storm in California, tornadoes in Massachusetts, hailstorms in Minnesota, and massive flooding in Vermont and, most recently, New York.

Annual Severe Weather Report Summary 2023

Tornadoes



Hail Storms



Source: https://www.spc.noaa.gov/climo/online/monthly/2023_annual_summary.html#]

Habitational Property Market

The Habitational Property market is a struggle, particularly in Florida, for properties built before 1995. Older habitational properties are typically wood frame buildings and are not up to the codes established following the devastating losses from Hurricane Andrew.

Property Market 2024

Expectations are that Property rates will continue to rise in 2024. However, barring any major weather event, rate increases should not be as dramatic as in 2023. There is also some hope that, as rates become adequate, we will see some new entrants with more capacity entering the market.

Underwriter scrutiny on property values will be a focus. In addition, impending changes to property catastrophe modeling may affect pricing.

Additionally, with 2024 as an election year, we will closely monitor the economic and inflationary landscape and its impact on insurance.

Casualty Insurance

The Casualty market has remained largely unchanged since our Spring Market Update. We continue to see single- to low double-digit increases for good risks and 15% and above for risks with a loss history on the Residential/Hospitality side for General Liability insurance. Non-Residential/Non-Hospitality risks with favorable loss history are seeing flat rates to 5% increases.

Abuse & Molestation risk is a big issue, specifically in the Hospitality sector, with carriers adding exclusions for this exposure. Ongoing litigation and nuclear verdicts are driving up costs and coverage restrictions.

The Habitational market is the most challenging sector. Good risks in low crime areas will see low-digit rate increases, from 10% to 15%, while frame buildings and risks with loss activity should expect 20% to 30% increases.

We are also beginning to see a hardening in the industrial space, with 10% to 20% rate increases for General Liability insurance.

In the Umbrella market, few carriers will provide lead terms of $25 million in capacity. There is less capacity that sits over the primary General Liability and Auto lines, with $5 million or $10 million in the lead position. Rate increases remain in the 10% to 20% range for accounts with clean loss records.

While you can find capacity of $25 million in the Excess market to sit over the lead Umbrella, carriers prefer to provide limits of $5 million or $10 million to build a tower of up to $100 million. Excess pricing is stable, with 5% to 10% increases for accounts with clean loss records.

The Commercial Auto insurance market continues to harden due to claims severity from inflation and burgeoning litigation. Accounts with a clean loss history will see rate increases from 5% to 15%. Accounts with large fleets and heavy auto exposure, such as the use of shuttles in the Hospitality sector, will experience 15% to 20% increases. Accounts with losses should expect to see rate increases upward of 20%.

As a result of an environment characterized by loss frequency and rising settlement values, underwriters are employing greater scrutiny. They are reviewing driver ages and an insured's protocols for MVR and background checks and evaluating Hired & Non-Owned Liability exposures (where employees use their cars for business purposes). Underwriters want to see if employees carry their Auto insurance with adequate limits or require company cars.

Workers' Compensation

The market is stable with rate changes of negative 5% to positive 5% and 10% increases for accounts with large losses. Some Workers' Compensation losses are driven by Auto accidents, which are reflected in the rate changes.

Looking Ahead

Get started early in the renewal process. In addition, talk with us about alternative transfer solutions and structures on the Property insurance side. Solutions may include parametrics, which uses predetermined metrics such as weather events as triggers for payouts when certain conditions are met or exceeded; captives; and higher deductibles and risk retention thresholds.

Dealer Services

The challenging Property insurance market, which continues to experience multibillion-dollar losses and higher claims costs due to our inflationary environment, has impacted Auto Dealers along with every other industry sector. Average rates across the board are up 20% in catastrophe-exposed areas and 5% in non-catastrophe areas.

Property

Auto Dealers with property losses, depending on the size of the losses, are having a challenging time finding an insurance program in the admitted market as some insurers pull out of specific geographic regions or non-renew a broad swath of clients. As a result, clients with losses are moving to the Excess & Surplus (E&S) market. Deductibles for Property insurance are also increasing for Auto Dealers with a clean loss history.

Inventory

Insurance rates for inventory range from a 5% decrease to a 20% increase, depending on the Auto Dealer's losses and those in catastrophe-prone areas.

Auto thefts have become a rampant issue nationwide. For example, in North Carolina, close to $1 million in vehicles were stolen from one dealership alone. A police investigation into the North Carolina heist uncovered six or seven different rings responsible for many auto thefts in dealerships up and down the East Coast.

Insurers are including a variation in deductibles for thefts. While in the past Auto Dealers may have had a per-auto theft deductible, now some carriers are increasing this deductible based on the number of thefts at the dealership.

Dealerships should review their risk-mitigation practices and measures to prevent vehicle theft. These include having central station burglar/fire alarms, with motion sensors on windows and doors inside and outside of the dealership; live video monitoring that will notify the police if someone is on the lot after hours; and wheel or steering wheel locks on high-value vehicles stored inside the dealership, among other measures.

Inventory values are increasing, with OEMS putting more automobiles on dealership lots. As inventory goes up, so do insurance premiums.

General Liability

We're seeing rates level off for General Liability insurance due to a more competitive market. Renewals are coming in with standard 7% to 10% increases as a result of the ongoing litigious environment. Duty to Defend coverage is critical for clients to have legal counsel regardless of whether or not the lawsuit has any merit.

Excess Liability

There is a healthy amount of competition in the Excess market with a great deal of options for Auto Dealers. Pricing has leveled off from the double and triple rate increases we experienced in years past.

