Brown & Brown INSURANCE®

Market Trends Quarter 2 | 2021

COMMERCIAL INSURANCE & RISK MANAGEMENT

OUR GOAL

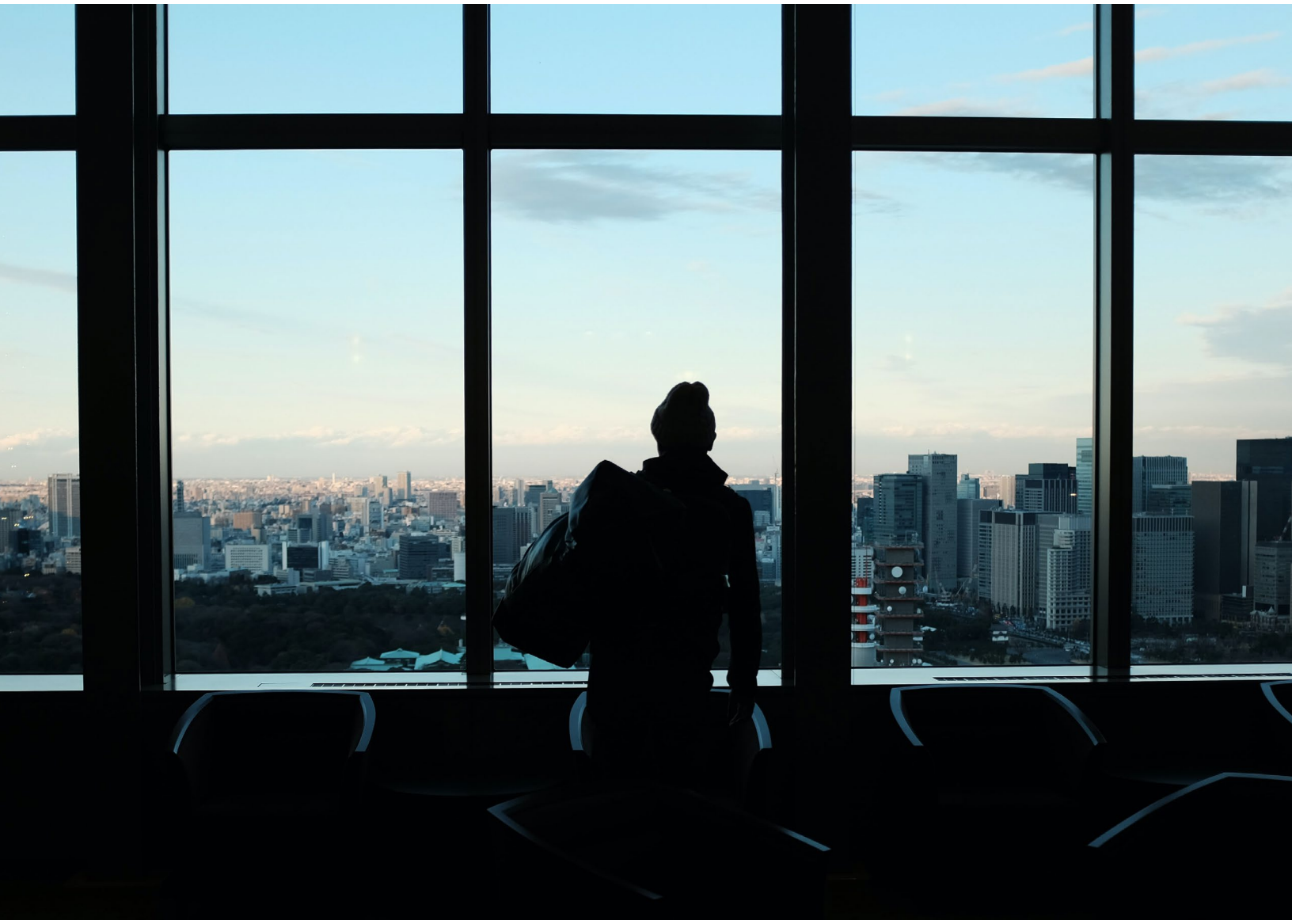
Brown & Brown's Market Trends allows you to connect quickly to succinct key topics and notable updates in the insurance marketplace. Dive deeper on any topic with our Brown & Brown Team to better understand how these trends may impact your business. We welcome the conversation. Enjoy.

