



2020  
Q2



COMMERCIAL PROPERTY & CASUALTY MARKET OUTLOOK  
*Insights from USI National Practice Leaders*

THE USI  ONE ADVANTAGE®



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At perhaps no other time in recent history have so many significant and interrelated challenges confronted the nation simultaneously – a public health emergency, economic downturn, increased unemployment – caused by the devastating COVID-19 pandemic and the incomprehensible toll that it has taken on human life.

When we released our 2019-2020 Property & Casualty Market Outlook and Q4 Update at the end of last year, there were few, if any, indications of the extraordinary events that would soon emerge, or how these events would so quickly and dramatically affect our personal and professional lives and the domestic and international business and economic landscape.

In our Q4 report, we discussed the various trends that were signaling a hardening insurance market: rate increases and reduced coverage capacity across various lines of insurance, and we projected that the situation would continue well into the New Year.

But with the eventual spread of the Novel Coronavirus from Wuhan, China, across Europe and into the United States last winter, the business landscape quickly and dramatically changed. In the attempt to thwart the spread, shelter-in-place orders, social distancing, and office closures were implemented. This resulted in an unprecedented shut down or slow-down of businesses across the U.S., subsequent job losses, and a historic economic crisis. Government stimulus efforts and the Coronavirus Aid, Relief, Economic and Security (CARES) Act funding provided businesses with only partial or temporary relief.

## Market Challenges and Uncertainties

It is apparent that the economic impact has started to manifest itself in the insurance market with decreased exposures, such as payroll, sales, and inventory.

While it is too soon to determine the full impact of COVID-19 on the Property & Casualty insurance industry, markets are facing unique and interrelated challenges that industry insiders feel will continue through 2020 and well into 2021. In fact, as rate increases, capacity reductions, and other negative trends continue to harden the market, the industry faces a number of challenges and uncertainties resulting from the ongoing COVID-19 pandemic. The Property, Umbrella/Excess Liability, Casualty, and Directors & Officers (D&O) Liability markets are currently dealing with the most significant issues.

- **Property:** All segments of the property sector are experiencing higher rates, capacity restrictions/limitations, and other challenges resulting from a combination of factors that include carrier requirements and restrictions, excessive underwriting submissions, increased reinsurance costs, and COVID-19 claims and corresponding lawsuits.

- **Umbrella & Excess Liability:** The Umbrella/Excess lines experienced the most substantial firming during the first two quarters of 2020, with pricing increases of over 100%, reductions in total capacity of at least 25%, higher attachment point requirements, and further impact from “social inflation.”
- **Casualty:** Rate increases, capacity restrictions, and tighter underwriting standards are commonplace in the Primary General/Products Liability and other casualty markets, and it is anticipated that COVID-19 will exacerbate the current market dynamics across all lines including Workers’ Compensation.
- **Directors & Officers (D&O):** Both the public company D&O marketplace and the private company Not-for-Profit D&O marketplace continue to experience premium and retention increases with COVID-19 hastening the pace. The increases are not as severe within the private market but are higher than they were in Q4.

As the second half of the year gets underway, we will remain close to industry and market developments so we can best guide and support our clients through these challenging times.

Further, we will continue to leverage our risk, insurance, and market expertise through our comprehensive STEER initiative (Steering Through Epidemic and Economic Recovery), of which [USI’s Public Health Emergency site](#) is a key component. Here, we regularly post comprehensive and timely communications, tools, and materials related to the COVID-19 pandemic to help inform and educate our clients and remind them that *we are all in this together*.

We wish you continued safety and good health.

### Robert Meyers

Senior Vice President,  
Property & Casualty Leader



# MARKET UPDATE BY PRODUCT LINE

Sector	Product Line	Q4 2019-2020	Q2 2020
Property	Property Non-Catastrophic w/Good Loss History	Up 10% to 20%	Up 5% to 15%
	CAT Property w/Minimal Loss History	Up 25% to 40% +	Up 20% to 40% +
	CAT or Non-CAT Property w/Poor Loss History	Up 30% to 60% +	Up 40%+
Casualty	Primary General/Product Liability	Up 5% to 10%	Up 5% to 10%
	Primary Auto Liability w/Fleet Less Than 200 & Good Loss History	Up 10% to 15%	Up 10% to 20%*
	Primary Auto Liability w/Fleet Less Than 200 & Poor Loss History	Up 15% to 25%	Up 20% to 30% +*
	Primary Auto Liability w/Fleets in Excess of 200	Up 15% to 30%	Up 20% to 30% +*
	Excess Auto Buffers	Up 35% +	Up 40% +
	Workers' Compensation Guaranteed Cost	Down 10% to up 5%	Down 5% to up 5%**
	Workers' Compensation Loss Sensitive	Down 5% to up 5%	Flat to up 5%
	Umbrella & Excess Liability (Middle Market)	Up 10% to 25%	Up 10% to 50%***
	Umbrella & Excess Liability (Risk Management)	Up 15% to 30% +	Up 25% to 100%***
	Medical Malpractice	Up 5% to 15%	Up 10% to 25%
EPS	Public Company Directors & Officers	Up 25% to 50%	Up 25% to 75%
	Private Company and Not-For-Profit (NFP) Directors & Officers	Up 5% to 20%	Up 10% to 50%
	Employment Practices Liability	Up 5% to 20%	Up 10% to 50%
	Fiduciary	Up 5% to 10%	Up 10% to 25%
	Crime	Up 5% to 25%	Up 10% to 25%
	Professional Liability/Errors & Omissions	10% to 30%	15% to 50%
	Network Security & Privacy (Cyber)	Flat to 10%	Up 5% to 20%
	Technology Errors & Omissions	Up 10% to 15%	Up 5% to 20%

