AMWINS™

2021 / Q2 Q3

State of the Casualty Market

Second and Third Quarter, 2021

2021 / Q2 Q3

State of the Casualty Market

Tom Dillon
Amwins' National
Casualty Practice Leader

While the excess casualty marketplace in 2020 saw hardening conditions across the board, the theme in 2021 shows the market has stabilized thanks to abrupt adjustments made by carriers last year and new capacity entrants. Most excess carriers have maintained expiring limits and attachment points. However, to ensure pricing is in proportion to the inherent risk exposure, many carriers are looking for marginally increased rates over expiring depending on the class of business.

Currently, most carriers are comfortable with the excess capacity and the terms in which they are willing to offer coverage. And while we had expected the primary casualty market to start pushing rates, that has yet to happen outside of certain distressed areas.

With the exception of certain verticals, carriers are looking to grow in the primacy space, particularly in products liability. However, for carriers to expand in the primary GL space means creating more competition and tempering any rate increases they may be trying to achieve.

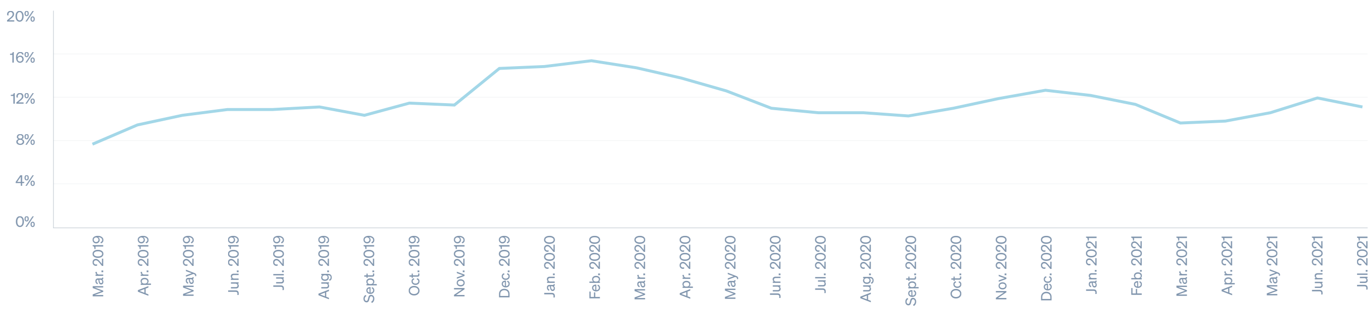
Public entity, residential construction and habitational remain some of the more challenging sectors, along with wildfire-exposed risks.

As the economy reopens post-pandemic, there is positive activity in the hospitality space from hotels to motels, amusement parks, etc. This, and the fact that construction projects once postponed or suspended due to COVID-19 are now resuming, will present additional opportunities, and we'll likely see a boom in the hospitality and construction markets.

From a claims perspective, we are beginning to see a resurgence in large settlements and nuclear verdicts – a trend that will likely continue as the courts reopen.

Staying on top of this hard casualty market will require retailers and brokers to provide complete submissions with detailed risk characteristics and get well ahead of renewals. Doing so will result in better outcomes for our clients and insureds.

Renewal Pricing Trends – Casualty Renewals, Rolling Quarterly



Casualty Segment Snapshot

- Cannabis / Nutraceutical
- Construction
- Environmental
- Public Entity
- Real Estate
- Transportation

Cannabis / Nutraceutical

Overall Segment Trends

Despite new states legalizing cannabis and federal reforms being introduced in Congress, we have yet to see new entrants in the cannabis space. While there is increased carrier interest in the regulated marijuana casualty sector, we don't expect any new market participants until there is definitive clarification at the federal level.

Currently, new capacity is primarily entering the space via existing carriers and programs expanding their offerings. COVID-19 largely spared the regulated cannabis markets, due in no small part to most states classifying cannabis businesses as essential. We expect to see expanded growth as dispensary construction resumes and states continue to expand regulated cannabis operations.

Onsite cannabis consumption is an emerging source of risk that was delayed by the pandemic. Several carriers have developed stances to accommodate onsite consumption, but we haven't seen a steady volume of submissions that could reveal unexpected issues arising from these exposures.

Robust state regulations have been a key factor in helping insurers get comfortable writing cannabis risks – but today, regulations on delta-8 THC (D8) products are mostly non-existent. Outside of the dozen or so states that have moved to ban D8 sales, regulations remain very relaxed where sales are still permitted. Although most markets have taken restrictive stances on D8, we continue to see submissions that don't reference D8 products or conflate the products as CBD. It's critical that retailers are aware of the issues with these types of products and educate their clients about the limitations on coverage.

