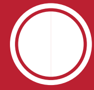
Brown & Brown



QUARTER 4 2021

Market Trends

Commercial Insurance & Risk Management

Our Goal

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

Discover

2 | Property

3 | Casualty

4 | Executive Liability

6 | Cyber Liability

8 | International

Property

Q4 | 2021

Limited Signs of Relief

After two years of double-digit rate changes, select insureds are seeing a positive shift in the rate landscape. Sufficient capacity, less than 100% property and casualty combined ratios, competition and growth goals are increasing insurers' appetite for flat to 10% rate increases for the most desirable classes of business.

Hard market conditions will continue to challenge buyers within less desirable classes of business, those with risk control opportunities, and portfolios situated in natural catastrophe regions. The classes of businesses facing challenging renewals continue to include habitational, fossil fuels, automotive dealers and molten metals. Insureds can improve their renewal position by refreshing their loss control and risk improvement profile and by providing deeper levels of data and exposure detail.

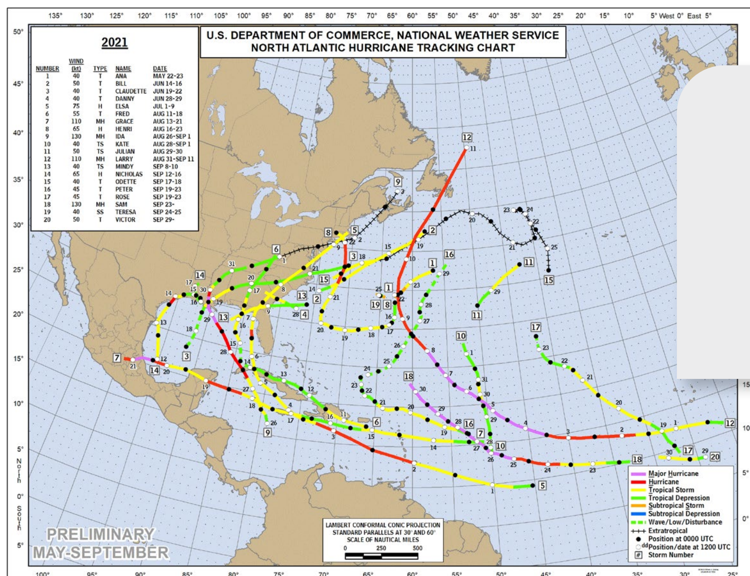
Even with proactive protection measures, underwriters are scrutinizing replacement values due to rising construction costs.

Evolving Catastrophe Losses

The industry continues to experience a dramatic increase in climate-driven claims from wildfires, thunderstorms, hail and hurricanes. Additional climate-driven events are expected to restrict these capacities further and drive increased deductibles and pricing.

The Insurance Information Institute reports that "Insured losses from natural disasters worldwide hit a 10-year high of $42 billion in the first half of 2021, with the biggest loss related to extreme cold in the United States in February." The loss estimates from Winter Storm Uri range from $15 billion to $20 billion.

The hurricane season is past its halfway mark, and it is already an above-average, record-breaking season. Insured losses range from $100 million to $18 billion due to Claudette, Elsa, Grace, Henri and Ida. Buyers are encouraged to review and provide updated business continuity plans and emergency response plans for scenarios such as wind or flood damage, secondary modeling characteristics, roof design and additional wind-resistant measures to help maximize underwriting outcomes.



"National Oceanic and Atmospheric Administration (NOAA) North Atlantic Hurricane Tracking Chart"

Casualty

Q4 | 2021

Signs of Minimal Stabilization

There is growing positive news in the casualty marketplace as rates begin to stabilize. New capacity and insurance companies' growth expectations in the primary layer space are both contributing to limited rate stabilization.

Residential construction, habitational, public entities, large auto fleets and wildfire-exposed operations will continue facing renewal challenges. This marks the 15th consecutive quarter of premium increases, with insureds experiencing an average increase of 6.2% for small market and more than a 9% increase for middle-market and risk management-sized programs.

Umbrella and excess liability programs have largely maintained the expiring limit structure/attachment points, but both programs are still averaging double-digit rate increases. For insureds with more than 100 vehicles, the lead umbrella market continues to harden due to limited supply of insurers in the lead capacity space.

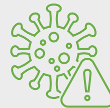
Social Inflation and Auto Liability Losses

As court systems have re-opened, increased settlements and jury awards have returned and continue to be influenced by social inflation factors. Auto liability losses are a significant contributing factor to the severity of these awards.

Drivers traveled 2.1% fewer miles in the first quarter of 2021 compared to the same period in 2020, according to National Highway Traffic Safety Administration. Fatalities increased by 10.5% (8,730 total fatalities), despite the reduction in miles traveled. Increased fatalities resulted in an average traffic fatality rate of 1.26% in the first quarter of 2021, compared to 1.12% in the same period in 2020. Double-digit traffic fatality percentage increases occurred in the Midwest, Northwest, Great Plains, South and Southeast U.S. regions. Distracted driving and high rates of speed are common primary causes of traffic fatalities.

