~~20~~ 21 Points for 2020

State of the Commercial Insurance Market

1 AUTOMOBILE

Commercial auto rates will continue to rise. This coverage line has produced an underwriting loss for the industry since 2011, primarily due to distracted driving, larger jury rewards, increased mileage driven, and growing costs to repair vehicles. Recent market surveys indicate average increases of 10 percent, with difficult segments like long-haul and waste hauling seeing increases over 100%.

2 CYBER

Cyber remains the fastest growing coverage in the market. Coverage terms are expanding for first and third party risks, and post-breach support is invaluable. Businesses also benefit from the pre-breach services included with the policy, such as vulnerability and security assessments, incident response planning, and intentional phishing tests. This coverage proves more valuable each day as hackers refine their social engineering/cyber crime tactics.

3 DIRECTORS & OFFICERS

The D&O market started seeing significant rate increases last year and the trend will likely continue through 2020. In the public D&O market, last year was the third consecutive year with more than 400 new class action security filings. The year also set a new high for the number of filings, so the hardening trends will continue with higher rates and retentions, as well as reduced limits. These trends reverberate to the private D&O market, which has already been impacted by increased claims frequency and anti-corporate sentiment.

4 EMPLOYMENT PRACTICES

High-profile sexual harassment cases and the growth of social media movements like #metoo have impacted the EPL market. Effective January 1, new Federal rules on overtime pay increased the salary limits for those eligible for overtime. This change may lead to more wage and hour claims since that last salary limit increase occurred in 2004.[1]

5 FLOOD

The National Flood Insurance Program (NFIP) was reauthorized until September 30, 2020. Anything longer would have triggered the need for reforms, putting the entire funding bill in jeopardy since reforming the NFIP is increasingly political and divisive. As an alternative to NFIP, Private Flood solutions can offer broadened coverage terms, higher limits, and competitive pricing.

6 GENERAL LIABILITY

Claimants are engaging counsel more often, driving up claims frequency and expenses, extending the time it takes to resolve the claim and generally increasing loss amounts. These trends lead to poor underwriting experience for carriers, which have responded with increasing rates 5-10% on average and exiting certain classes of business. Social inflation, discussed later, has also been a cause of higher liability rates.

7 PROFESSIONAL LIABILITY

Conditions vary for professional liability because of the market's diversity. On one side, financial institutions enjoy competitive rates with stable capacity. On the other side, healthcare companies and physicians face double digit increases, higher retentions, and compressed limits. These changes are driven by unprofitable underwriting results and the recent exodus of key carriers like SwissRe and OneBeacon.

8 PROPERTY

Average property rates increased double digits in multiple market surveys, with specific scenarios with losses or older properties seeing increases over 200%. As underwriters become more selective, it is important to share the most comprehensive and up-to-date property data. Providing secondary wind characteristics and details of "hardening of assets" with improved protection can garner positive results from loss forecasting and underwriter pricing.

9 UMBRELLA & PROGRAM ISSUES

The frequency of mega-verdicts has many carriers reducing umbrella limits. Maximum lead limits offered per carrier of $10MM or lower are typical. Some specialty programs for hospitality, non-profits and association risks have cut limits in half while maintaining premium at or above the expiring. Recent industry surveys reported a 10-15% average rate increases.

10 WORKERS COMPENSATION

Workers Compensation is one coverage line consistently receiving rate reductions. These rate decreases are attributable to improvements in workplace safety, innovation, and moderating claims severity and frequency. Average rates are down in most states, and Florida received a 7.5% average rate decrease, which was its third consecutive decrease in as many years.

HARDEN uncertainty

11 CHANGING MARKETPLACE

Independent market surveys[2] consistently indicate that the commercial lines market continues to harden with increasing rates, scrutinized underwriting, and reduced capacity. Adjusting to the hard market realities may be difficult for businesses if they are not prepared and properly advised, since the last sustained hardening market occurred seven years ago.

12 RENEWAL STRATEGY

Developing your renewal strategy early and having ongoing communication with your Insurance Broker are essential to navigating the difficult market. Work together on customizing a strategic plan supported with timelines and impactful underwriting and risk management data. Loss control visits and in-person meetings or calls with incumbent and potential underwriters can also result in more favorable renewal options.

13 "TELEMATICS WITH TEETH"

Vehicle monitoring systems offered by insurance companies and third parties can help improve driver behavior and safety. To be effective, a telematics program should combine vehicle monitoring with a vehicle safety program, driver training, and reinforcement/repercussions for driver behavior. A strong telematics program with improved driving results can help mitigate the auto market's increasing rates.

14 ABUSE & MOLESTATION

The emergence of "reviver" legislation in some states that extends the statute of limitation on sexual abuse claims has insurance companies reevaluating the abuse limits they will offer. Several insurance companies have revised policy forms to clarify coverage intent, reduced limits for certain classes of business, or eliminated the abuse and molestation coverage altogether. Confirm limit expectations with your insurance company early, so you can adequately plan and understand the potential impact to contract requirements.

15 LONDON MARKET SHIFTS

Amid a "once-in-a-generation cycle of change," Lloyd's intentionally reduced its topline premium last year for the first time in its history. [3] The goal was to return to an underwriting profit. The effects were immediate as certain carriers left Lloyd's, some underwriting divisions had limits reduced while others exited coverage lines entirely. Insurance rates rose dramatically to replace the lost capacity of the vital Lloyd's Marketplace.