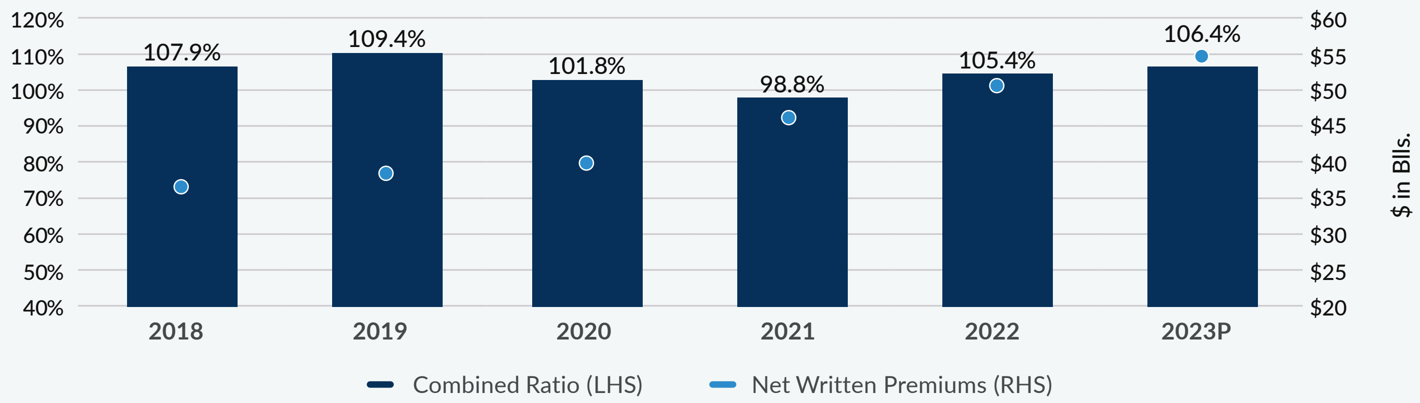
Automobile Liability

A rise in automobile accidents and related lawsuits is behind increased insurance rates. Underwriting losses for insurers in the U.S. Commercial Auto insurance segment soared to $3.3 billion in 2022, according to a recent AM Best report.[1] Within the Auto Dealer segment, auto accidents involve demo and test drivers and employees on the road while running errands for a dealership.

Pandemic-related economic lockdowns led to a 25% decline in reported Commercial Auto Liability claims in accident year 2020, and associated declines in judicial activity and reserve development led to a rare segment underwriting profit (99% combined ratio) for insurers in 2021, according to Fitch Ratings.[2] A recovery in economic and driving activity has gradually moved commercial auto claims volumes back to pre-pandemic norms, pushing the combined ratio to over 105% in 2022. This is despite continued rate increases.

P/C Industry Commercial Auto Insurance Results

CR to exceed 106% in 2023 on higher loss ratio



Note: CR - Combined ratio. Statutory accounting - Commercial auto liability and physical damage combined.
Source: Fitch Ratings, S&P Global Market Intelligence

Cyber Liability

We continue to see a stable Cyber Liability market with few rate increases. Most markets, however, are offering lower sublimits for certain exposures, such as social engineering risks. It is important to review these sublimits, as the overall policy limit may not apply to each coverage part.

As we discussed in our 2023 Spring Market Update, the Federal Trade Commission (FTC) issued new cybersecurity standards for Auto Dealers. These new standards went into effect June 9, 2023, after an FTC extension. Ensure compliance with the new FTC Safeguards Rule requirements.

Directors & Officers (D&O) Liability

D&O insurance is a critical component of an Auto Dealer's insurance and risk management program in today's litigious environment. A director or officer being named in a lawsuit without D&O insurance can result in serious issues for a dealership.

Auto Sales, UAW Strike

Automakers sold an estimated 3.9 million new cars and trucks during the third quarter, up about 17% over the year-earlier period, according to J.D. Power, a data and analytics firm. Despite rising automobile prices and a cooling labor market, American car buyers have continued to flock to dealership lots.

At the time of the writing, the strike by the United Auto Workers (UAW) targeting three Detroit automakers (GM, Ford Motor, and Chrysler parent Stellantis) has not impacted auto sales. According to research firm Wards Intelligence, the three automakers stored up inventories ahead of the work stoppage, which has so far hit plants accounting for around 16% of the companies' North American production.

Looking Ahead

As Property and Commercial Auto insurance rates continue to climb, work with a trusted broker who understands the industry, insurance marketplace, and how to navigate it properly. We can provide recommendations to help improve your risk profile and obtain the coverage you need to remain well protected.

[1] https://news.ambest.com/pr/PressContent.aspx?refnum=33891&altsrc=2
[2] https://www.fitchratings.com/research/insurance/us-commercial-auto-insurance-profits-struggle-amid-inflation-litigation-27-09-2023

Transportation

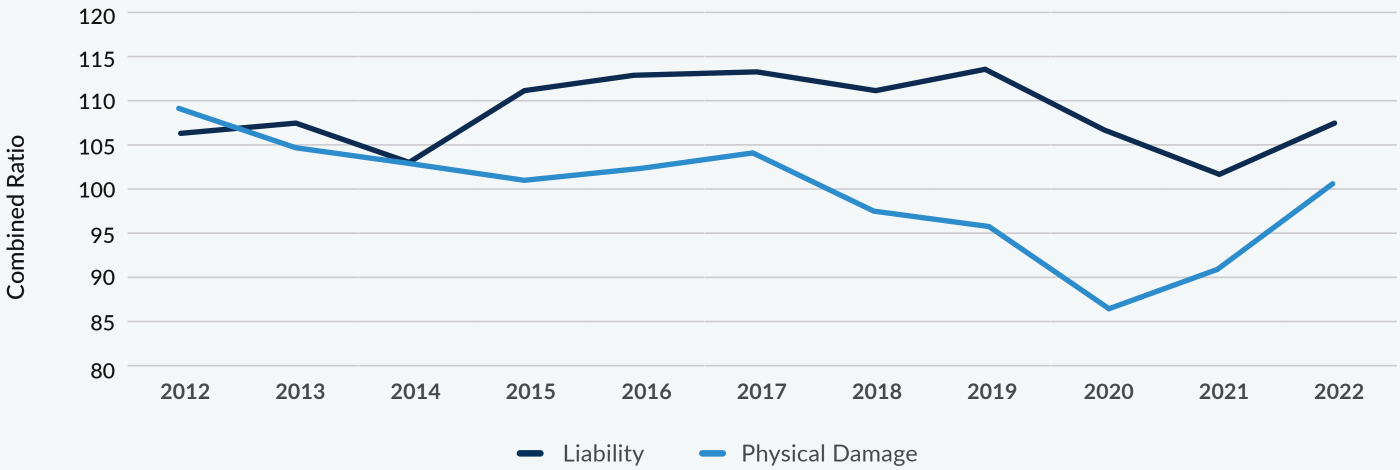
The Transportation and Logistics insurance market continues to be tough, with underwriting losses in Commercial Auto Liability back to pre-pandemic levels and rate increases insufficient to keep up with trends. As a result, we expect rate pressure to continue moving forward as insurers struggle to price the product line profitably.