# MARKET UPDATE BY PRODUCT LINE

Sector	Product Line	Q4 2019-2020	Q2 2020
	Representations & Warranties	Down 5% to flat	NO CHANGE
	Kidnap & Ransom	Flat to +5%	Up 5% to 10%
International	International Liability	Flat. Auto up 15% +	NO CHANGE
	International Property, CAT exposure	Up 5% to 15% +	Up 40% +
	International Property, Non-CAT exposure	Up 5% to 15% +	Up 10% to 20% +
Aviation	Aviation	Up 15% to 30%	NO CHANGE
Environmental	Environmental Combined General Liability/ Pollution	Up 5% to 8%	Up to 10%
	Excess Combined General Liability/Pollution	10% to 20%	10% to 20%+
	Environmental Contractors' Pollution	Flat to down 10%	NO CHANGE
	Environmental Pollution Legal Liability	Down 5% to up 5%	Flat to inflationary increases

\*Including need for primary limits up to \$2MM

\*\*Dependent on state.

\*\*\*In some cases, depending on class of business and limits purchased. Factors in contraction in limits.

# PROPERTY

Multiple factors have and will play a role in the continuing challenges we face in the property market for all segments of business:

- Carriers' focus on profitability
- Reduced investment income
- Underwriting submission overload
- Result of COVID-19 claims and litigation

Underwriting based on profitability is driving reduced capacity utilization decisions, which directly impacts the cost of capacity. This is especially true for accounts with sizeable exposures to natural catastrophe (CAT). Rate increases for non-CAT risks have been in the 5% to 15% range but for CAT exposed locations, rate increases have been seen in the 20% to 40%+ range.

The pass-through of increasing reinsurance costs is also driving pricing, especially as it relates to the availability and cost of hurricane, earthquake, and flood capacity. In addition, with most property accounts being marketed, submission flow has caused renewal timing delays resulting in last-minute quotes and stress on the renewal process for buyers.

## Pandemic

There is no way to predict the long-term impact of the COVID-19 pandemic on the marketplace. For policies in place and for upcoming renewals, premium levels based on exposures have been reduced. Correspondingly, so are loss exposures for carriers. We continue to see news about insureds filing lawsuits against property carriers for governmental shutdowns and the resulting impact to income. Although the future market will likely reflect the current activity and potential claim results, it will take time for the actual impact to be felt. This uncertainty could lead to carriers pushing increased rates and decreased capacity offerings. Governmental intervention in the form of a program like the Terrorism Risk Insurance Act (TRIA) could positively impact the overall market result.

Market Update	Q4 2019-2020	Q2 2020
Property Non-Catastrophic w/Good Loss History	Up 10% to 20%	Up 5% to 15%
CAT Property w/Minimal Loss History	Up 25% to 40% +	Up 20% to 40% +
CAT or Non-CAT Property w/Poor Loss History	Up 30% to 60% +	Up 40%+

## BY OCCUPANCY

### Industrial

Capacity restrictions are driving structure changes in the placements of high-risk industrial accounts. These include woodworking, foundry operations, food and beverage companies, and recyclers. Large losses in the spirits industry are impacting capacity, pricing and deductibles as well. Business Interruption analysis, exposures, and limits are a strict focus for carriers along with analyzing the impact to income from losses at key suppliers or to key customers (Contingent Business Interruption). Single carrier solutions are difficult to achieve and using multiple carriers on a shared and layered approach tends to drive up pricing drastically. The impact on rates ranges from 25% to 50%+, but with exposure reduction through risk control, the lower end rate range is achievable.

*USI suggests you review the strategy of using a Stock Throughput approach for the cargo/inventory exposures, considering both capacity and cost efficiency.*

### Habitational

The habitational market continues to harden especially for those challenged by geography or attritional losses. Carriers are pushing for larger deductible levels, with many starting at \$100,000 for All Other Perils. Several of the habitational programs have been decimated by losses and have shut down or reduced their offerings significantly. Valuation levels are key in renewal discussions with many carriers requiring minimal values before initiating an account review. Rate increases range from 20% to 40% and even higher for frame, coastal, or convective storm regions.

*USI recommends you provide risk quality information, loss mitigation techniques, maintenance program details and capital expenditure data to secure the best outcome. Quality risks with quality data are seeing rate increases ranging from 10% to 25%.*



## Hospitality

Location and loss history remain the drivers for renewals in the hospitality segment. Accounts with limited exposure to CAT and good loss history can expect renewal rates ranging from 5% to 15% depending on the 2019 renewal levels. Hospitality accounts with locations in hurricane, earthquake or wildfire areas will experience substantially higher rate hikes. Additionally, CAT deductibles will increase from the current 2% to 3% to as much as 5% in many geographic areas. There is a movement also in this segment requiring a shared and layered approach for larger and/or exposed accounts, which directly impacts program costs.

