QUARTER 1 | 2023

Market Trends

Commercial Insurance & Risk Management

Our Goal

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

Discover

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As 2023 begins, many insureds are experiencing a competitive and stabilizing marketplace. Rate increases are flattening, and capacity is increasing, except for property coverages. Economic factors, including inflation, supply chain disruptions and workforce shortages, impact many renewal exposure bases. Overall, the markets are on an optimistic trajectory heading into 2023, but changes happen quickly in a dynamic marketplace.

Property

Q1 | 2023

Initially, markets projected stabilized rates and a slight easing for well-protected, loss-free property risks. However, losses from Hurricane Ian and Nicole have negatively impacted this outlook. Though insured losses have yet to be fully calculated, it is expected to be one of the costliest years in history. This will significantly affect the approach to capacity deployment and pricing throughout 2023.

Programs with unfavorable loss history and locations exposed to catastrophic events (CAT) should anticipate significant (25%+) rate increases due to current marketplace conditions and increased reinsurance pricing. Programs with favorable loss history and locations exposed to CAT should expect 15%+ rate increases for the same reasons. Those with favorable loss history, strong risk control measures and no CAT-exposed locations could see single-digit rate increase renewals, again driven by reinsurance availability and pricing.

Historically, insurers were able to economically cede CAT risks to the facultative property market, which allowed many to provide abundant capacity on programs with large concentrations of values and CAT exposures. In the second half of 2022, the facultative reinsurance marketplace retreated from CAT risks, reducing capacity and increasing pricing. This change may continue to cause increased reinsurance cost rates and reduced facultative CAT capacity during 2023.

Underwriting Impacts

Both insurance and reinsurance underwriters are seeing an unprecedented volume of submissions, each of which must be newly underwritten to new market conditions and organizational standards. This is causing the quoting process to take longer.

Replacement cost insurance to value continues to be a significant focus of the underwriting community. Failing to account for ongoing inflation and increased construction costs will call values into question. Business income exposure is also being heavily scrutinized. If underwriters and insureds cannot agree on the insurance to value, coinsurance provisions or margin clauses may be added to the policy term.

In recent years, catastrophic winter weather events have significantly impacted insurer and reinsurer results. Our teams are closely watching the potential insurance marketplace impacts of December 2022 winter storms and extreme cold.

Going into 2023, it is imperative that property underwriting information continue to be as detailed as possible. The statement of values and replacement costs should be analyzed for accuracy before submission to minimize questions and delays.

Casualty

Q1 | 2023

Liability Market

In the second half of 2022, the liability market showed signs of stabilization, although the divergence by industry sector is growing. Those with challenging risks or poor loss history still face significant rate increases and tightening capacity. Customers with favorable loss experience may see modest rate decreases in competitive industry segments, while general inflation, social inflation and nuclear verdicts continue to put rate pressure on insurance companies. Carrier appetites remain aligned with little to no expansion between the standard and E&S marketplace.

Challenges in Commercial Auto

The commercial auto market has experienced rate increases for 44 consecutive quarters, yet, according to the S&P Global Market Intelligence report, the projected combined ratio for commercial auto insurers is 103%. Increased vehicle repair and labor costs coupled with higher litigation settlement costs will pressure auto rates for the foreseeable future.

Third-Party Litigation Financing – Growth and Impact on Insurance

Third-party litigation funding has grown rapidly, and the increased involvement in litigation has led to longer case times and higher costs. According to Bloomberg, the third-party litigation financing industry is estimated to be worth $39B, with almost $3B in new deals funded in 2022.

Most states do not have disclosure laws, and legislation for implementing new laws has faced opposition. Consumers and insureds feel the impact as the outsized verdicts are vital contributors to higher pricing, narrowing coverage terms and lower limits.

Workers' Compensation – Evolving Workplace Challenges

Workers' compensation has been consistently profitable for insurers. While employers have not had to battle a hard workers' compensation market, the pandemic has created several other labor challenges for human resource departments.

