



STATE OF THE CASUALTY MARKET - Q3 2020

CONTACT

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Courtesy of AmWINS Group, Inc.

With capacity continuing to constrict, the casualty market presents many challenges to buyers and brokers.

Several factors will likely keep the casualty market challenging for the next 18 months or more. Most industry analysts agree that aggregate loss reserve redundancy is gone for all lines of business, except possibly workers compensation. This puts pressure on current accident year results. Additionally, the rise of social inflation and impact on jury verdicts, along with the potential third-party losses associated with COVID-19, continue to force carriers to push rates upward.

Capacity continues to diminish, especially in the higher excess layers. "In the past, you could secure coverage through a handful of carriers. However now, towers are being built with numerous carriers, and at times in \$5M increments," says Tom Dillon, AmWINS National Casualty Practice Leader.

While this reality creates more new business opportunities for carriers, it can be a challenge to find enough carriers to fill out large towers. And unfortunately for buyers, the pricing of these towers is costly.

"In many classes, we're finding the largest rate disparity in the higher excess layers of umbrella towers," Dillon says. "Also, the biggest change over the last six months is the 'rate relativity' to the prior layer. Each excess layer used to be priced from 45-55% of the previous layer; today it's 85-95%."

Claims are often to blame for the capacity crunch and price spike. "It's the nuclear verdicts, particularly in transportation," Dillon says. "The historical excess pricing models simply weren't designed to handle the size of judgments and settlements that have occurred over the past three years."

SEGMENT SPOTLIGHT

Construction

A dramatic tightening has taken place in excess residential and commercial construction, particularly for larger controlled insurance programs (CIPs), residential tract homebuilders or any accounts with problematic loss experience. Market conditions are tightening even in non-construction defect states. "It has become very challenging to find capacity on some tougher renewals, as well as capacity within the first \$10M on larger frame CIPs," says Jett Abramson, Executive Vice President, AmWINS Brokerage in Manhattan Beach, CA. Additionally, the majority of E&S carriers are limiting capacity to \$10M or less on residential contractors and developers.

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“Rates and premiums are escalating at a double-digit pace,” says Douglas Garfinkel, Executive Vice President, AmWINS Brokerage in Chicago, IL. “Large residential homebuilders in particular are seeing a surge. We have also seen deductibles or self-insured retentions increase either by the carrier’s desire or the insured wanting to mitigate premium increases.”

Although COVID-19 impacted the construction industry, most construction was deemed “essential” and continued, so carriers have been less willing to provide exposure relief than in other segments.

Additionally, communicable disease exclusions, or in some cases COVID-specific exclusions, can be expected on virtually all accounts as well as increased underwriting scrutiny. “To consider removing the exclusion, underwriters want confirmation that contractors are in compliance with local or CDC requirements for social distancing and sanitation,” says Ryan Moore, Executive Vice President, AmWINS Brokerage in San Francisco, CA.

Getting to market early with a comprehensive submission is important in this climate. “The more time and better information we have, the better the results will be,” Abramson says. Underwriters are overwhelmed with submission activity. “It is imperative to present a complete description of the opportunity,” Garfinkel adds. “Submissions lacking critical information will likely not be reviewed.”

Public Entity

In the public entity market, the current convergence of social, economic and industrywide variables has created significant headwinds for all stakeholders in the liability placement chain. Throughout Q3, the underwriting community has expressed concerns and imposed material term changes at expirations, including:

- Aggregation of limits across historically dedicated lines of coverage for both individual risk and pooling structures
- Distinct communicable disease/organic pathogen exclusions
- Pressure for affirmative sexual abuse language to be written into memorandums of coverage and/or policy forms
- Increased retained amounts and minimum excess attachment points

“Capacity constriction is resulting in lower limits purchased by public entities as well as increased quota share layers, mid-layer corridors, ventilated participations and non-concurrent coverage implications through the full breadth of the tower,” says Brian Frost, Executive Vice President, AmWINS Brokerage in Woodland Hills, CA.

Pricing continues to increase, most notably in excess layers, due to increased loss costs, shorter payout periods, social inflation, litigation funding, increased auto severity and more. “The pricing methodology associated with current Public Entity liability market behavior is guided by a realignment of layer penetration assumptions in the excess,” Frost says. “Markets contend that the odds of limit losses have been insufficiently accounted for in previous rating models.”

Underwriters in this space also continue to grapple with an assortment of adverse exposure trends, including climate change and increased severity of weather events, COVID-19, venue changes, social unrest and media scrutiny on law enforcement activity.