## Dealer's Open Lot

Carriers in this segment have also seen a tremendous amount of losses resulting in shrinking capacity and considerable upward movement in rates. Some new carriers have entered this space and are offering capacity but not at the premium levels seen in the past. In addition to the pricing adjustments, coverage terms and conditions are more restrictive. This includes higher deductibles with some carriers requiring a per-unit deductible in lieu of a deductible aggregate or max deductible. Dealers in convective storm states (MN, ND, SD, IA, CO, NE, KS, MO, OK, TX, LA) can benefit from hail protection systems to secure more cost-effective coverage for their location.

*USI has been assisting clients in developing mitigation plans for imminent storms such as vehicle relocation or the hail protection features mentioned. For some large dealerships, the concept of*


*constructing physical protection on premise can be reviewed and balanced against the impact of large deductibles imposed by carriers. USI has also been exploring with clients the use of solar physical canopy structures utilizing federal tax credits and the possibility of various energy investor/owner finance options.*

## BY PERIL

### Flood

Underwriters are now required to fully scrutinize flood exposures based on losses and the ever-changing landscape of flood maps. Although flood models exist, carriers rely heavily on their own analytics to review, understand, and price the flood exposures. Many carriers refuse to provide capacity for high hazard flood and if coverage is provided, low limits are quoted. Events like 2017's Hurricane Harvey in Houston revealed that the lines on a flood map are often "blurred" when looking at low, medium and high flood zone areas. It has been estimated that more than 50% of the flood losses experienced during Harvey were considered to be in Zones C or X with minimal to no exposure to flood.

*It is imperative to use multiple sources to establish the appropriate flood zone for each location, allowing for premium charges to be accurate for the exposure.*



Multiple factors have and will play a role in the continuing challenges we face in the property market for all segments of business.

## Tornado/Hail

The frequency and severity of these events has not subsided. The challenge remains that carriers have not traditionally priced for these exposures. The models are not loaded with historical data as with major CAT perils. Many of these recent events have reiterated the need for valuation accuracy. The application of percentage deductibles is now the norm but deductible buydown markets remain available to offer options and retention strategies.

*It is also important to communicate roof age and roof update information to achieve the best result.*

## Hurricane

The well-known hurricane team from Colorado State University (CSU) is predicting an above-average Atlantic hurricane season in 2020, referencing the potential lack of El Niño conditions as a primary factor. CSU is predicting 16 named storms during the Atlantic hurricane season and anticipating eight hurricanes, four of which could reach major hurricane strength. Pricing for hurricane capacity is driven by two primary factors: loss development and revised modeling systems.

Claim payouts from the storms impacting the U.S. in 2017 and 2018 are stated by the carriers to be 15% to 30% above the values reported for the impacted locations. This loss development or “creep” negatively impacts the results for 2019-2020 as these claims are closed. Carriers rely heavily on predictive models to manage and price their capacity for hurricane events. As models are updated and evolve, historical loss data is used, which includes the loss development mentioned above. The knock-on effect negatively impacts the amount and cost of hurricane capacity deployed by carriers.

*We recommend that you know your modeled results to optimize the renewal outcome.*

## Earthquake

Locations exposed to high hazard earthquakes will endure rate hikes and limit reductions by carriers. Carriers are also addressing these high-level exposures by increasing deductibles, some as high as 10%. This is not a capacity issue, but carriers are

requiring an “adequate” price for the capacity provided. Otherwise, earthquake capacity and pricing remain stable.

*Utilizing the models to analyze exposures and corresponding costs for earthquakes will allow for risk-based decisions.*

## Wildfire

Carriers are carefully monitoring and managing capacity for areas that present significant wildfire exposures. This risk along with Convective Storm, as previously mentioned, was included in past coverage and with little to no rate contemplated on a per risk basis. Beyond the application of a wildfire rate, specific wildfire deductibles are becoming more common with carriers using a percentage deductible approach.

*Communication of exposure reduction techniques including hardscaping, roof cleaning frequency, and tree trimming can positively impact the rate applied for wildfire.*

## Parametric Insurance

As the market continues to harden, alternative capacity in the form of parametric insurance is providing coverage for defined event characteristics like ground shake (Earthquake), wind speed (Hurricane), and rainfall (Flood). Given that coverage is dictated by the event magnitude, and not strictly to physical damage at a location, claim payments can be triggered very quickly (30 days is common). Another benefit is that coverage can respond to the financial impact of the event in areas where traditional property policies exclude coverage.

*It is recommended that these products are reviewed and vetted for responding as a supplemental coverage, i.e. deductible buydown or additional protection for uninsured areas of a property claim (non-damage business interruption).*





## How USI Can Help

In addition to the suggestions noted in the previous sections, we encourage you to engage your USI team in the renewal process as early as possible. We will:

- Help to ensure your Statement of Values is updated and accurate.
- Pre-underwrite the risk using our analytics and property resource team.
- Develop the market “ask” emphasizing our ability to impact the renewal outcome.
- Review retention strategies.
- Review limit strategies.
- Differentiate your account against the market’s inclination to drive rate and limit coverage.