DISCOVER

MARKET SUMMARY

Q2 | 2021

The outlook for the second quarter of 2021 remains challenging for many insureds. So far, 2021 has delivered devastating winter storms, high-profile cybersecurity attacks, and tightening underwriting standards. Sectors that enjoyed historic competitive pricing may now face rate increases, higher deductibles, and more stringent underwriting measures. Companies are advised to take early and thorough action to prepare for insurers' scrutiny. Brown & Brown is here to help.



PROPERTY

Q2 | 2021

Property insurance rates continue to have upward traction, with no sign of leveling off in the second quarter of 2021. Increased rates, reduced capacity, and coverage reductions are affecting many commercial insurance buyers. Loss-free insureds can expect to see rate increases of 5% to 15%. Insureds with losses, outstanding risk control recommendations, or those in tougher occupancy classes, such as molten metal, PowerGen (coal), habitational, food and manufacturing, etc., can expect >15% rate increases. Insurers continue to address persistent obstacles to profitability, e.g., deficient interest rates, and continued attritional and catastrophic losses. Insurers are also passing 10% to 15% increased reinsurance costs to insureds.

In an otherwise benign quarter, the mid-February Texas winter storms may exceed $10 billion in property damage losses. Losses from these storms will impact insurance pricing in future quarters.

In addition to rate, coverage, and capacity changes, property underwriters have a rejuvenated focus on seeing adequate valuations and risk improvements. If appraisals are not available, providing a supporting methodology is key to gaining underwriter support. Additionally, providing current, positive risk control recommendation responses helps promote a favorable position.

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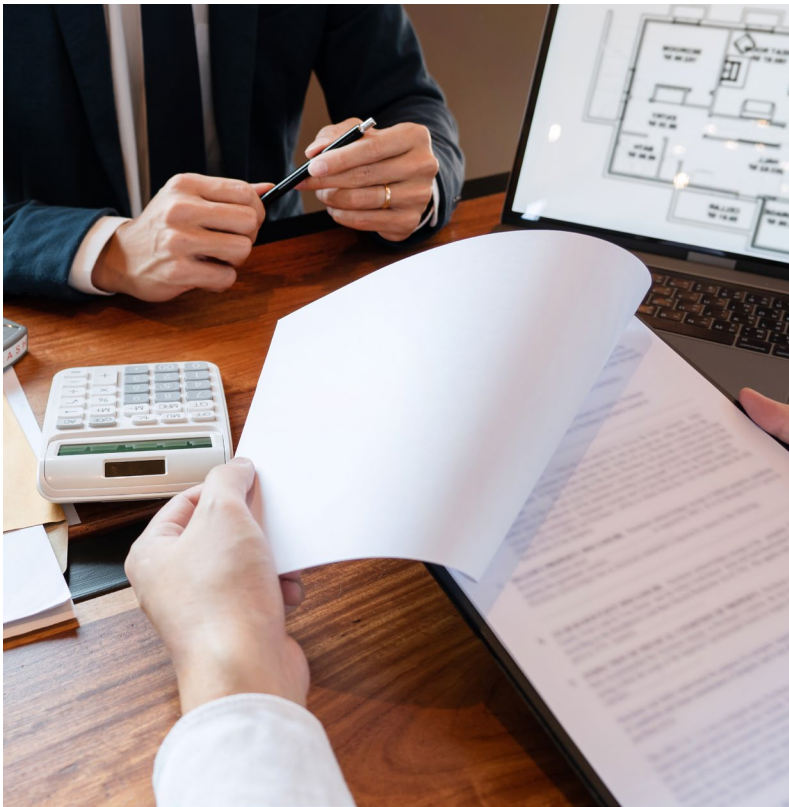

CASUALTY

Q2 | 2021

Workers' compensation rates have remained stable for most industries and in most states. The National Council on Compensation Insurance (NCCI) reports that insurers recorded an 86% combined ratio in 2020, up only slightly from 2019. This line of coverage certainly benefited from COVID-19 remote workforce mandates, although the full effect of incurred but not reported claims remains under scrutiny. Prices are beginning to rise in 2021 after years of rate decreases. The combination of medical cost inflation and an increasingly unhealthy and aging workforce means employers are dealing with escalating per claim costs.

