State of the Market Report 2023: A Focus on the Cannabis Market

The cannabis insurance market has undergone notable transformations and shifts in recent years. As the sector continues to develop, insurance providers are refining their offerings to meet the unique needs and challenges being presented.

Due to a limited number of carriers, the cannabis property insurance market remains challenged. The casualty market has also narrowed as the 2018 Farm Bill and the lack of progress in legalizing medical and recreational cannabis in many southern states has some carriers restricting coverage altogether – citing a lack of oversight and regulation on products. The general liability insurance market, however, continues to be more widely available.

We are seeing many carriers exclude cannabis synthetics (of which delta-8 is considered) from policies due to how these compounds are manufactured. From an insurance standpoint, brokers should understand the difference between delta-8, CBD and other Farm Bill compliant cannabinoids. Doing so ensures they are offering the right coverage, as the regulatory oversight and stringent testing that should be taking place in the industry often is not.

In many cases, these types of cannabis risks can fit on a nutraceutical product form, whereas a cannabis policy form will cost more, offer less coverage and may not meet the insured's required warranty requirements. While these product forms may seem very similar, there are massive differences in price, terms and conditions between the two, which is why brokers need to fully understand what they are working with.

In general, the cannabis market is seeing price compression and downward pressure – particularly in western states that were the first to enter this emerging market. This price compression is due primarily to oversupply, as well as the need for businesses to be more operationally efficient – especially with today's rising interest rates and growing competition.

CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

Underwriting, Capacity and Terms

From a general capacity standpoint, more carriers are entering the cannabis space – however, many remain unwilling to write monoline property or excess. As a result, newer MGAs are targeting small to mid-sized operators in a more standard and transactional underwriting style that has begun eroding pricing for larger operators that are struggling for capacity on property.

Currently, most major cannabis programs offer at least $20 to $25 million per location. A select few have secured reinsurance over time and can offer $40 to $45 million; however, there may be tradeoffs with these higher coverage limits, such as gaps in coverage or unfavorable coverages elsewhere.

Protective Safeguard Endorsements

Extraction and cultivation claims have increased due to indoor lighting losses, resulting in more carriers tightening their underwriting terms in an effort to push for 100% LED lighting. Accounts operating with volatile lighting such as high-pressure sodium (HPS) and metal halide grow lights will experience higher rates and potential exclusion of loss or damage caused by smoke or fire.

At the same time, most markets are also requiring protective safeguards endorsements be included in policies to protect carriers in the event of a fire claim. For example, some carriers are requiring hardwired smoke detectors and automatic fire suppression systems – without them, coverage is excluded. It's important to consider all options and make an informed decision on which package option best fits your client's needs.

Equipment Breakdown

Most insureds see equipment breakdown coverage as "throw in" coverage – failing to realize the work it takes cannabis programs to offer it with each policy. This, combined with the current trends in the non-cannabis property market, has resulted in mounting pressure to perform, cut capacity, or take drastic moves such as not offering coverage to programs.

At least one high-profile cannabis program lost its ability to provide equipment breakdown coverage for all new and renewal cannabis accounts. And while options are still abundant, as each program goes through renewal it is unlikely any improvement in existing offerings will be seen. The next year will be crucial in determining how systemic the lack of equipment breakdown capacity and offerings will be among all cannabis property programs.

Underwriting, Capacity and Terms (continued)

Product Liability

With more states opening up, carriers have become more competitive in the cannabis space. As a result, underwriters are loosening their appetites for specific classes and offering more flexible terms and limits. For example, due to competitive pressure, some carriers in the cannabis product liability space have reevaluated their position and pricing on vape products, now offering broader coverage for those products than was available previously.

CAT Exposure

Wildfire and other extreme weather-related events continue to threaten cannabis operations. This has underwriters reexamining their property protection class codes and making changes based on the increased risk exposure.