Companies have been forced to hire and train in remote work environments and recreate a workplace culture while trying to identify qualified workers to fill job openings. This has increased turnover at most companies, which presents added safety and claims risks. Travelers, the leading workers' compensation carrier, **released a study** that analyzed over 1.5M claims between 2015 and 2019 and found that 37% of all injury-related days lost occurred in the first year of employment.

Cyber Risk

Q1 | 2023

Limited Capacity with Rate Deceleration

Overall, the market is facing a deceleration of rates. This time last year, the market experienced 100%+ increases and now may be experiencing as low as 35% with limited potential for some insureds to see small decreases.

Carriers once hesitant to deploy higher limits are now more flexible, particularly with new growth goals. While not the majority, some carriers who previously would not offer more than $5M are now willing to offer $10M on favorable risks.

Ransomware claims are decreasing in frequency, while business email compromise claims are increasing. Ransomware claims tend to be a more catastrophic financial burden than business email compromise claims that are less severe. The decreased frequency of claims directly impacts the deceleration of rates. Security improvements have led to a less frequent need to pay demands with the reliability of restoring from a viable backup.

Systemic Risk and War Continue to Cause Concern

Concerns continue to rise regarding catastrophic risk, with many carriers introducing endorsements to protect capacity around these exposures. While all carriers have expressed concern, each has addressed it with their unique language, making it challenging for buyers to navigate the differences between carriers' applications of the language. With some carriers putting on exclusions for unpatched software, it is of utmost importance that each buyer pays close attention to critical and severe patches as they are released.

There are additional concerns regarding war and state-sponsored actions. Carrier stances vary regarding exclusions with electronic attacks in conjunction with war or war-like actions. This area is expected to evolve throughout the next year and will be monitored closely.

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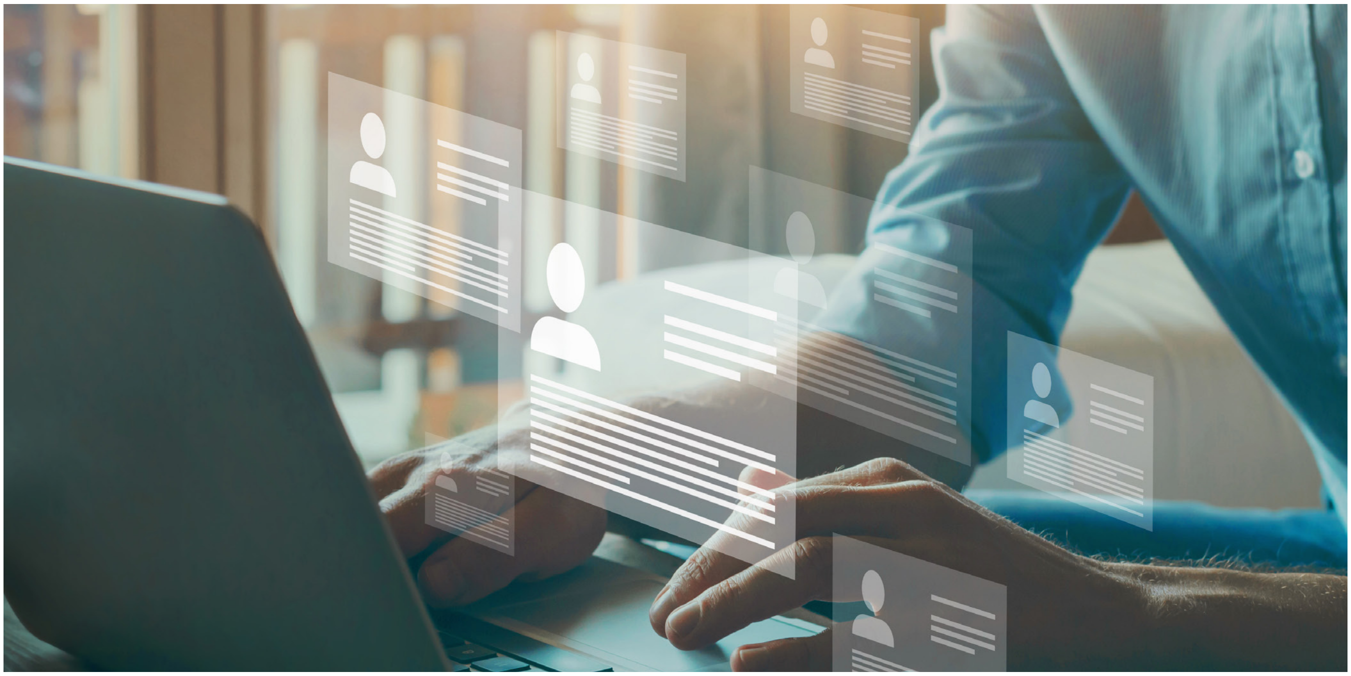