The hardening of the liability market continues into 2021. Loss severity continues to accelerate, driven by a growing anti-business sentiment, aggressive plaintiff's bar, medical inflation, and third-party litigation financing. The increase in loss severity, combined with the economic and legal uncertainty from COVID-19, allows insurers to remain selective. New capital is entering the market, although much of it is opportunistic and looking to take advantage of current pricing models.

The commercial auto insurance market remains challenged. Although miles driven decreased with remote working, loss severity continued to increase. Distracted driving, rate of speed, higher repair costs, and aggressive legal firms continue to push claim costs. Large fleets and customers with a poor loss history will likely experience significantly higher rates and reduced insurer interest.

While much of the rate adequacy focus over the last few years has been on auto, premises-driven exposures are becoming problematic. The recent $70M Georgia Kroger verdict is being cited as a potential precedent for a company to be held liable based on negligent security allegations. In addition to pushing rates, insurers are looking to increase deductibles and retentions while offering more restrictive terms and conditions.

The impact of stringent underwriting can be felt the most in the umbrella/excess marketplace, where insurers are reducing capacity and increasing rates. The greatest pain is felt in the primary $10M of umbrella/excess coverage as the impact of nuclear verdicts has forced several insurers out of the space and has led to higher rates and reduced capacity. According to Advisen, the median cost of a single fatality jumped to over $5.1M in 2019, more than double the cost in 2015.

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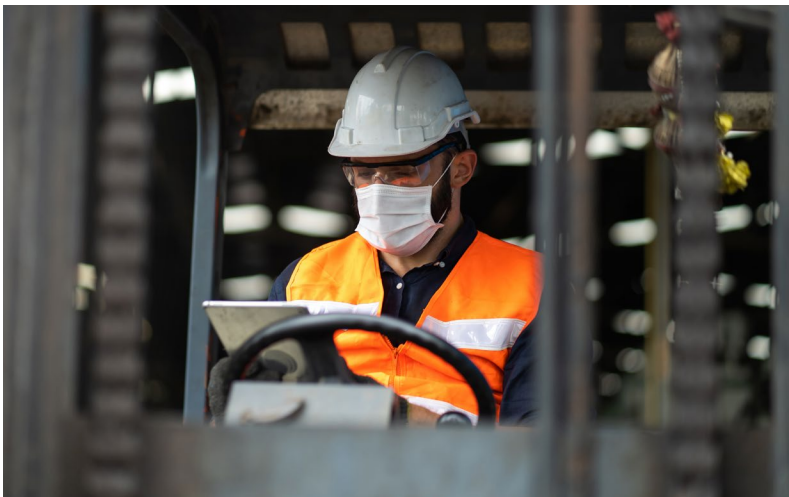

EXECUTIVE LIABILITY

Q2 | 2021

Historically, excessive fee litigation was targeted at select large organizations; however, there recently has been an uptick 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 unlike what has ever been seen in the marketplace. 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 ensure is that the plan sponsor has a detailed process in place and documentation of why decisions were made or providers were selected.

In 2020, 250 special purpose acquisition companies (SPACs) completed an initial public offering (IPO). Already in 2021, more than 160 have filed IPOs. SPACs are a type of blank check company, meaning it has no specific business plan or purpose. It has become a popular vehicle for companies transitioning from privately-held to publicly-traded. Due to the dramatic increase in SPAC IPO filings in the past 18 months, insurers have significantly altered terms for those directors and officers (D&O) placements. Given the popularity and amount of SPAC IPOs, the market is closely monitoring claims that may arise from this current trend. The U.S. Securities and Exchange Commission (SEC) is also carefully watching these companies and has issued investor publications and alerts. In addition, the SEC has sent letters to Wall Street banks seeking information on SPAC dealings given the recent spike in popularity.