We also suggest taking the following actions:

- Clearly identify and communicate risk quality.
  - Emphasize past capital expenditures related to risk quality.
  - Emphasize future capital expenditures related to risk quality.
- Clearly communicate Loss Mitigation details if losses have impacted your account.
- Work with the USI Risk Control team to update and plan for any outstanding recommendations.



# CASUALTY

The new norm continues to be rate increases, more selective deployment of capacity, and reductions in capacity in the Primary and Umbrella/Excess Liability market. Tighter underwriting standards coupled with a continued exodus of capacity for certain classes of business and coverage lines have accelerated in the past 3-4 months. We do not see these trends abating in the near future, in fact, we anticipate they will remain throughout 2020 and into 2021.

In particular, Umbrella & Excess liability lines have experienced the most firming over the past few months, and in some cases, we are seeing pricing up over 100% with total capacity decreasing at least 25% and the requirement for higher underlying attachment points. While virtually all classes of business are being adversely affected, certain industries such as trucking, habitational risks and high hazard industries are being impacted particularly hard. Moreover, insureds with excellent prior loss history are being penalized regardless of prior relationships and tenure with their insurance companies. Workers' Compensation continues to be less impacted than liability lines, however, Workers' Compensation rates are also beginning to stabilize and rise in certain states for various reasons. The COVID-19 pandemic crisis will likely exacerbate the current market dynamics across all casualty lines including Workers' Compensation.

Industry surplus continues to sit around \$750B, however, insurance companies maintain that a substantial portion of this surplus will be eroded by the confluence of certain adverse events. The term "social inflation," defined mainly as rising liability claim awards, is being widely adopted by insurers as the main driver of deteriorating market conditions. Rising jury awards, accelerated by litigation financing trends and anti-corporate sentiment, have resulted in unexpected development of liability losses that have rendered historical pricing models inadequate. Early property and casualty loss estimates of the COVID-19 pandemic range from \$75B to \$100B and will only worsen insurer profitability. Moreover, many states have modified or are looking to modify their Workers' Compensation laws making it easier for a worker to file for benefits stemming from COVID-19-related illnesses. The end effect of this will be to transfer losses from medical insurance to Workers' Compensation. Furthermore, investment income returns for insurers will drop due to lower yields in debt markets where insurers derive the majority of their investment income.

Market Update	Q4 2019-2020	Q2 2020
Primary General/Product Liability	Up 5% to 10%	Up 5% to 10%
Primary Auto Liability w/Fleet Less Than 200 & Good Loss History	Up 10% to 15%	Up 10% to 20%*
Primary Auto Liability w/Fleet Less Than 200 & Poor Loss History	Up 15% to 25%	Up 20% to 30% +*
Primary Auto Liability w/Fleets in Excess of 200	Up 15% to 30%	Up 20% to 30% +*
Excess Auto Buffers	Up 35% +	Up 40% +
Workers' Compensation Guaranteed Cost	Down 10% to up 5%	Down 5% to up 5%***
Workers' Compensation Loss Sensitive	Down 5% to up 5%	Flat to up 5%
Umbrella & Excess Liability (Middle Market)	Up 10% to 25%	Up 10% to 50%***
Umbrella & Excess Liability (Risk Management)	Up 15% to 30% +	Up 25% to 100%***
Medical Malpractice	Up 5% to 15%	Up 10% to 25%
*Including need for primary limits up to \$2MM		
**Dependent on state.		
***In some cases, depending on class of business and limits purchased. Factors in contraction in limits.		

Although various consumer advocacy groups are contesting the insurance industry's justifications for the hardening of the market, we have to acknowledge the reality of a very challenging insurance market that is not sparing most buyers of insurance. When compared to the multiple years of an extremely soft market where year-over-year rate decreases were common and competition and capacity plentiful, insureds are increasingly experiencing decreased competition, a higher level of underwriting discipline, a shortage of available limits, and significant cost increases.

Cashflow and liquidity are more important than ever. As a consequence, insureds and their brokers need to evaluate structural changes in their casualty programs, including loss sensitive programs, assuming more risk through higher deductible/retention levels, quota-sharing layers of risk, and by weighing the benefits of alternative risk financing approaches such as captives.

## Workers' Compensation

**The Market Today and Market Capacity:** Up through the COVID-19 pandemic outbreak, Workers' Compensation, for the majority of insureds, continued to remain a competitive line in most states. Workplace injuries and in particular, lost time claims, continued to decline year-over-year, although indemnity claim costs associated with lost time claims were rising. Nevertheless, loss ratios remained mostly favorable with overall reserves increasing, resulting in the rate reductions in most states. The pace of these rate reductions, however, were beginning to moderate even before the outbreak of COVID-19.