Most markets take a conservative approach to weather related perils. With the recent downgrade of the largest carrier in the space, there is no longer a viable primary named storm option for insureds in CAT areas. This coverage is now scarce and only offered on an account basis with limited distribution.

Crime

Crime also continues to be an issue of concern for underwriters, with cannabis operations located in high crime-exposed areas seeing an increase in rates and additional protective safeguards warranty exclusions, including requirements for automatic burglar alarms and security services that patrol the premises hourly when not in operation.

Claims Trends

Property claims have increased due in part to fire claim losses caused by lighting issues used in certain grow operations and extraction processes. While LED lights have become the preferred method of lighting by many grow operations, HPS lights continue to be widely used and are a major cause of fires due to the level of heat that is produced. As a result, some insurers are adding a grow light supplemental questionnaire to the application process. If an operation doesn't have LEDs, the underwriter will rate for HPS and likely add specific terms and conditions until the lighting is updated.

Cannabis-specific insurers also continue to struggle with the lack of strict state laws surrounding protections or legality in terms of CBD, which is leaving them wide open for tougher claim scenarios. At the same time, product liability claims and large lawsuits have increased, due primarily to false or misleading product labels.

Rates

Overall, the cannabis property market isn't likely to see rate decreases over the next several months. We do, however, expect rates to level off.

In California, the taxation rate remains an issue that in turn, is keeping the illicit market more relevant and driving up rates.

California also faces licensing issues, with larger operators acquiring multiple micro-licenses to create even larger grow operations. Known as license stacking, this has allowed more cannabis to be grown than can be distributed in a regulated environment, resulting in increased competition with illicit shops that to date still outnumber legal operations.

Cannabis General Market Conditions, Trends & Risks: Directors and Officers, Cyber and Employment Practices Liability Insurance

At a time when profits aren't as plentiful, coverages such as directors and officers (D&O) liability, employment practices liability insurance (EPLI) and cyber get pushed to the side, leaving businesses unprotected. Unfortunately, this has become a trend over the past several months that we hope will soon begin to turn around.

D&O Liability

Currently, management and board turnover in cannabis operations has become an issue as businesses struggle to onboard and retain individuals with industry experience. Although the need for D&O hasn't diminished, many businesses in the past year have opted out of purchasing coverage due to costs.

The good news is that we are beginning to see some positive movement with new market entrants offering good coverage at reasonable rates – with many renewals being priced better than the expiring rate. In general, D&O liability premiums are down approximately 20% compared to last year – a trend that is expected to continue.

Cyber Liability

Aside from larger companies and a few smaller businesses that recognize the importance of having cyber liability insurance, most operations are still declining this critical coverage. Today, an estimated 10% of cannabis companies are purchasing cyber insurance.

While the cyber market in general has become more competitive, only a few markets are writing cannabis primary business. As a new and emerging industry, rates for cyber liability insurance continue to be double or even triple what a non-cannabis company would pay.

EPLI

There continues to be a growing need for employment practices liability (EPLI) insurance in the cannabis space. This isn't surprising given the volatility of an industry that is heavily supported by hourly employees.

However, while EPLI has remained lower on the priority list for cannabis businesses with revenue being down, we have seen an uptick in buying over the last 12-18 months. This can be attributed to the availability of more markets offering good coverage at reasonable rates/retentions. This trend is predicted to remain relatively stable over the coming months.

Achieving Success

True experts in the cannabis insurance space today are limited. At Amwins, brokers come to us because we aren't a wholesaler that dabbles in the cannabis industry. In fact, we make it our job to immerse ourselves in all aspects of the cannabis market.

In today's hard market, the biggest value a retail broker can bring to the cannabis operator is to help them understand their insurance coverage holistically and on a deeper level, including the degree of their risk exposure and tolerance. It's about looking at each account and examining it from every aspect and angle to best determine coverage needs.

The cannabis market is gradually maturing as the industry continues to evolve. As more states legalize cannabis, insurance providers are likely to further cultivate their offerings, expand coverage options and adjust premiums to accommodate unique risks.

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