Underwriting Standards

While the standards for underwriting continue to be high, the list of requirements is growing at a slower rate than in the last 18 months. Carriers often require additional standards for larger buyers and tend to require only baseline controls for smaller buyers. Larger buyers are seeing a focus on limited-service accounts with domain administrative rights and 24/7 security operations center (SOC) requirements. Some carriers are increasing scrutiny for M&A transactions and/or security reviews of third-party vendors.

Privacy Laws

Lawsuits regarding privacy claims continue to emerge, specifically concerning consent before collecting sensitive data. It was recently alleged that Meta had been collecting sensitive medical and health data from thousands of patients and using that data to target users with specific advertising.

Additionally, there is building pressure and focus on the Biometric Information Privacy Act (BIPA) and similar laws founded on the fundamental issue of consent concerning biometric data collection. As technology evolves, privacy laws will need to be regularly considered, reviewed and adapted by legal counsel.

There are some instances of regulators aggressively reprimanding companies for failing to maintain minimum required security standards, including disallowing them from recovering fines, penalties or settlements via insurance.

Executive Liability

Q1 | 2023

Overall, the market has seen price improvements, reduced retention obligations, improved terms and higher limit availability.

Directors & Officers

Public Companies

For public companies, this trend can be attributed partly to action in the IPO and SPAC marketplace. Current renewals on public companies that underwent an IPO or significant transaction in recent years face an average of 40% or greater decreases. Additionally, many customers that experienced an IPO are seeing decreases in retentions upon renewal, as there is a renewed interest in those programs compared to the previous two years. Ancillary lines follow a similar pattern, continuing to stabilize. Additionally, the number of securities class actions has decreased compared to 2017-2020.

Environmental, social and governance (ESG) continues to be a trending topic for this space, as expectations are rising from both shareholders and regulators for D&O responsibility and oversight. Carriers are more attentive toward how a company handles ESG, data and cyber security when evaluating their appetite for coverage.

Private Companies and Non-Profits

This positive overall trend is also impacting private companies and non-profits. Carriers that had pulled back in the past for underwriting are now reentering the space. With the combination of the softened market and increased carrier appetite, the results are typically more favorable terms and conditions, premiums and retentions.

Other Factors Impacting the Marketplace

Employment practices liability continues to see retention increases for high wage-earners, troubled states and class actions as underwriters find creative ways to underwrite difficult risks. Fiduciary liability continues to see excessive fee retentions that are significantly higher than the base policy retention, and social engineering claims continue to plague the crime marketplace. Litigation around excessive fees continues to hammer insurers, and the creativity around phishing scams continues to be an issue for crime insurers.

As Q1 begins, it is anticipated that the market will continue to stabilize. Along with factors specific to this market, there are other considerations to be made regarding rising interest rates, inflation pressure, economic disruption and international conflict. After several years of a challenging market, the executive liability space is on a positive trajectory heading into 2023.

Multinational

Q1 | 2023

The global casualty marketplace has remained competitive, and this trend is expected to continue through the first quarter of 2023. Global casualty remains a highly profitable class for U.S. insurers, and this profitability is driving a stable to softer market.