The impact of the COVID-19 pandemic on Workers' Compensation is still uncertain. From a coverage perspective, the statutory provisions of most states call for a direct causal link between employment and the occupational disease. Moreover, the statutes of most states list specific occupational diseases that would be covered, and ordinary diseases of life are typically not included in these statutes. However, over the past few weeks, several states have considered or started to expand their Workers' Compensation laws to include COVID-19 claims. If certain conditions are met, many of these workers who contract the disease will now be presumed to have a workplace injury compensable under the Workers' Compensation system, making it difficult for the employer to prove otherwise. The end result of this will likely be to transfer losses from medical insurance to Workers' Compensation, ultimately hastening the increase in rates in many states.

Regardless of the form of assistance the Coronavirus Aid, Relief, and Economic Security (CARES) Act stimulus bill will provide, insureds in many industries will be experiencing pressure on cashflow for many months to come. As a result, we recommend that guaranteed cost buyers review loss sensitive program structures. This would include paid loss deductible programs, self-insurance, group captives, and other types of loss sensitive programs that may provide greater cashflow and a lower ultimate cost if losses are kept in check. Insureds currently on loss sensitive programs should consider assuming additional risk through higher deductible/retention levels. Attention must be paid to collateral requirements, as credit markets have tightened and insurance companies' collateral requirements have become more conservative requiring higher levels of collateral, likely in the form of letters of credit, which are preferred by insurers over other forms of collateral.

From a claims-perspective, we may see an increase in Workers' Compensation claims, driven by employee layoffs, furloughs or a reduction in hours. In addition, delayed medical treatment and the inability to return to work due to the shutdown may result in greater indemnity and medical claim costs for pre-COVID-19 claims that have been stalled.

Minimum premium levels will be impacted by the layoffs, furloughs, or reduction in hours, partially offset by the approval of most states to exclude payroll at audit for employees who are being paid but not working due to COVID-19. For more information, see USI's May 11, 2020, update, "NCCI Workers' Compensation Class Code 0012 and its Impact on Your Business." <https://www.usi.com/2019-insurance-market-outlook/pdf>.

California's recent decision to classify independent contractors as employees will continue to add billions in payroll and premium and, consequently, losses in the state. Other states have been considering this change as well. This will undoubtedly have a material impact on Workers' Compensation insurers' appetite for clients impacted by these changes, as well as the clients' program structure and design. It remains to be seen how much of an impact this will have on the broader Workers' Compensation market.

## How USI Can Help

USI suggests that clients:

- Work with their broker to improve cashflow by analyzing the cost-benefit of loss sensitive program structures.
- Leverage proper loss and financial analytics to determine their capacity to assume risk at various retention levels.
- Assess the ability to post collateral and evaluate applicable collateral alternatives.
- Ensure payroll by classification codes are accurate, adjusted and monitored accordingly for repurposed employees, employees working remotely, or if the employers' operations have changed.
  - Maintain separate payroll records for the change in operations or the wages earned for an employee whose occupation has changed or who is being paid but not working.
- Assess the current and future utilization of independent contractors to determine the impact on Workers' Compensation program structure, costs and losses.
- Work with claims specialists to identify fraudulent claims and also track unemployment claims to avoid double-dipping.
- Recalculate ultimate losses at various retentions to determine the updated collateral requirement relative to the collateral posted.



## Commercial Automobile Liability

**The Market Today and Market Capacity:** The market for Automobile Liability continues to be challenging with no improvement since USI's 2019 Q4 Market Outlook & Forecast was released. Prior to the pandemic, bodily injury and property damage claims frequency and severity continued to increase quarter-over-quarter and the combined ratio for this line remains in excess of 105%. Coupled with a more liberal claims settlement environment, profitability issues persist for commercial automobile underwriters. No new capital has come into the market nor do we see any capital being deployed into this coverage line until loss trends level out. While advances in technology and the growth of telematics in vehicles will continue to reduce accidents over time, benefits are being offset by:

- More vehicles on the road driven by fewer experienced drivers.
- A deteriorating public road infrastructure.
- The increasing rate of distracted driving.
- The increasing rate of medical inflation trends.
- The increased rate of high-speed accident survival, which corresponds with higher rehabilitation costs.
- Increased property damage losses due to advances in technology and the higher cost of vehicles.

The confluence of these events has steadily reduced overall available capacity in the marketplace in the past 3-4 years. Primary markets continue to walk away from writing the coverage, and many will not entertain a risk unless they obtain a rate that they deem adequate. The vast majority of insureds with a commercial automobile exposure are experiencing significant cost increases regardless of vehicle class, driving radius or geography, and this is trickling down to those insureds with fleet sizes below 100. Additionally, it is increasingly common for Umbrella insurers to demand primary attachment points of at least \$2MM per accident for insureds with fleet sizes as low as 75 units in some cases, and require attachment points up to \$5MM or higher for larger fleets. In turn, these added requirements are driving up the cost of the primary capacity that does exist. As a consequence, the demand for automobile buffer layers is prevalent but capacity at a competitive cost is minimal. We are often seeing the costs for auto buffers going for a sizeable rate online.

The reduction in demand for goods and services and the reduction in commerce stemming from the COVID-10 pandemic has translated to fewer vehicles on the road and

subsequently lower losses over the past eight-plus weeks; however, this temporary reduction in loss activity will not cause current market conditions to stabilize for this coverage line.