To mitigate pricing and capacity issues, many public entities and pools are proactively engaged in strategies to petition for tort cap considerations, joint and several liability reform, and statutory standards for common pattern injuries. Simultaneously, buyers are considering financial levers such as adverse development covers and loss portfolio transfers to stabilize balance sheet uncertainties, as well as litigation buyout strategies for post loss / pre-trial concerns.

“Non-traditional capacity sources, such as parametric insurance, can be new vehicles for liability cover,” Frost added. “These sources bring additional market participation to the benefit of the retail, risk management and underwriting community.”

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In light of this environment, Public Entity excess liability buyers should start early in the renewal cycle and evaluate creative solutions to mitigate the overall market trend, as not all risks are experiencing the same level of loss development. It will be important for buyers and their retail brokers to differentiate and reinforce the better risks to the underwriting community.

Energy

The excess casualty marketplace continues to present challenges for energy accounts. “Prices are up, capacity is down, and carriers are continuing to cut limits being offered,” says Ben Abernathy, Assistant Vice President, AmWINS Brokerage in Atlanta, GA. This is occurring despite decreased exposure, as energy accounts have cut back operations.

“The midstream market segment is more challenging, with carriers pulling back or exiting the class of business,” says Heath Cunningham, Executive Vice President, AmWINS Brokerage in Atlanta, GA. “We are not seeing much new capacity from domestic carriers, although we are seeing some through the London marketplace. As a result, more insureds are utilizing their captive programs to help complete excess liability towers.”

Transportation

As mentioned, nuclear verdicts are plaguing the trucking industry. “With respect to primary auto in the New York/New Jersey metro areas, south Florida, and Louisiana, verdicts and awards strongly favor plaintiffs,” says Bryan Touchstone, Senior Vice President, AmWINS Brokerage in Springfield, MO. “As losses develop in those jurisdictions, markets are seeing claims settle for two to three times the reserve amount.” Additionally, public auto and oil and gas operations continue to experience fewer market options due to poor loss ratios, industry decline and uncertainty.

Primary layer issues carry over to excess as well. “Excess transportation in particular is problematic. The huge jury awards plaguing commercial insurers are further constricting pricing and options,” says Andrea Dickinson, Executive Vice President, AmWINS Brokerage in Franklin, TN. “Many excess policies in the lead are now going to an auditable basis from flat.”

Along with capacity restriction, excess coverage is seeing double digit rate increases across the board as well as higher rate relativity in large excess towers. As a result, motor carriers that previously carried large insurance towers are cutting back limits purchased – as much as 40% – simply due to cost.

Pricing and terms have also changed for medical transportation. Learn more about these changes in the [State of the Professional Lines Market](#).

Cannabis and Life Sciences

The cannabis and CBD spaces are seeing further tightening on terms and conditions in conjunction with more robust underwriting requirements. This is mostly driven by the FDA's response to CBD and uncertainty around future legislation or regulation. Additionally, due to loss development in the e-cigarette and vaping industry, there has been a mass exodus of carriers willing to provide coverage for devices, batteries and accessories related to anything vaping.

“Given that one of the preferred consumption methods of CBD and cannabis is vaping, this has caused quite a bit of distress in the space,” says TJ Collins, Senior Vice President, AmWINS Brokerage in Kansas City, MO. “Some coverage is available; however, it will be limited by exclusionary wording and will be considerably more expensive than in years past.”

Communicable disease exclusions are being added in this segment, as in many others, and carriers' willingness to offer rate relief has been mixed. “Cannabis sales have held steady or even increased in many markets during the pandemic, so requests to reduce exposures are not as common as other industries,” says John Deneen, Vice President, AmWINS Brokerage in Denver, CO.



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The life sciences market is tightening to varying degrees depending on the products involved. “Most non-nutraceutical products are seeing minor rate increases and limitation of capacity, while nutra remains competitive,” says Bob Wright, Executive Vice President, AmWINS Brokerage in San Francisco, CA. “Across all products, underwriters are paying close attention to exclusions for communicable diseases and opioids, although coverage can still be found either without limitation or with fairly broad wording that is in the insured’s favor.” Hand sanitizer manufacturers are a problematic area, with more and more carriers excluding coverage due to claims.

Success strategies for retailers include packaging property and casualty coverages and communicating early and often with underwriters. “Be thorough and complete with your submissions – it’s time-honored advice for working through a hard market,” Wright says. “That’s an area where we can really help retailers.”

SUMMARY

No market cycle lasts forever and, ultimately, pricing will level off to where carriers feel they can sustain long-term profits. However, since this marketplace is expected to continue for at least 18 months, retailers should partner with wholesalers who have the experience and established relationships to connect to available capacity.

To help our clients overcome the challenging market conditions, AmWINS is working to develop proprietary products and capacity in classes with significant need due to carriers exiting or reducing limits.