In addition, specific regions of the country are more challenging than others due to their highly litigious environment. This includes Florida, Georgia, Louisiana, California, New York, New Jersey, and Illinois. Depending on fleet size and program structures, some insurers are reluctant to write coverage for clients with guaranteed cost and low-deductible plans, while others have pulled out of certain markets as their reinsurers no longer provide capacity.

Commercial Auto Liability

According to a recent report by AM Best, underwriting losses in the U.S. Commercial Auto insurance segment soared to $3.3 billion in 2022. While Commercial Auto insurance pricing has risen steadily during the past 10 years, rate increases have not kept pace with rising claims severity from inflation, growing litigation exposure, and large jury verdicts and settlements, according to the report. "In addition, with adverse development on prior-year losses driving the combined ratio higher — 105.4 in 2022 – inflation has only caused calendar-year results to worsen."[1]

Commercial Auto Net Combined Ratio, Liability vs Physical



Source: Bestlink

Commercial Auto Liability insurance unprofitability continued in 2023, with Fitch Ratings reporting that the combined ratio for this year is forecast to exceed 106%. In addition, Fitch concurs with the AM Best report, projecting the negative impact of increasing loss severity on Commercial Auto insurance performance to persist due to higher general inflation levels, supply chain and skilled mechanic labor shortages, and liability costs. According to the Fitch analysis, the average statutory closed claim payment in Commercial Auto Liability grew by 18% in calendar year 2022.[2]

"More frequent attorney involvement in transportation claims and greater potential for outsized verdicts in several jurisdictions continue to exacerbate commercial auto loss costs, with insurers' commercial auto litigation risk increasing amid the expanding presence of the litigation finance industry," the Fitch report said.

According to research from the Insurance Information Institute, increasing inflation drove Commercial Auto Liability loss and defense containment costs (DCC) higher by $35 billion to $44 billion between 2013 and 2022.[3]

Excess Liability

Insurers in the Excess Liability market continue to require higher attachment points over the primary Commercial Auto. For example, Chubb announced that it is moving forward with requiring a $20 million attachment or a $10 million corridor aggregate deductible on the Umbrella placement over the Auto.

Workers' Compensation

Workers' Compensation remains stable for the Transportation and Logistics market, with 3% to 7% rate increases.

The Transportation & Logistics Industry

Freight Rates, Volume

After more than 18 challenging months, the conditions for transportation carriers could improve dramatically by the second quarter of 2024, according to Freight Waves.[4] While there is still overcapacity in the marketplace, the situation will continue to correct itself over the next several months, Freight Waves reports.

"As capacity continues to correct, the freight rate cycle will begin to move at a faster pace (perhaps later this year; more likely late in the first quarter of 2024). Many transportation carriers should prepare for increased volume and pricing. They should continue to right-size their businesses, trim costs wherever possible, and be prepared to offer volume and service to existing and future shipper clients."

Driver Shortage

The labor shortage in the Transportation industry has not improved, with 80,000 drivers needed to make up the shortage in U.S. in 2023, according to the American Trucking Association (ATA).[5] As we discussed in our Spring Market Update, the problem isn't going away any time soon. By 2030, the ATA forecasts there will be a shortage of 160,000 drivers. The labor shortage is as a result of a various factors:

- High demand for drivers
- Lack of new drivers coming into the industry
- Drivers exiting the industry
- Retiring workforce: Globally, there are five times as many older drivers – aged 55 years and above – as younger drivers, with a higher proportion of truck drivers retiring in the next few years

According to the report "The Great Reset," published by the Council of Supply Chain Management Professionals, transportation carriers should explore ways of enhancing the utilization of their workforce to address the labor shortage. On average, over-the-road carriers use about half of drivers' available hours, and of that number, 10% to 25% is unproductive movement, according to the report. The report's authors recommend carriers deploy routing optimization solutions to reduce unproductive driver time. "Efficient implementation could nearly double the labor capacity through improved planning of driver time and reduce empty miles through optimization."[6]

In addition, carriers should look beyond strictly monetary compensation to determine what other levers they can use – such as consistency in pay and workload – that might correspond more closely with the priorities influencing drivers' decisions to take or leave a position with any specific company.

Looking Ahead

As we head into 2024, the Transportation and Logistics market will continue to face headwinds in an environment characterized by a tenuous economic climate, a litigious landscape, and social inflation. Absent any significant rate modifications to improve the insurance industry's underwriting profitability, the market will remain hard. Continue implementing robust safety and loss control measures supported by a proactive approach to claims handling.