Capacity and Pricing

Health, wellness and nutraceutical casualty rates remain historically low compared to rate increases in other classes. With increased interest and willingness to write CBD products among traditional carriers in the health and nutraceutical field, as well as new MGA offerings targeting this segment, it's possible that we could see further downward pressure on these casualty rates.

Programs utilizing cannabis coverage forms for hemp/CBD risks should be avoided as those products are subject to entirely different regulations than cannabis and are more appropriately covered by nutraceutical markets.

Capacity among the more established players in the cannabis space has been increasing as they negotiate more favorable reinsurance based on positive performance of their books. Fierce competition for well-run cannabis operations with clean loss histories is keeping rates flat or slightly down. In contrast, insureds with an unfavorable loss history or undesirable risk profile are experiencing substantial rate increases, lower capacity and additional exclusions.

Exposure Changes

With increased demand for product recall on CBD and hemp, a few markets have entered the space to provide coverage. While not mainstream yet, further clarification from the FDA and congress may spark additional market entrants.

Insight provided by:

– John Deneen, VP with Amwins Brokerage in Denver, CO
– Morgan Moore, VP with Amwins Brokerage in Los Angeles, CA
– Norman Ives, Cannabis specialist with Amwins Brokerage in Los Angeles, CA

Construction

Overall Segment Trends

We are currently seeing a backlog of delayed construction projects starting up, which is increasing the number of exposures and policy submissions, as well as the size of projects.

Infrastructure has always been a tough class of business for the excess market. We anticipate the new infrastructure bill to add increased exposures and opportunities into the construction market, however, it may take some time before it makes an impact on market pricing and capacity.

Although we are seeing some movement in a post-pandemic environment, we are not out of the hard market, yet. While some commercial classes may soften, challenging classes and insureds with losses will find pricing tough and limits shortened.

> **We anticipate the new infrastructure bill to add increased exposures and opportunities into the construction market.**

Exclusions

Communicable disease exclusions are pervasive, and we are seeing underwriters attempting to add sexual abuse and molestation exclusions to construction accounts, as well as subsidence and building collapse exclusions.

Capacity and Pricing

In the near future, inflation will continue to impact construction costs, unless the federal government intervenes. This translates to more limit needed and higher pricing.

Coverage for excess capacity remains difficult to secure, particularly on accounts that are loss-challenged, or within the lead $8M on residential wraps in construction documentation states.

Wrap-up pricing remains a challenge – mainly due to general aggregate losses where carrier pricing has been historically inadequate. Pro-forma wrap-up pricing should be updated regularly if projects are delayed, as pricing has been extremely dynamic.

Lead players in the excess space are few. However, there are several new primary and excess markets working on obtaining paper and filing their forms. With new entrants hitting the marketplace around the start of 2022, we should begin to see capacity expand. However, these new construction markets will likely be focused exclusively on commercial, with a limited appetite for anything residential. In fact, we expect residential to become even tougher as capacity continues to shrink.

- **New York construction market:** Carriers are moving away from some of the tougher construction classes – such as exterior masonry, curtain wall, demolition, roofing, scaffolding and bridge work. However, certain markets are beginning to write more of these types of classes.

  New markets entering New York continue to have an impact on others who are willing to write trade contractor deals. In addition to general liability, we are also seeing more lines being written for workers' compensation and excess.

- **Florida residential construction market:** We are seeing a few carriers willing to write primary and lead excess, most of which are MGAs. Currently, overall capacity continues to be cut, with some carriers completely withdrawing from the market. Carriers are also adding more restrictive terms, such as limits on wrap projects and not going over 100 units for high rise projects.

Insight provided by:

- Jett Abramson, EVP and Construction Casualty Practice Co-Leader with Amwins Brokerage in Manhattan Beach, CA
- Jennifer Mier, EVP and Construction Casualty Practice Co-Leader with Amwins Brokerage in Dallas, TX
- Scott Jensen, EVP and Construction Casualty Practice Co-Leader with Amwins Brokerage in Satellite Beach, FL
- Gary Ricker, EVP and NY Construction specialist with Amwins Brokerage in New York, NY

Environmental

Overall Segment Trends

The environmental sector continues to experience significant growth, with several new carriers entering the marketplace. However, as overall market capacity and appetite for environmental business grows, the sector is also experiencing an increase in claims frequency and severity, which has caused disruption in certain lines of business.

Last quarter, a long-standing site pollution carrier pulled out of the marketplace after an unprofitable year. This follows the exit of another key carrier several years ago. Despite the challenges this presents for certain classes, overall market penetration for specialized environmental policies remains low, offering retailers with greater opportunities to provide solutions for their clients.

Exposure Changes

Hospitality and habitational risks are experiencing a restriction of coverage for mold, with carriers increasing deductibles and limiting coverage for pollution discovered during capital improvements.