Auto Fleet

The increased use of telematics and improved safety programs are positively impacting new underwriting capacity for small and mid-sized fleets. Excess automobile and umbrella liability programs for larger auto fleets are more frequently requiring an annual audit of the number of units or mileage. A limited job candidate pool for CDL-required positions continues to make it difficult to hire quality drivers.



COVID-19 Continues to Impact Casualty

Communicable disease exclusions have extended beyond general liability and commercial umbrella policies. The exclusions are now often required in commercial automobile and excess automobile liability policies.

The COVID-19 Delta variant is expected to impact 2021 business travel, according to a Deloitte Touche Tohmatsu Ltd. report from August 2021. The report states that one-third of the 150 corporate travel managers surveyed expect to remain below 25% of 2019 spending by the end of 2021. As with the increase in COVID-19-related performance indicators, workers' compensation claims related to the virus are doubling in states such as Florida and Texas from June to July 2021.

Executive Liability

Q4 | 2021

Easing Rates

Rate increases continue to be prevalent in executive risk; however, the increases have been trending downward since last year. After a series of drastic rate increases, insurers appear to be more willing to quote insurance at this higher rate threshold. Additionally, changing appetites, evolving environments and new entrants in the market are resulting in expanded capabilities within executive risk.

COVID-19 remains a topic during renewals, with discussions focusing on returning to the workplace and vaccinations.

Watching EPL Claims

The executive risk market is watching to see if a wave of employment practices liability (EPL) claims will arise from the new focus on pay equity. Colorado's Equal Pay for Equal Work Act is propelling a conversation around pay transparency and equity. With a heightened focus on pay equity, especially for women and people of color, there may be an increase in EPL claims.

Increasing Scrutiny on SPACs

2020 and 2021 may go down as the year(s) of the SPAC. A Special Purpose Acquisition Company (SPAC), also known as a blank check company, is a publicly traded entity with no ongoing operations. SPACs raise equity and have an objective to merge with a private operating company, in what is known as a de-SPAC transition. After the de-SPAC transition, the private company becomes public.

In 2020, there were 248 new SPACs that became public, and, year-to-date, there have been at least 460 SPACs in 2021. These SPACs raised nearly $132 billion in new capital. The flurry of activity has not only created significantly more publicly traded companies, but the new publicly traded companies have added more pressure on an already hard D&O market. Insurers are attempting to restructure their pricing and retention models all while managing the influx in activity.

A SPAC generally has a lifespan of two years during which time they must find and merge with another company or return funds to investors. These M&A transactions can and have resulted in claims against the target company, the SPAC, and the surviving entity. The claims can be related to representations and disclosures during the process of merging, conflicts of interest and general breach of duty. With the rapid rise in SPACs and M&A-related claims, insurers are bracing for claims coming from these de-SPAC transactions. To combat this, insurers are increasing their level of diligence related to SPAC underwriting and pricing as well as D&O coverage for the surviving entity.

Potential Impact of Cyber Breaches

An increase in high-profile cyber breaches has also led to a rising number of allegations against executive management and board of directors. These cases allege negligence, breach of implied contract, breach of fiduciary duty and violation of state and federal statutes. While the cases have yet to gain significant traction in court, they can require significant time and money to defend or settle. The litigation trend highlights how a director or officer can be held personally responsible for their decisions at work, especially a choice that negatively affects the business.

Rising Excessive Fee Lawsuits

Historically, excessive fee litigation was targeted at select large organizations; however, there recently has been an increase in claims against all sizes of retirement plans. In 2020 alone, there were more than 90 excessive fee lawsuits filed. Insurers are scrutinizing fiduciary exposures more than has been seen in the marketplace in the past. Excessive fee, sponsored securities and mass/class action retentions are becoming increasingly common. In response, insurers are looking to reduce capacity on fiduciary renewals. One common theme insurers want to establish is that the plan sponsor has a detailed process, including documentation of why decisions were made or providers were selected.

Cyber Liability

Q4 | 2021

Challenges Continue

The cyber insurance market continued to harden through Q3 and will continue through the end of the year. Premiums, underwriting standards and retentions continue to increase while capacity and, in some cases, coverage scope decrease.

Rates have continued to increase, with average premium changes exceeding 100% in many cases. This significant premium increase is likely to become more common in the fourth quarter of 2021. Increases in minimum premiums will affect many small and middle-market buyers, while increasing excess rates will affect buyers with towers of coverage, resulting in above-average year-over-year rate changes.

While no industries are immune to these market conditions, some entities will experience particularly difficult market conditions, such as manufacturers, public entities and technology providers.