[1] AM Best

[2] https://www.fitchratings.com/research/insurance/us-commercial-auto-insurance-profits-struggle-amid-inflation-litigation-27-09-2023

[3] https://www.iii.org/insuranceindustryblog/surge-in-u-s-auto-insurer-claim-payouts-due-to-economic-and-social-inflation/

[4] https://www.ajot.com/news/the-truck-driver-shortage-in-the-us-continues

[5] https://www.freightwaves.com/news/a-freight-market-turnaround-in-2024

[6] https://cscmp.org/

Senior Care

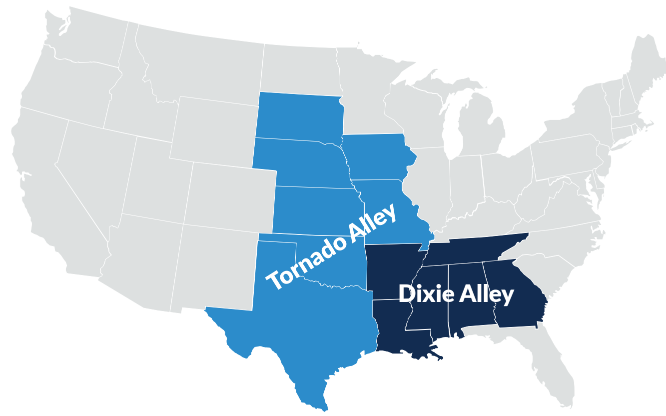
The Senior Care market has been impacted by sustained increases in property catastrophe losses, resulting in continued premium increases as we head into late 2023 and early 2024. We have seen more individual billion-dollar plus weather-related events (24) in the first half of 2023 than in all of 2022.[1]

Property Insurance

The geographic footprint for secondary perils such as convective storms is broader, reaching a larger area and causing property damage in Georgia, Tennessee, Arkansas, Louisiana, and Alabama.

Some Senior Care venues in catastrophe-prone areas can expect Property insurance rate increases of as much as 20% plus. In comparison, portfolios in non-catastrophe geographies can expect a rise of 5% to 20% even on accounts with good loss history. Expect higher wind and named windstorm deductibles not only in hurricane-prone areas but also in areas we have not seen in the past. Water damage deductibles will become much more common.

Tornado Region



According to the National Investment Center for Seniors Housing & Care (NIC), between 86% and 95% of operators across all senior care segments (independent living, assisted living, memory care, and nursing care) saw an increase in their Property insurance coverage compared to the previous year.[2]

Older, Large, Frame Buildings, New Construction

Insurers consider senior housing with wood frame architecture as a high-risk asset. Wood frames are susceptible to catastrophic fire damage. Additionally, older buildings often are not equipped with sprinkler systems. If an older, non-sprinkled, frame building is not part of a larger, newer schedule, it is difficult to place coverage, and coverage is costly. Fewer carriers are writing frame buildings, while some are not adding new locations with frame buildings, particularly those with higher values. If your current insurer writes your frame buildings, new frame assets may be covered with different terms and rates from the rest of your portfolio.

New construction is susceptible to water damage as multi-story buildings have a greater exposure, with more units suffering damage. As a result, we see higher water damage deductibles for new builds.

General Liability/Professional Liability

General Liability insurance rates are mostly flat with some decreases, with the exception of historically challenging venues.

Overall, Professional Liability insurance capacity for Senior Care facilities has reopened after contracting during the pandemic. Following considerable rate increases from 2019 to 2022, rates are now beginning to level off for operators with positive loss experience in favorable litigation venues.

It's important to note that staffing, burnout, and turnover remain big concerns in the Senior Care market. In a poll conducted in March 2023 by Leading Age, 92% of nursing homes and nearly 70% of assisted living homes reported significant or severe workforce shortages.[3] According to CNA's Aging Services Claims Report, a lack of appropriate staffing may contribute to or exacerbate allegations of failure to monitor, and may lead to an increase in unwitnessed falls, delayed identification of pressure injuries, as well as a myriad of other poor outcomes. Resident falls and pressure injuries continue to make up approximately two-thirds of all claims. Minimum staffing mandates loom on the horizon and present significant additional challenges for operators, particularly related to RN hours.

Excess Liability

New entrants have come into the Excess Liability market, but it is still challenging to build limits, particularly on an occurrence basis. Excess coverage is more restrictive than the primary coverage, fueled by loss severity and nuclear verdicts.

Commercial Automobile

Expect to continue to see increases in Commercial Automobile insurance rates. The Commercial Auto insurance market as a whole is experiencing unprecedented losses due to social inflation and large verdicts. Following eight years of combined ratios in excess of 100%, the reduced driving exposure during the early period of the pandemic led to improved results, however, with the resumption of normal driving activity, results are again over 100%. Senior Care facilities with buses and vans are experiencing the same impact of rate increases as the general auto market. Excess coverage over the primary Auto policy is exacerbating the overall challenge of Excess coverage.

Environmental Liability

Mold and legionella continue to drive environmental claims for Senior Care facilities. Water management and operation and maintenance (O&M) plans for asbestos and lead-based paint (LBP) are required for coverage and to mitigate losses.

Directors & Officers (D&O) Liability

We are generally seeing flat rates for private and nonprofit Senior Care operators in the D&O market.

Cyber Liability

The Cyber insurance market has dramatically changed in the last six months, with flat rates to significant decreases for Senior Care facilities, depending on a client's prior level of pricing and the cybersecurity controls in place. There are new entrants bringing in more capital to the market and additional rate competition.

It is important to maintain good cyber hygiene, including strong patching cadence and management best practices. Patching cadence refers to the frequency with which a company evaluates its systems, networks, and applications for updates that address security vulnerabilities. Every endpoint, whether a server or a mobile device, is powered by software that can generate back doors that hackers can exploit to get access to an organization's IT infrastructure. Establishing a patch management process acts as one of the most critical controls organizations can use to prevent a cyberattack.

Workers' Compensation

Workers' Compensation insurance rates are flat or have decreased, depending on a client's losses and payroll amounts. Payroll is generally up as providers are increasing wages in an effort to attract and retain staff.

Looking Ahead

Make sure you have frequent conversations with your broker to properly protect your portfolio.

Additionally, as asset transactions are contemplated, whether you are acquiring or disposing, discuss how these assets will be insured with us.