With the Biden Administration, there may be new rules and activity emerging in 2021, including the following:

- The SEC is expected to increase enforcement on misconduct in comparison to the approach by the Trump Administration.
- There may be increased employment-related enforcement by the Equal Employment Opportunity Commission (EEOC).
- Senator Amy Klobuchar introduced a new bill to reshape the country's antitrust laws.
- As a result, within certain industries, insurers in the marketplace are managing their regulatory exposure on D&O by cutting capacity for regulatory claims.

In December, the EEOC issued a publication, “What You Should Know About COVID-19 and the ADA, the Rehabilitation Act and Other EEO Laws.” The publication provides information about how a COVID-19 vaccination relates to the legal requirements of the Americans with Disabilities Act (ADA) and other U.S. anti-discrimination laws. The guidance provided by the EEOC points to allowing employers to mandate vaccinations; however, employers must be prepared to accommodate employees who may not get vaccinated for medical or religious reasons and violating any anti-discrimination laws. Companies should seek legal counsel and document all decisions surrounding their approach to the COVID-19 vaccine to help reduce the risk of a lawsuit.

Overall, the executive liability marketplace remains challenging through the first quarter of 2021. Significant price increases realized in 2020 have continued in early 2021. Underwriters continue to manage overall exposure, capacity, and terms and conditions. Nonetheless, there is new capacity entering the marketplace, and established carriers do have a refreshed outlook on new business in 2021.

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CYBER LIABILITY

Q2 | 2021

Cyber insurers continue to update underwriting and pricing models to navigate today's cyber threat landscape. Ransomware losses continue to increase in both frequency and severity, with average payouts trending upwards. Systemic events perpetrated by hostile state actors, such as the attacks on Solar Winds and Microsoft Exchange, continue to fuel concerns over systemic risk. To maintain financial stability, several insurers are adding new policy exclusions related to Solar Winds, Microsoft Exchange, and governmental shutdown events.

Many insureds will see rate increases on their cyber programs throughout the second quarter of 2021. In a number of scenarios, insureds should anticipate rate increases exceeding 100%. This includes those with large aggregations of personal information and those with significant business interruption exposures, particularly insureds with physical operations such as manufacturing and transportation. Insureds who have historically enjoyed ultra-competitive pricing may also experience significant rate increases as insurers re-evaluate minimum premiums per million dollars of coverage, minimum excess rates, etc.

Insureds should also expect limited appetite from the marketplace if the business lacks basic security protections, such as multi-factor authentication, a strong backup strategy, and business continuity planning. Insurers continue to use third-party or internal scanning tools to review an insureds public-facing assets. Remediation may be required in order to offer terms if severe vulnerabilities are found, such as open ports, lack of encryption, or indications of exposed and/or weak passwords.

Basic Security Protections:

- Multi-Factor Authentication
- Strong Backup Strategy
- Business Continuity Plan

In addition to more strict underwriting standards, insurers are actively practicing limits management to avoid deploying their full capacity for a single applicant. Many insurers are unwilling to provide limits that are highly exposed to ransomware losses, typically limits exceeding $5,000,000 for a single layer. Some insurers are also requiring more advanced security controls, such as endpoint detection response, in order to consider limits higher than $3,000,000. Insurers are also increasing minimum waiting periods for business interruption and minimum retentions offered based on an insured's size, limits purchased, and dependence on third parties.

While few insurers have implemented drastic coverage changes, several insurers have expressed a willingness to curb ransomware losses via coverage limitations. These limitations may apply to ransom payments, privacy breaches, regulatory investigations, or any resulting loss, such as business interruptions. Although the marketplace continues to harden primarily due to increased claims activity, several new insurers or managing general agents have emerged and expressed interest in this market segment.