The rates and premiums are highly dependent upon loss experience; however, there are opportunities for rate decreases with programs underwritten on a specific basis rather than a portfolio-driven rating mandate. In addition to loss performance, the company size, marketing strategy and class of business also continue to impact rating.

Recent renewals on middle-market global casualty programs generally experienced flat rates. In rare instances, significant exposure decreases may require offsetting rate increases to fund for ultimate loss potential. Conversely, risks with extensive growth and favorable loss performance are best positioned for rate reductions.

The pace of ever-increasing U.S. litigation is lessened elsewhere globally, keeping rates stable and facilitating increased multinational program capacity.

Mexico Environmental Liability

Increased regulation around environmental liability has taken place in Mexico, generating new considerations from a regulatory and compliance perspective. Companies engaged in high-risk activities, as defined by local regulation, are required to purchase an environmental liability policy. With recent changes to regulations, environmental insurance placements in Mexico are now monoline pollution legal liability policies, which typically cover first and third-party cleanup costs. The regulations and resulting requirements are expected to continue to increase in Mexico and, more broadly, worldwide.

Environmental, Social and Governance (ESG)

Environmental, Social and Governance policies have become an increased focus over recent years as it has become a global focus. ESG may lead to reputational risks and increasing legal and regulatory requirements, which also remain a key consideration.

Surety

Q1 | 2023

While federal rate increases do not directly affect bond rates, many contractors will feel the pressure from the rate hikes faced during Q4 2022. Contractors utilizing large lines of credit will feel the pressure of borrowing, making it essential to complete jobs on time and use funds efficiently.

Due to inflation raising costs for labor and supplies, contractors could continue facing larger bond penal limits. These larger bond amounts can rapidly utilize existing aggregate limits and lower overall capacity for those with large backlogs. Subcontractor and supplier qualification remain the primary consideration in underwriting large construction projects as supply chain issues and labor shortages continue to be a problem.

Commercial surety underwriting remains soft in the majority of industries. As firms grow, many middle-market organizations consider using bonds over letters of credit. This switch to bonds means their balance sheets are not as leveraged. Surety based around the manufacturing industry has increased due to foreign supply chains and shipping costs. Bonding around private construction and installation has also increased as it historically has not required surety bonds, but owners now find reassurance and value in entities with strong surety programs.

During a global recession, constant communication with your surety broker is vital. No one knows what the future holds, but building strong relationships can help businesses prepare and survive through what may happen in the future.

Aviation

Q1 | 2023

Throughout 2022, aviation insurance market conditions showed signs of improvement across all segments. This resulted in a more favorable aviation underwriting environment than in previous years. Despite these positive signs, the aviation marketplace is anticipated to harden again in 2023. The immediate focus of domestic aviation insurers is capturing single-digit rate increases upon renewal.

Several key factors are driving the market changes; the two most significant are the ongoing Russia/Ukraine conflict and the aviation reinsurance marketplace presenting double-digit premium rate increases to aviation insurers.

More than 400 leased aircraft, valued at $10 billion, cannot depart from Russia after European Union sanctions forced the termination of leases. The reported hull war claims total $6.5 billion result from aircraft remaining in Russia. The immediate impact is on contingent liability, war risk and terrorism premiums.

New challenges for the aviation industry include macro-pressures affecting most markets: lack of talent, supply chain issues, inflation and rising interest rates. These factors impact reinsurance rates, which aviation underwriters use to hedge risk.

Another major factor impacting reinsurance rates is the Boeing 737 Max grounding loss. The claim has increased from $1.3 billion to $3 billion. This increase makes it nominally the largest claim in the history of the aviation market, having exceeded the $2.5 billion paid out after 9/11.

To have a successful renewal outcome, insureds are encouraged to work through any anticipated challenges and consider renewing proactively. Those who outline clear underwriting information and consistent safety management can receive the most competitive rates.

How Brown & Brown Can Help

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

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Find Your Solution at BBrown.com

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