As always, McGriff and our dedicated team of risk professionals are here to help insureds protect existing assets and future developments through:

- An early renewal process – 90 to 120 days in advance.
- In-house property portfolio modeling to drive informed insurance purchasing decisions.
- Program design to meet your specific needs and risk profile while meeting lender terms.
- Assistance with navigating property insurance to value (ITV) and reviewing rebuilding cost estimates.
- Front-end guidance on loss control and site security to drive the best submission quality to market, ultimately obtaining the best terms for our clients.
- Accessing insurers with capital that matches your business's portfolio.
- Cost forecasting for upcoming projects and acquisitions.
- Full McGriff Senior Living Team access for Property insurance placements.
- Full marketing transparency – we work the entire marketplace.
- Key partnerships with sister companies CRC and WayPoint for stronger coastal property results as well as other key areas of coverage.
- Full transparency every step of the way as we build your risk management and insurance program.

[1] https://www.ncei.noaa.gov/access/billions/

[2] https://www.mynewmarkets.com/articles/184226/turnover-inflation-operating-costs-add-to-insurance-woes-for-senior-living-industry

[3] https://leadingage.org/its-getting-scary-in-aging-services-members-report-in-workforce-snap-poll/

Restaurants

The most critical insurance challenge for the Restaurant industry continues to be on the Property side, with significant rate increases and valuation scrutiny to address widespread undervaluation concerns. Insurers continue to focus on insurance to value (ITV); therefore, it's incumbent upon insureds to provide proper replacement cost values.

Insurers are also much more selective with their appetite and capacity deployment in catastrophe-exposed areas.

General Liability and Umbrella Insurance

We continue to see increases in General Liability and Umbrella insurance, but the good news is these increases have moderated compared to 2022. Sexual Abuse & Molestation claims remain a concern, with insurers making structural changes that exclude coverage to address this exposure.

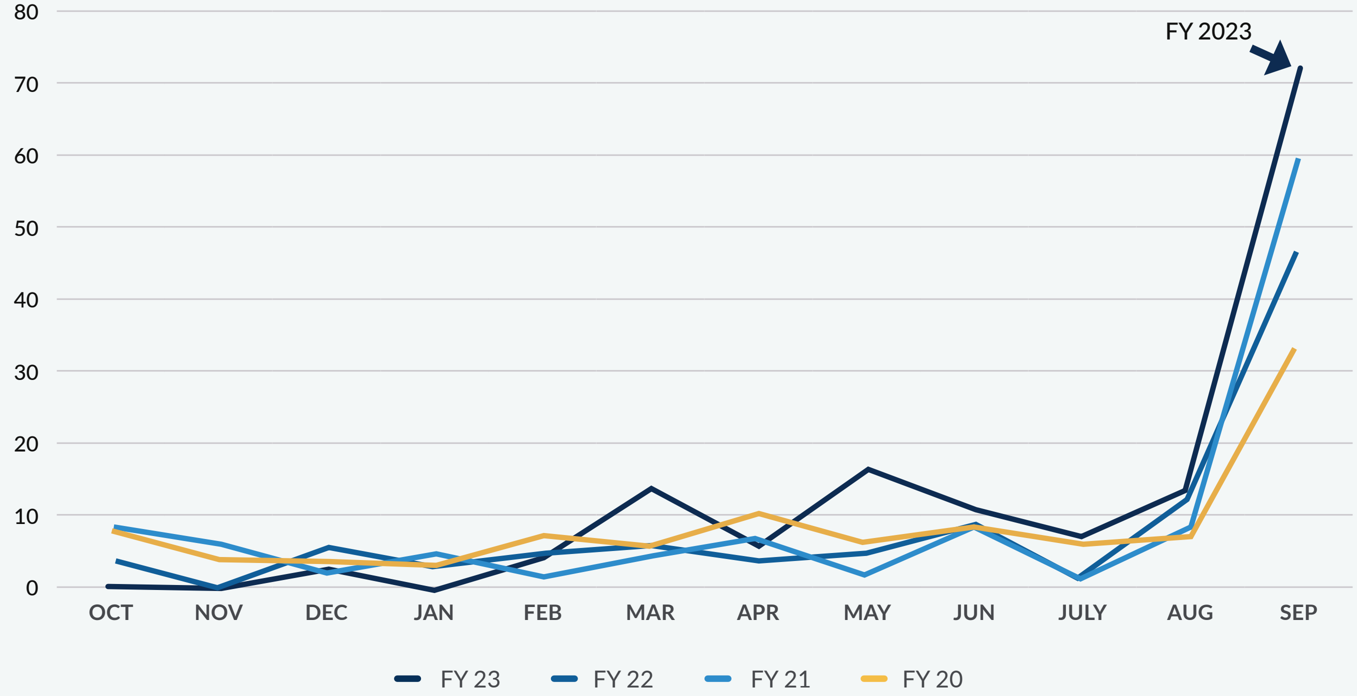
Commercial Auto

Restaurants with a low auto exposure are seeing moderate rate increases. However, those with delivery services find it difficult to secure coverage and are experiencing significant premium hikes. Insurers have limited appetite and capacity for the Non-Owned & Hired delivery sector, with very few markets available.