16 "GIG ECONOMY"

This includes short-term jobs like ride-share driving, food and product delivery or freelancing, usually as independent contractors. Because this growing industry spans blue collar and professional services, it is critically important to verify that appropriate coverage and endorsements are in place. Coverage lines most impacted are workers compensation, automobile, and general and professional liability.

17 SOCIAL INFLATION

Social Inflation, the latest insurance buzzword that describes the rising costs of claims, will impact the liability market for the foreseeable future. These higher claims trends are the result of increased litigation, broader definition of liability and contract interpretation, anti-corporate sentiment by the public, and mega jury verdicts.

18 MARIJUANA

Both businesses and insurance companies face challenges as the use of marijuana expands. Although medical and recreational marijuana are legal in several states, there have been no universal guidelines established for testing or determining what level of THC constitutes impairment. Automobile and workers compensation coverages will be affected until state legislatures develop and implement standards.

19 PARAMETRIC INSURANCE

The reduced rates for Parametric Insurance will be a welcome reprieve to the increased rates for property insurance. Parametric payments are triggered regardless of property damage when a certain index is met, such as a hurricane of a specific intensity. This coverage can be an effective way to help fund large deductibles, increase sublimits, or cover business income losses.

20 TERRORISM

Congress reauthorized the federally backed Terrorism Risk Insurance Act (TRIA) until December 31, 2027. No significant reforms were made, but the extension includes a requirement to evaluate insurance for places of worship, as well as the potential costs of cyber terrorism. Private carriers offer options to TRIA with broadened coverage for riots, strikes, civil commotion, and political violence.

1. Simpson, Andrew. "Employers Warned of Potential Wage and Hour Claims Under New Overtime Rule," *Insurance Journal*, December 29, 2019.
2. Council of Insurance Agents and Brokers, Commercial Lines Index Pricing Survey, IVANS, MarketScout, Conning.
3. Leonard, Adrian. "Day of Reckoning," *Leader's Edge Magazine*, December 1, 2019.

HARDEN uncertainty

#21 COVID-19

Market Update

As we finalized our Commercial Insurance Market Report at the end of 2019, the confirmed numbers for COVID-19 cases were under 100 worldwide. Just a few months later, we were all embroiled in a pandemic with far reaching implications to our world, economy, industry, and lives. Billions of dollars will be paid by insurance companies, policy language will be tested, and the industry will be changed forever. We have highlighted below how some of the major coverage lines and aspects of the industry have been impacted.

AUTOMOBILE

One benefit to the lower economic activity and stay-at-home restrictions is the reduction in the number of auto accidents. Many insurance companies provided credits for the lower vehicle use and improved loss experience. Long-term, the improved loss performance will not be sustainable as cars and accident frequency will eventually return. As mentioned in earlier updates, the automobile insurance coverage has been unprofitable for the past nine years and there is no quick fix on the horizon.

CYBER

Cybercrime escalated this year with the massive shift to the remote workforce. As the work-from-home environment expanded, new vulnerabilities were created by computers and systems that lacked proper firewalls and antivirus protection. Hackers acted quickly by registering over 4,000 domain names containing “Corona” and/or “COVID” to deploy fraudulent emails for Phishing. Defense, training, and preparation are key for businesses. In addition to having a robust cyber insurance policy with resources to combat the risk, business should deploy multi-factor authentication for remote employee access and provide ongoing Phishing training and testing.

GENERAL LIABILITY

Communicable and infectious disease exclusions have been tested already and will continue to be tested as businesses open their doors. So far, the standard exclusions have held up. However, we have recently seen COVID-specific exclusions added to quotes and policies, mostly from the surplus lines market. There has been one benefit of the pandemic slowing down the court system that could improve the hardening casualty market; plaintiffs have been more willing to settle claims, potentially offsetting social inflation issues highlighted earlier that were driving rates higher.

EMPLOYMENT PRACTICES

The record unemployment and workplace issues created by COVID-19 will lead to increased claims. Businesses should take advantage of the free legal advice from employment attorneys as part of their Employment Practices Liability insurance policies. This guidance can prove invaluable while making decisions on staffing and salary changes, furloughs, remote work policies, and return to work.

PROPERTY and BUSINESS INCOME

Regardless of the outcome of the legislation and lawsuits on business interruption losses, the hardening property market will continue. Long-term solutions for business interruption from pandemic risks are being discussed. The idea of a public-private partnership program is gaining attention, whereby insurance companies work closely with the Federal Government to provide coverage. The structure would mirror some aspects of the Terrorism Risk Insurance Act, which was created a year after the events of September 11th to provide Terrorism coverage.

WORKERS COMPENSATION

Because each state determines their own guidelines and regulations for handling claims and compensability, it is difficult to predict COVID-19’s overall impact to this coverage line. However, premiums paid to insurance companies this year will be reduced. Payrolls for many businesses have dropped and premiums will be adjusted mid-term or at audit. In addition, new class codes were introduced to reflect the reduced exposures of the remote workforce. The total number of claims are down significantly as business operations slowed or closed during the crisis.