With the many proposed large infrastructure projects in the works, we expect to see an increase of contractual obligations for general and trade contractors to carry contractors pollution liability (CPL) and combined contractors pollution and professional, along with several markets writing competitive CPL wraps for larger projects.

Capacity and Pricing

CPL and combined contractors pollution and professional are experiencing growth and relatively flat rates due to the number of carriers offering coverage. We are also seeing some markets add faulty workmanship coverage to their forms.

The market for higher hazard risks, such as chemical manufacturing, oil and gas operations, mining and bulk petroleum storage, are expecting what could be double digit rate increases.

Packaged GL and pollution continues to expand to additional classes, with some carriers writing trade contractors along with all types of manufacturing risks. Currently, there is an estimated $450 million in capacity available in this marketplace. While carriers offering this product haven't shown the same hardening as the general casualty market, some are beginning to pull back on excess capacity.

> **The market for higher hazard risks are expecting what could be double digit rate increases.**

For example, carriers that once offered $25M might now offer $15M, and others that offered $10M may only put up $5M. This reduction in limits comes as more companies seek product-pollution liability due to increased litigation around products that are toxic to humans or the environment.

Exclusions

The U.S. EPA and state environmental agencies continue to look at "emerging contaminates" and as a result, carriers are implementing perfluoroalkyl and polyfluoroalkyl substance (PFAS/PFOS) exclusions for sites where these were used in historic operations. We expect this trend to continue as the regulatory and legal environments change. Additionally, airports, wastewater treatment facilities, landfills and manufacturing classes are seeing PFAS exclusions, unless water testing demonstrates zero contaminants.

COVID-19 and communicable disease exclusions are common on both site pollution and contractors pollution forms, however some carriers are willing to offer coverage based on the insureds' operations and protocols. Generally, coverage is being offered with small sub-limits of $1M or less with no coverage for business interruption.

Insight provided by:

– Daniel Drennen, VP and Environmental Practice Leader with Amwins Brokerage in Birmingham, AL

Public Entity

Overall Segment Trends

Public entity liability placements, many effecting at the end of Q2, necessitated a full collaboration of markets, buyers and brokers to deliver solutions in one of the most challenged verticals in the casualty space.

For the first time, pooled risk mechanisms experienced overall shared member aggregates – often at a multiple of the per occurrence limit, with exceptions on education exposed risk profiles for more restrictive aggregate multiples for sexual molestation liability. These same risk pooling structures embraced vehicles for reinsurance participation in mid-layer excess positions.

Efficiency of frictional cost reductions of self-insurance vs. risk transfer, coupled with lower than carrier actuarily-driven loss severity and trend selection levels, helped increase retained amounts to further support greater risk assumption by pool administrators and risk managers.

Individual Risk Markets

Individual risk lead markets saw a continued net loss, while several short line excess and reinsurance facilities arrived on the scene in Q2 to afford mitigating (and new) capacity support.

The Bermuda start-up facilities supported the public entity arena in light of imposed aggregate positions in renewal terms, and improved premium to limit considerations in an effort to align closer with underwriting guidelines.

Non-tort protected venues continued to see different renewal outcomes in comparison to states where the governmental tort caps have held.

The higher education space experienced a dislocation in key lead market participation (both terms and policy language) that generated significant excess tower activity and unique retained amount language offerings, most notably regarding sexual molestation liability.

Capacity and Pricing

Capacity in the public entity space remains limited, as existing market participants continue to seek reduced line sizes.

Excess tower participation saw significant updraft in pricing due to higher demands of intervening price per million percentages, exacerbated by line size reductions and the simultaneous need for increased syndication of market participants to achieve expiring total limit purchases.

Existing market positions were impacted by Q1 and early Q2 treaty renewals, with increasing limitations around certain venues (California, Washington, Oregon, and New Jersey as examples) and capacity availability – with many markets moving from 10M to 5M lines and creating 5M x 5M layer needs that previously didn't exist.

Purchasing Behavior

Multi-year structured solution offerings (spreading both aggregate and corridors across multiple terms) saw increased interest from buyers, especially when looking at funding alternatives in retained layers.

Exclusions

Non-operational underwriting variables, such as forever chemical exposure and climate/weather changes, alongside persistent loss activity around sexual molestation and cyber liability, saw markets continue to keep a close eye on terms and possible exclusionary stances in particular areas of concern.

Insight provided by:

– Brian Frost, EVP and Public Entity Practice Leader with Amwins Brokerage in Woodland Hills, CA
– Davis Moore, Vice Chairman with Amwins Brokerage in Los Angeles, CA
– Lori Hunter, EVP with Amwins Brokerage in Los Angeles, CA

Real Estate

Capacity and Pricing

Pricing for the real estate sector continues to increase but is less dramatic compared to 2020. While the opportunity for carriers in this space continues to grow, so does their scrutiny in what they wish to write. Much of this scrutiny is based on the increase in losses year over year. While additional capacity has been entering the casualty marketplace overall, very little of that has been for the real estate sector. We continue to see insured's re-negotiating lender required excess limits because of rising rates.