Employment Practices Liability

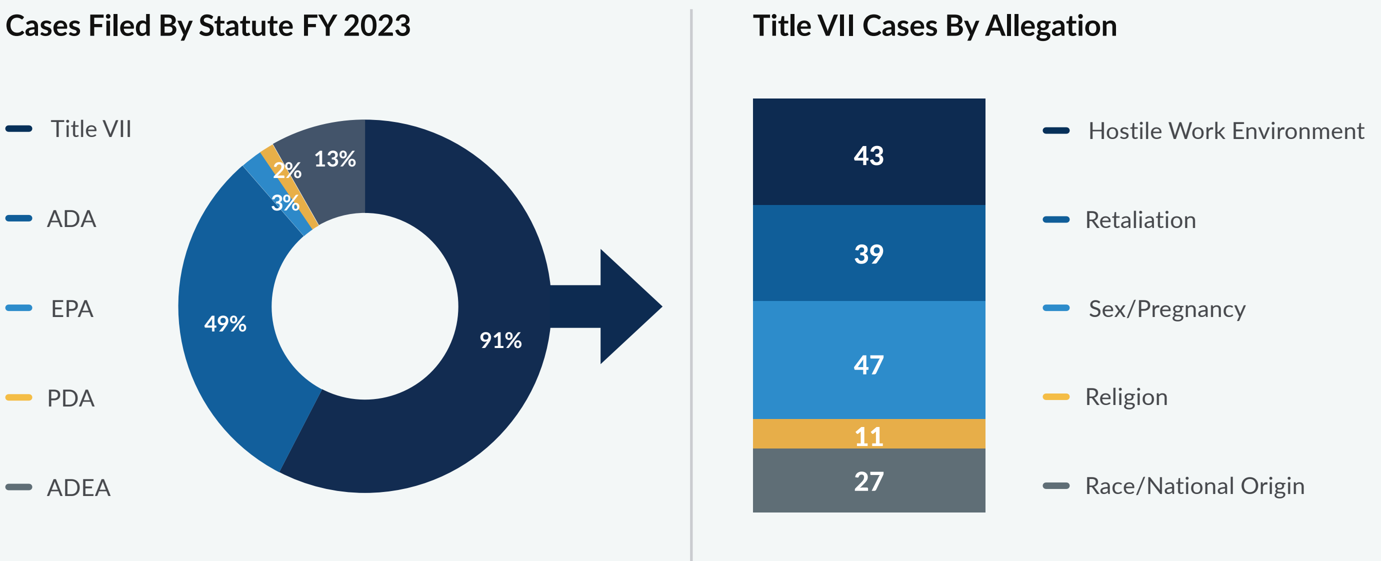
There is an uptick in conflicts between employees and management due in part to the nature of the Restaurant industry, which has a high turnover rate and continues to face a labor shortage. In addition, the Equal Employment Opportunity Commission (EEOC) has accelerated litigation with 144 filings in 2023 as of October, according to data provided by Seyfarth Shaw, LLP.

Cases Filed By Month FY 2020-2023



Source: 2023 Seyfarth Shaw LLP

The type of EEOC claims filed are primarily under Title VII and Americans with Disability Act (ADA):



Source: 2023 Seyfarth Shaw LLP

The most common industry target was Hospitality, which faced 31 EEOC-initiated new lawsuits[1]. Examples of lawsuits against hospitality entities include:

- A lawsuit against a Midwest sports bar alleges it maintains "a policy and practice of hiring female employees for front-of-house restaurant positions and steering male applicants to back-of-house restaurant positions because of sex."
- Several Nevada bar and restaurant owners face allegations that the businesses engaged in a pattern and practice of subjecting employees to discrimination and harassment because of their sexual orientation.

Looking Ahead

As we discussed, underwriters are looking for clients to evaluate and update their property's insurance to value. In addition to using replacement value estimates, businesses should also consider the following factors in determining correct property valuations: direct and indirect expenses, property age, building codes, property accessibility, and unique features.

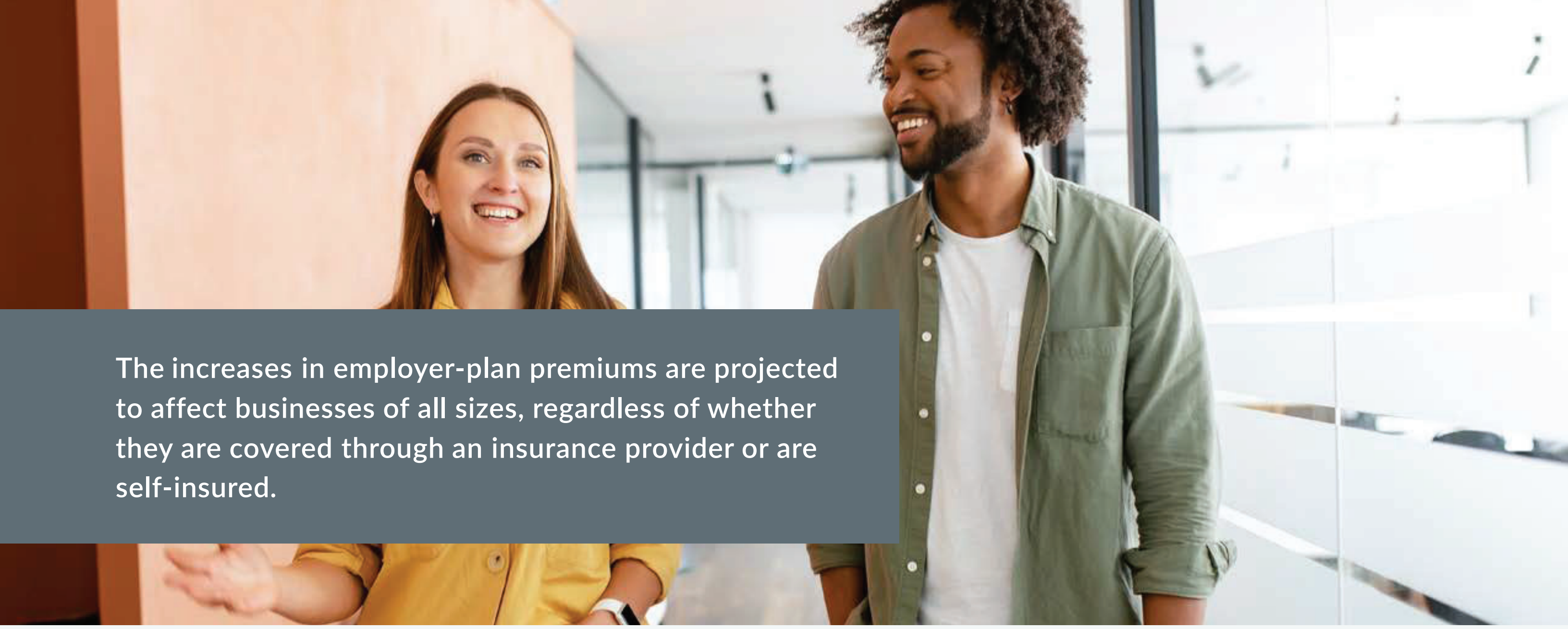
Given the uptick in employment practices-related claims activity and a more proactive EEOC, employers should review their policies, including their accommodation policies, for potential ADA issues.