Here are some vital steps that USI's risk advisors will take when working with their Commercial Automobile Liability clients:

- Determine early in the process the minimum underlying limits that the Umbrella markets are willing to attach above, and work with the primary insurers or buffer markets accordingly.
- Review alternative program structures to ensure the current program structure is the most optimal from a cashflow, retention level, cost, and collateral perspective.
- Take inventory of all risk mitigating telematics tools and other safety initiatives the insured has invested in, such as GPS and speed monitoring systems, interior and exterior cameras and other technological loss prevention tools.
- Update driver lists and safety protocol, provide complete analytics on loss history and exposure, and provide a data-rich submission with clear underwriting goals from the client's perspective.
- Review Compliance, Safety and Accountability (CSA) scores and take corrective actions. The CSA score, which is used to rate motor carriers in various categories such as unsafe driving, crash indicator, hours-of-service compliance, and driver fitness, is now the first underwriting factor used by insurers to assess a company's risk profile and determine what they should pay for coverage.

## Primary General/Products Liability

**The Market Today and Market Capacity:** The Primary General and Products Liability market continues to firm. Rate increases are common for most insureds across most industries. Capacity constraints as a result of markets exiting this line has also put pressure on rates. Coverage is more restrictive, with many insurers now requiring communicable disease exclusions and enhanced environmental/pollution exclusions. Furthermore, markets are increasingly unwilling to write primary liability lines on a stand-alone basis without Workers' Compensation for many industries. This is making it difficult to separate program lines to achieve the most favorable renewal outcome.

Similar to Automobile Liability, Umbrella markets are requiring higher minimum primary limits of 2/4/4, which is adding significant dollar amounts to the total cost of the primary layers.

## Umbrella and Excess Liability

**The Market Today and Market Capacity:** The coverage line with the most substantial firming over the past 3-4 months has been Umbrella/Excess liability. The ramifications of “social inflation,” introduced on page 10 of this report, are negatively impacting Umbrella/Excess liability coverage more than almost every other coverage line.

Rate increases ranging from 10% to upwards of 50% and greater are being experienced by the majority of insureds, especially larger upper middle market to risk management insureds who purchase \$25MM in limits and higher and those with poor prior loss experience or in high hazard industries. Insureds who purchase \$25MM or lower in limits are also facing pricing pressure, but not as significant as those who purchase higher limits. Carrier capacity, which averaged \$25MM a few years ago, now averages \$10MM to \$15MM per market with few exceptions where markets are deploying higher capacity. When greater capacity is provided, it is often ventilated and staggered throughout the tower. Many markets are now limiting their maximum capacity to \$25MM in total on any specific risk and are also monitoring their aggregation of limits for clients in certain industries where losses for one insured may result in losses for another insured. The reduction in limits, however, comes with no corresponding decrease in rates and when the contraction in limits is compared to the premium on a cost-per-million basis, some insureds are experiencing triple-digit increases.

More capacity is being reallocated higher up in towers and these markets are demanding higher rates on a price-per-million basis. Only a few short years ago, Excess liability markets were getting a small fraction of the rate that the lead Umbrella or first Excess Liability markets were obtaining, i.e. 20% or less. Furthermore, many Excess markets now refuse to acknowledge the pricing models that have been developed below them and, instead, rate the

*“The ramifications of ‘social inflation’...are negatively impacting Umbrella/Excess liability coverage more than almost every other coverage line.”*

pricing based on their own models and what they believe the risk to cost. As a consequence, we are seeing Excess markets require 50% or greater of the lead Umbrella’s rate pricing and in some cases, 100% or greater. This distorts the pricing of a tower by having a layer of insurance higher up in the tower costing more than layers of insurance further down in the tower and closer to the risk. In addition, markets are now reserving their right to re-price their layer if any higher layers placed are equal or higher in premium per million.

Moreover, underlying per-occurrence attachment points of at least \$2MM and higher, as well as higher aggregate limits in the primary layers of \$4MM, are now mandatory for many larger middle market to risk management clients and we are also seeing the primary auto requirements of \$2MM being pushed down to smaller insureds with fleet sizes as low as 100. Although industry surplus is at an all-time high, there appears to be no insurer(s) who are willing to jump into this market to begin competing more aggressively for premium dollars and, as noted earlier, the COVID-19 pandemic will only exacerbate market conditions.

As a consequence, insureds are being forced to cut back on limits they purchase altogether, quota-share a portion of the tower to recapture premiums, and/or self-insure layers for which they formerly purchased coverage.

The demand for rate increases is not expected to slow for the duration of 2020 and no industry will be spared – even clients with exceptional loss experience. Insurers will continue to demonstrate conservative underwriting practices and not deploy their surplus capital to write new or expanded business, with very few exceptions. Insurance companies appear to be in lockstep with each other and resolute in not trying to buck the current market trends.

From a coverage perspective, we are seeing more restrictive terms, including insurers applying affirmative infectious/communicable disease exclusions, among other coverage limitations. Historically, the majority of policies were silent on infectious disease.