Exclusions and Coverage Limitations

An exclusion that is gaining traction is habitability. Insureds must be extremely careful and understand the true intent, as policy language within this exclusion varies by carrier.

For small schedules with losses or poor crime scores, it remains challenging to find more than small sub-limits for A&B. In addition, some carriers will exclude sexual misconduct/molestation. One way to regain some protection on A&B for sub-limited or excluded policies is via Active Assailant coverage. While it won't provide the comprehensive A&B coverage received on a standard general liability policy form, it can protect the insured for losses caused by a deadly weapon.

Amwins recently launched an exclusive product that combines deadly weapons protection and sexual molestation coverages on a single policy form for small to mid-size businesses.

While the opportunity for carriers in the real estate space continues to grow, so does their scrutiny in what they wish to write.

Purchasing Behavior

Success for retailer brokers in this market involves implementing a strategy that looks more closely at where losses are coming from and where they can apply/accept more restrictive terms. While this wasn't necessary a few years ago, more insureds are now willing to accept more restrictive terms for a small number of locations to avoid being penalized on the larger portion of their schedule.

When evaluating risks, we continue to see carriers asking for more underwriting information. To overcome challenges in this space, it's vital to demonstrate proactive actions the insured is taking to mitigate risks. Claims will still occur, but the more quality information we can provide showing proactiveness both pre- and post-loss, the better chance the carrier will have interest in providing terms. In addition, if the insured is in growth mode, be ready to defend how they are managing that growth effectively.

Insight provided by:

– Corey T. Alison, EVP and Real Estate Casualty Practice Leader with Amwins Brokerage in Atlanta, GA

Transportation

Overall Segment Trends

Public auto accounts were the hardest hit during the pandemic, with many small and mid-fleet accounts electing to close rather than trying to operate on a limited schedule or pivot to an entirely different operation. Entities that did close are now working to resume operations – in many cases, as a new venture. This could mean a higher unit rate structure than prior to the pandemic, driven primarily by a lapse in coverage, new or inexperienced driver exposures and operating with fewer power units.

As the driver shortage continues, insurers are being asked to approve drivers who may not otherwise meet age or experience requirements. While some insurers are willing to make exceptions, some cases will require insureds to implement additional telematics monitoring of drivers that don't meet guidelines.

Carriers will continue to put more weight into technology and safety, favoring risks with added tech and safety programs. Over the next several months, we'll continue to see telematics-based programs

We are seeing growth in new program and alternative risk capacity in commercial auto and trucking.

offer solutions for accounts that may have a distressed operation profile, and the industry should expect to see additional capacity in usage-based insurance expand.

Capacity and Pricing

– **Primary Auto.** Pricing for primary auto is beginning to flatten after several years of rate increases. We are seeing growth in new program and alternative risk capacity in commercial auto and trucking, primarily in the mid-fleet and large fleet segments. As increased competition on preferred to mid-tier risk profile accounts heats up, most renewals are being intensively shopped.

  Commercial auto tort reform continues to be a topic of discussion, with legislation recently passing in TX aimed at reducing the prevalence of "lawsuit abuse" and corresponding "nuclear verdicts." Reform initiatives are being viewed as a first step in tort reform that may carry over into several legislative sessions. What doesn't get done this year will need to wait for the next legislative session in 2023 or be built on accomplishments made already this year.

– **Excess.** More carriers are moving from a flat rated policy to adjustable on mileage/unit counts to account for added exposures throughout the term, paired with a 100% MAP so premium is not returned if exposures are reduced. On clean(er) risks with short limits ($1M-$2M), we are seeing an average of 10%-20% rate increases, while clean risks in tougher industry groups (e.g., oilfield, fracking, etc.) are on the higher end.

  Over the past six months, several new entrants in the lead excess market have resulted in marginally softer conditions on small to mid-sized risks within the first $5M-$10M layers. The trend for carriers to reduce their excess capacity, especially in the higher layers, has somewhat stabilized from the drastic changes/reductions experienced over the past few years. However, risks in tougher industry groups and those with poor loss experience are still seeing capacity reductions. Carrier appetite in excess has remained mostly consistent, with public auto risks (bus, paratransit, taxi, limousine) typically being the most difficult to place.

Exclusions

As a result of COVID-19, we are seeing more carriers adding communicable disease limitations and/or exclusions to their business auto forms.

Insight provided by:

– Chris Moulder, SVP with Amwins Brokerage in Atlanta, GA
– Kevin Fuhr, AVP with Amwins Brokerage in Chicago, IL