[1] https://www.jdsupra.com/legalnews/eeoc-litigation-in-overdrive-9056588/

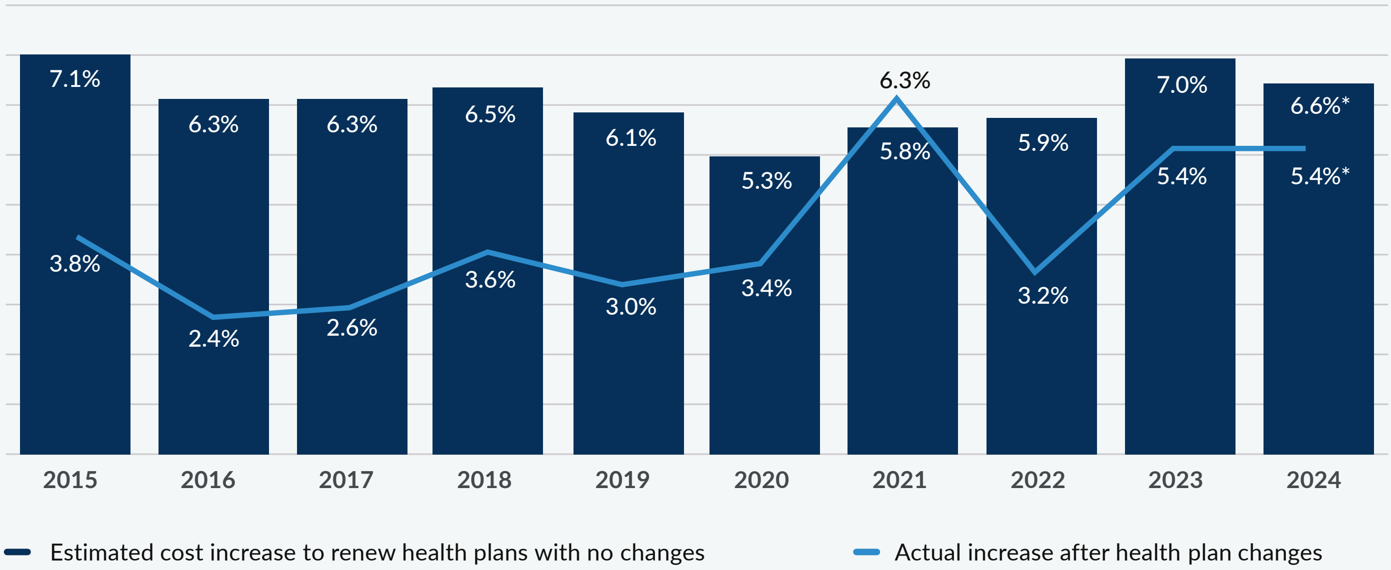
Employee Benefits

Group health benefit costs for employers are expected to rise between 5.4% and 7%, according to various reports, including from PwC's Health Research Institute (HRI) and data provided by Mercer.

The increase is due to continued medical inflation, higher hospital labor costs and labor shortages, double-digit pharmacy trends driven by specialty drugs and the increased use of weight-loss and diabetes drugs, and increased utilization of services as a result of delayed care during the pandemic, among other factors.



The increases in employer-plan premiums are projected to affect businesses of all sizes, regardless of whether they are covered through an insurance provider or are self-insured.



*Projected 2023 results are based on preliminary data. Beginning in 2020, results are based on employers with 50 or more employees.
Source: Mercer National Survey of Employer-Sponsored Health Plans

Increased Labor Costs, Workplace Shortages

During the pandemic, hospitals sought higher contract rates with health insurance providers to compensate for lost revenue and increased costs. These rates were passed on to employers through higher premiums and higher extended claims costs. During the peak of the pandemic in 2021, hospitals experienced an estimated 16% increase in labor expenses per adjusted discharge, compared to September 2019, according to the American Hospital Association. This increase was not only due to higher wages but also because of the use of temporary clinical staff through "traveling nurse agencies" that can often charge higher fees.

Continued workforce shortages are expected moving forward, with hospitals continuing to provide higher wages to retain staff and seek higher reimbursement from insurance providers. Furthermore, staff "burnout" and growing patient demand are projected to keep clinical workforces under strain across the industry.

Pharmaceutical Prices

Health plans are facing inflationary pressures as the median price of new pharmaceuticals rises, as do the prices of old drugs. While great therapeutic medications are coming online, the cost to develop them is exorbitant. The median annual price for new drugs being approved by the U.S. Food and Drug Administration's (FDA) Center for Drug Evaluation and Research (CDER) increased from $180,000 in 2021 to $222,000 in 2022. Pharmaceutical companies are seeking to recoup their costs by passing them on to payers. If not managed effectively, claims costs can soar.

Pharmacy trends are projected to continue in 2024, due to the expedited approval of new cell and gene therapies.

The increased use of weight-loss and diabetes drugs also adds pressure on costs. Drugs like Ozempic, Wegovy, and Saxenda can cost more than $1,500 per month. The national trend shows a 60% increase in utilization and 40% increase in cost for this drug class as a whole. Most employers are excluding these drugs from their plans and asking for more restrictive prior authorization criteria for a diagnosis of diabetes to prevent off-label use. However, should the FDA approve these drugs for weight loss, utilization can be expected to increase substantially going forward.

Delayed Diagnoses and Treatment

For several years, national healthcare expenses rose slowly, in part due to the pandemic's effect on doctor and hospital visits. Early-stage cancer diagnoses decreased by nearly 20% in the first year of the COVID-19 pandemic, according to the American Cancer Society.[1] However, because of disruptions in care during the pandemic, now that individuals are back on track with routine doctor visits, "patients are more likely to get diagnosed with deadly metastatic disease — across nearly all cancer types." What would have been a Stage 1 cancer diagnosis is now Stage 3, resulting in costlier and lengthier treatments.