## How USI Can Help

In working one-on-one with clients who purchase Auto Liability, General Liability, or Umbrella coverage, USI assists in developing a plan of action and dialogue with incumbent and prospective markets. Additionally, USI suggests that clients take the following steps to ensure a better outcome:

- Determine early in the process what are the minimum underlying limits that the Umbrella markets are willing to attach over, and work with the primary insurers or buffer markets accordingly.
- Benchmark overall Umbrella/Excess limits purchased against peer groups to validate total limits purchased.
- Review coverage carefully and terms & conditions to ensure the policy intent and language is clear and all exposures to loss have been addressed.
- Compare and contrast the cost-benefit of Claims Made versus Occurrence Reported triggers.
- Consider using alternative risk approaches such as captives to quota share layers to better manage the cost and capacity constraints this market is posing.
- Prepare early for renewal, develop a plan of action, and dialogue with both incumbent and new markets at least 150-days in advance. Discussions should consider reductions in capacity, corresponding rates on a price-per-million-basis and any additional exclusionary wordings such as those pertaining to infectious disease or similar exclusions.
- Differentiate the nature of the risk, a step that is now more important than ever. Clients should clearly describe the qualities of their risk in their carrier submissions. Risk quality comes in several forms including: loss control/safety, contractual risk management, risk mitigation, capital expenditures, willingness to engage risk control and overall risk management philosophy.
- Complete a loss analysis early to assess impact of program structure, retention, collateral, and risk mitigation efforts.
- Work with brokers to stay abreast of specific market conditions and develop a plan of action.
- Evaluate coverage terms and conditions appropriately if switching carriers to ensure consistency.
- Dialogue with underwriters more frequently and develop a deeper relationship with long-standing carrier partners.





# EXECUTIVE & PROFESSIONAL SOLUTIONS (EPS)

## Public Company Directors & Officers (D&O)

The public company D&O marketplace continues to harden, with the economic impact from the COVID-19 pandemic hastening the pace. The significant premium increases seen in the last six months of 2019 did not abate in Q1/Q2 of 2020. We do not anticipate any change of course for the rest of 2020. In fact, an acceleration is likely.

Since the first half of 2019 only saw modest firming relative to the second half of the year, some Q2 2020 D&O renewals experienced significant increases for the first time. For the second half of 2020, while most D&O buyers will have experienced a substantial increase in 2019, they will almost certainly face another adverse renewal. A wave of bankruptcies and a potential uptick in Securities Class Actions (SCA) alleging inadequate or misleading disclosures regarding the impact of COVID-19 on financial performance could further erode the public company D&O market in the second half of 2020, fueling more premium increases.

**Drivers of the Hardening Market:** There have been over 400 SCAs per year since 2017. This year is also on pace to exceed 400, so claim frequency risk still exists. Also, severity risk continues to escalate as median (\$12M+) and average (\$30M+) settlement amounts (removing outliers) and associated defense costs continue to increase overall for SCAs.

One major area USI is tracking is COVID-19-related SCAs. To date there has been less than ten and some allegations are arguably only loosely related to COVID-19. However, an uptick is certainly plausible, as are Securities and Exchange Commission (SEC) enforcement actions. The specific direction from the SEC on the need to update disclosures regarding the investor risk factors impacted by COVID-19 in public filings may prompt litigation. Although the financial impact may not be felt for a few quarters, that threat could extend through 2020 into 2021 as more company public filings will be made and be relied upon by investors. Also, potential bankruptcies arising out of the COVID-19 economic turmoil may be a significant driver of litigation. We have already seen some high-profile firms declare bankruptcy.

**Derivatives and Events:** Beyond SCA filings and settlements, some notable and very large derivative claims settlements have adversely impacted D&O insurers' bottom lines. Recent derivative settlements have topped \$100M, a phenomenon that most experts feel

Market Update	Q4 2019-2020	Q2 2020
Public Company Directors & Officers	Up 25% to 50%	Up 25% to 75%
Private Company and Not-For-Profit (NFP) Directors & Officers	Up 5% to 20%	Up 10% to 50%
Employment Practices Liability	Up 5% to 20%	Up 10% to 50%
Fiduciary	Up 5% to 10%	Up 10% to 25%
Crime	Up 5% to 25%	Up 10% to 25%
Professional Liability/Errors & Omissions	10% to 30%	15% to 50%
Network Security & Privacy (Cyber)	Flat to 10%	Up 5% to 20%
Technology Errors & Omissions	Up 10% to 15%	Up 5% to 20%
Representations & Warranties	Down 5% to flat	NO CHANGE
Kidnap & Ransom	Flat to +5%	Up 5% to 10%

will continue as the threat of Event-Driven Litigation (EDL) continues. EDL describes almost any securities fraud action that does not arise from an accounting restatement. EDLs are based on allegations that a company recklessly concealed or misrepresented the risk of a major negative event, like a Cyber Breach, employment-related allegation, or an environmental event. When a public, catastrophic event happens, or egregious conduct is revealed, and the stock price drops precipitously, investor suits ensue.

EDL cases are distinguishable from accounting fraud cases, where typically the company reveals internal accounting-related missteps, prompting the fall in share price.