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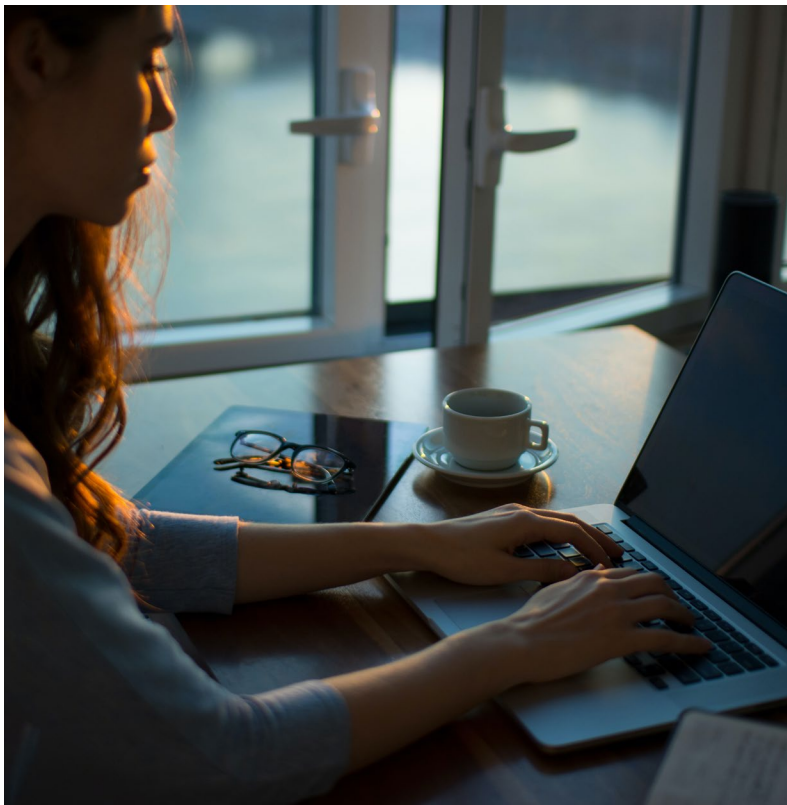

INTERNATIONAL

Q1 | 2021

A majority of U.S. multinational companies are continuing to see rate stability in international casualty programs. Under international casualty programs, the main coverages include international liability, international automobile liability, and international voluntary workers' compensation/employer's liability. Global litigation continues to be slower than the U.S., and, therefore, rates remain stable due to a competitive marketplace. 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, though marketing a company's program can result in flat or decreased rates, although rates are still subject to loss history. Many insurers are opening up their capacity for international casualty programs to tougher products and risks than in the past.

Many companies have experienced reductions in revenues during 2020; however, insurers have not been reducing 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 been able to avoid the exclusion. These exclusions should be removed whenever possible.

Main Coverages Under an International Casualty Program:

- International Liability
- International Automobile Liability
- International Voluntary Workers' Compensation / Employer's Liability

Business Travel Accident Coverage, a Key to Foreign Business Travel in 2021

As economies throughout the world start to reopen, business travel will likely make a slow return, with perhaps a return to more normal levels in late 2021 and 2022.

There is an increased awareness about the risk of potential virus variants. Several countries are also prohibiting entry from foreign countries unless the traveler can prove they do not have the virus or have been vaccinated. In addition, some are requiring the traveler prove they have medical insurance that will pay the treatment costs of all sickness and illness, including costs associated with the COVID-19 virus and variants, if they become ill. The only product available for this protection is a quality Business Travel Accident (BTA) policy, with coverage for out-of-country medical costs.

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 impotent. The insurers are now underwriting to higher standards. Insurers prefer to see company protocols to restrict travel to “business necessary” only and require internal senior management approval of all business travel, especially for foreign travel. As companies begin traveling again, having a quality business travel accident policy to protect employees will have a higher level of importance to the duty of care owed to the employees.

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BROWN & BROWN AND COVID-19

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

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.

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