It is important to note that ongoing cancer surveillance with longer-term data is necessary to better understand the full impact of the COVID-19 pandemic.

Physician Consolidation

Recent physician practice acquisitions, such as those undertaken by hospitals, private equity firms, and insurers, have intensified inflationary pressures during contract renewals. The percentage of physicians employed by hospitals or corporate entities climbed to 74% from 62% over a three-year period beginning in 2019. Between January 1, 2019, and January 1, 2021, hospitals and other corporate entities acquired 20,900 physician practices, according to data collected by Avalere on behalf of the Physicians Advocacy Institute (PAI). During that same time, 48,400 physicians left independent practice to work for a larger employer, the PAI found.[2]

The ongoing consolidation of physician groups is projected to exacerbate the inflationary pressure on medical costs in the short term. However, in the long run, many consolidated physician groups hope to transition to value-based care thereby reducing the total cost of care.

Positive Healthcare Trends

Outpatient Surgeries, Virtual Care

The healthcare delivery system is in a new phase with increased home care, a shift from overnight to same-day stays, and outpatient surgeries (for example, same-day knee replacements) as a result of technology advancements, new techniques, and telemedicine. Providers are pricing their 2023 and beyond plans with growing utilization of less expensive in-person settings and virtual care in mind.

Employers are also continuing to promote the use of telemedicine. Virtual visits for behavioral health have expanded in recent years, providing greater flexibility in addressing the critical need for mental healthcare, particularly among adolescent patients who have considerably increased anxiety and depression difficulties. Virtual primary care appointments are also projected to rise in the coming years.

Healthcare Transparency

As discussed in our Spring Market Update earlier this year, the Consolidated Appropriations Act (CAA) of 2021 established consumer protections regarding surprise billing and transparency in healthcare. The Transparency in Coverage (TIC) Rule compels health insurers and group health plans to provide pricing information to consumers for comparison shopping. As previously discussed, the objective is to enable consumers to make better purchasing decisions.

For plan years beginning on or after Jan. 1, 2023, most group health plans and issuers of group or individual health insurance coverage have been required to disclose personalized pricing information for 500 covered items and services to their participants, beneficiaries, and enrollees through an online consumer tool, by phone, or in paper form, upon request. Cost estimates must be provided in real time based on accurate cost-sharing information at the time of the request. For plan years beginning on or after Jan. 1, 2024, providers must provide cost-share estimates for all covered services.[3]

There are also four bills that have been introduced to address transparency of drug and PBM pricing, pharmacy clawbacks, spread pricing, and drug rebates:

- The Pharmacy Benefit Reform Act prevents spread pricing, includes reporting requirements and requires 100% pass-through of rebates from drug manufacturers.
- A second bill is the Pharmacy Benefit Manager Transparency Act of 2023, which would eliminate spread pricing and pharmacy clawbacks. It also requires PBMs to pass 100% of the rebate to the plan or payer and to disclose the cost and reimbursement of drugs, as well as any fees or discounts the PBM charges.
- A third bill focuses on PBMs that provide coverage in Medicare Part D plans. It would separate PBM income from the price of the drug and set new requirements for reporting about drug costs and pricing, formulary placement of generic drugs and financial arrangements.
- The PATIENT Act of 2023 would establish reporting requirements for prescription drugs and PBMs, as well as disclosure requirements for rebates, fees, alternative discounts or other payment from pharmaceutical companies.

Looking Ahead

Value-based healthcare has gained traction over the last couple of years. Value-based healthcare is a healthcare delivery paradigm that pays clinicians based on patient outcomes rather than a fee-for-service approach. Patients' needs and preferences are prioritized in value-based healthcare to enhance their health, lessen the effects and incidence of chronic disease, and deliver a better experience. Analyses show that around 60% of healthcare payments in 2020 included some form of quality and value component, up from 38% in 2015, according to HRI. For some plans, value-based care has proven to be a cost deflator.

Health equity is a priority for health plans; however, providers did not take into account the influence of population health efforts in their medical cost trends. The Centers for Disease Control and Prevention defines health equity as the state in which "every person has the opportunity to attain his or her full health potential and no one is disadvantaged from achieving this potential because of social position or other socially determined circumstances." Disparities in health and healthcare are influenced by a variety of factors both within and outside the healthcare system, including social, economic, and environmental factors. Inequities in the U.S. health system cost an estimated $320 billion annually and, if left unaddressed, could cost $1 trillion or more a year by 2040, according to a report by Harvard Business Review (HBR).[4]

In recent years, there has been a greater focus on and investment in addressing such inequities. On the regulatory front, the Centers for Medicare and Medicaid Services (CMS) released its Framework for Health Equity 2022-2032, which sets the foundation and priorities to strengthen the CMS's "infrastructure for assessment, creating synergies across the health care system to drive structural change, and identifying and working to eliminate barriers to CMS-supported benefits, services, and coverage."[5]

Employers can also contribute to improving equity within health plans with design changes, such as paying in full for all medications, paying for out-of-pocket expenses for low-income families, or expanding virtual care to those with barriers to accessing care because of lack of transportation and/or child care or physical disabilities. For example, according to a report by HBR, patients from racial and ethnic minority groups whose employers covered all the costs of their preventive medications after they had suffered heart attacks had 35% fewer major complications than patients with co-payments and 70% lower total healthcare costs.

We encourage you to continue to work with your employee benefits consultant to help navigate the ever-evolving healthcare landscape and provide alternative solutions to your workforce, manage costs, and maximize the value of your benefits.

[1] https://pressroom.cancer.org/releases?item=1244
[2] https://www.physiciansadvocacyinstitute.org/
[3] https://www.cms.gov/healthplan-price-transparency/plans-and-issuers
[4] https://hbr.org/2023/01/employers-can-do-more-to-advance-health-equity
[5] https://www.cms.gov/priorities/health-equity/minority-health/equity-programs/framework

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