New Restriction on Coverage

Insurers are becoming more willing to restrict coverage, with ransomware events being the most affected area of coverage. Sub-limits, co-insurance and even ransomware exclusions are becoming more common. While some insurers are implementing this as a broad strategy, well-protected firms are still likely to maintain their quality of coverage, albeit with higher premiums and retentions. The application of sub-limits, co-insurance or ransomware exclusions is being targeted at buyers who lack best-in-class controls. Other insurers are looking to limit coverage for systemic events, such as what happened with Solar Winds, Microsoft Exchange or Kaseya, or insurers may limit coverage for unpatched software vulnerabilities.

Increasing Scrutiny

Underwriting standards also continue to increase. Insurers continue to focus on foundational security such as multi-factor authentication (MFA) for remote access, privileged access, access to remote desktop protocol (RDP) and backups, employee training, email security, conservative granting of local administrative rights, and backup procedures and standards. The demand for endpoint detection and response (EDR) tools and security operations centers (SOC), which were once only expected for very large applications, has moved into the middle sector. Insurers are also focusing on end-of-support software, with some insurers moving to exclude any losses that involve this legacy software.

Insurers have become stricter with the timing of these controls. In the first and second quarters of 2021, insurers commonly accepted controls being implemented 30-90 days after binding. Currently, many insurers are demanding that all controls be in place by the time of binding, with some requiring all controls in place at the time of quoting and some requiring controls to be in place for 90 days before quoting.

The Squeeze on Capacity

Capacity is becoming more scarce. For most of 2021, insurers have attempted to limit losses by decreasing the maximum limit offered to any single risk. Historically, insurers would offer $10 million limits liberally. Today, most insurers will not offer more than $5 million. In many cases, this doubles the number of insurers involved in a program, which requires additional underwriting time and may result in higher premiums.

The fourth quarter also may bring additional pressures due to capacity limitations in the London market, where syndicates are capped on the amount of business they may write in a calendar year. This additional market shrink may reduce competition for some buyers, negatively impacting renewals.

International

Q4 | 2021

The international casualty marketplace has remained relatively unchanged since last quarter. Global litigation continues to be slower than the U.S., so rates remain stable due to a competitive marketplace. The stability means that international casualty remains a profitable underwriting class.

Company size and marketing continue to impact renewal rates. Recent renewals on middle-market, multinational casualty programs have experienced flat rates with some pressure to increase rates depending on the insurer. Larger multinational casualty programs are highly dependent on loss history. Marketing a larger multinational casualty program may result in flat or decreased rates, but more favorable rates are often contingent on loss history. Many insurers are opening up their capacity for international casualty programs to tougher products and risks than in the past.

For companies that faced revenue reductions in 2020, insurers have not reduced premiums in equal proportions to their customer's revenue reductions. Most insurers have evaluated risks and know the floor of their premium regardless of exposures.

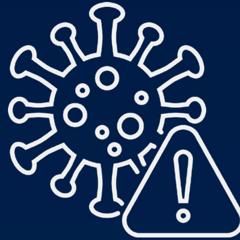
Some insurers continue to incorporate communicable disease exclusions into their policy forms. However, several insurers are taking a measured approach when adding the communicable disease exclusion. Companies with minimal exposures and/or strong corporate protocols for managing the communicable disease risk have generally avoided the exclusion. These exclusions should be removed whenever possible.

Business Travel Accident Coverage

Countries are enforcing various COVID-19 restrictions as business travel resumes. In addition, some countries require travelers to prove they have both medical insurance and quarantine expense coverage that will pay for the treatment costs of all sickness and illness, including costs associated with the COVID-19 virus and variants.

The only product available for this protection is a quality Business Travel Accident (BTA) policy, with coverage for out-of-country medical costs. A BTA policy provides layered protection for the employee and extends the duty of care for employees engaging in travel.

Underwriters in this line of coverage have not added COVID-19 or other virus type exclusions to their policies as they understand that would make the product ineffective.



Brown & Brown and COVID-19

The Brown & Brown team is closely monitoring the ever-changing pandemic landscape. If you have any questions, please reach out directly to your service team. We're here to help.

Find Your Solution at BBrown.com

Please be advised that any and all information, comments, analysis, and/or recommendations set forth above relative to the possible impact of COVID-19 on potential insurance coverage or other policy implications are intended solely for informational purposes and should not be relied upon as legal or medical advice. As an insurance broker, we have no authority to make coverage decisions as that ability rests solely with the issuing carrier. Therefore, all claims should be submitted to the carrier for evaluation. The positions expressed herein are opinions only and are not to be construed as any form of guarantee or warranty. Finally, given the extremely dynamic and rapidly evolving COVID-19 situation, comments above do not take into account any applicable pending or future legislation introduced with the intent to override, alter or amend current policy language.

Brown & Brown, Inc. and all its affiliates, do not provide legal, regulatory or tax guidance, or advice. If legal advice counsel or representation is needed, the services of a legal professional should be sought. The information in this document is intended to provide a general overview of the services contained herein. Brown & Brown, Inc. and all its affiliates, make no representation or warranty as to the accuracy or completeness of the document and undertakes no obligation to update or revise the document based upon new information or future changes.

©2022 Brown & Brown. All rights reserved.