**Breakdown of Increases:** The D&O increases for many public companies, which typically buy a primary policy plus multiple excess policies and a dedicated excess Side A Difference in Conditions (DIC) policy(ies), have shown a recent pattern similar to:

- Primary increases of 20% to 40%
- Excess increases of 30% to 100%, and
- Side A increases of 15% to 75%

The excess layers of public D&O insurance programs are increasing more than the primary placements because the Increased Limit Factors (ILFs) for attaching at an excess level are increasing. While those rates were 50% to 60% of the layer below in 2018 and prior, those rates are now moving into the 70% to 95% range, depending on a company's market capitalization, industry and/or claims history.

**Risk Characteristics and Questions:** A company's industry (including how impactful COVID-19 has been/will be), claims history, regulatory exposure and stock volatility all have an impact on the degree of premium change. Clients with the perceived "highest risk profiles" – certain industry sectors such as biotechnology, life sciences, general healthcare and technology, or those with D&O claims activity in the past five years, may experience renewal premium increases even beyond the ranges noted previously.

All clients should expect more intense underwriting scrutiny and COVID-19 specific questions from their underwriters during their D&O renewal process, particularly those in the following industries: Bookings, Entertainment, Airlines, Cruise & Casinos, and Hotels ("BEACH" industries).

**Time:** It takes longer to secure quotes and build D&O programs as underwriting authority is being pared back from local underwriters and senior leadership approval is needed on most placements.

**IPOs:** Initial Public Offerings (IPOs) have slowed down dramatically in 2020. The IPO market that began the year strong shut down dramatically in early March as the focus of investors shifted to the impact of COVID-19. It is anticipated that any companies going public in 2020 will continue to face a hard D&O marketplace (i.e. \$10M+ retentions; capacity limited to \$2.5M per policy by insurers). Even a recent favorable court ruling likely will not immediately grant relief to IPO D&O placements. On March 18, 2020, in *Salzberg, et al. v. Sciabacucchi*, 2020 WL 1280785, the Delaware Supreme Court reversed the Chancery Court's decision and held that Federal Forum Provisions (FFPs) in corporate charters can dictate that class action securities claims under the 1933 Act be adjudicated in federal courts (rather than state courts) and do not violate Delaware Corporate laws. This significant ruling from Delaware's highest court is a benefit and protection against shareholders filing dual state and federal court litigation. It remains to be seen if other states will follow.

**Coverage:** While the many terms and conditions that have offered insureds broader D&O liability protections and/or clarification of coverage remain on D&O contracts, we are seeing, for the most challenging renewals, limitations in the extended reporting period terms (being limited to only one-year and at an increased percentage of the annual premium) and

insurers removing the reinstatement of limits typically offered on stand-alone Side A D&O contracts. USI is also keeping an eye on the possibility of any or all of the following:

- Reduction or elimination of shareholder derivative demand investigative costs
- Addition of COVID-19-related exclusions
- Addition of bankruptcy-related exclusions for the most financially challenged buyers.

**Overall:** We see continued upward pressure on premiums and retentions, more conservative limits management (cutting from \$15M to \$10M, or from \$10M to \$5M), more underwriting questions and, possibly, account-specific coverage reductions.

## How USI Can Help

USI offers these practical and effective suggestions to public companies regarding D&O:

- Communicate early and often with your broker and D&O carriers. Preparation is key.
- Prepare for COVID-19-related questions ahead of time with your broker.
- Market your D&O placement worldwide: USA, Bermuda and London marketplaces.
- Evaluate all options with your broker including:
  - Buying less D&O coverage. This might be a prudent strategy if an enterprise's true risk exposure is understood. Use analytical tools to evaluate true exposure.
  - Buying different D&O coverage. Buying more Side A DIC vs. Side ABC coverage can lessen the pricing impact and save money.
  - Retaining more risk. Consider buying D&O with a higher retention to help mitigate pricing increases; or consider accepting co-insurance for the Side B and Side C portions of D&O coverage, if the premium offset is significant.
- Set appropriate and realistic expectations with all stakeholders within your organization and communicate developments early and often.



Communicate early and often with your broker



Prepare for COVID-19 related questions



Market your D&O placement worldwide



Evaluate all options with your broker



Set appropriate and realistic expectations with stakeholders

## Private Company/Not-for-Profit (NFP) Directors & Officers Coverage (D&O)

While premium and retention increases are not as severe as public company increases, Private Company/NFP D&O premiums and retentions are on the rise. They are now higher than they were when we released our 2019-2020 Market Outlook and Q4 Update. These increases are most pronounced for companies that:

- Are burdened with debt/the potential of bankruptcy.
- Have significant COVID-19 related exposure, including exposure to potential government investigations, False Claims Act and/or qui tam claims, and anti-trust claims.
- Have suffered losses due to past claims, and/or
- Are executing or contemplating Mergers & Acquisitions (M&A) activity.

**Drivers:** The increasingly diverse number of claims against private and NFP organizations and their D&Os, and the accelerating costs to defend them, were challenges prior to the onset of COVID-19. The impact of the COVID-19 economic downturn is leading to further hardening of the D&O market for private companies and NFPs. Primary D&O layers and excess D&O layers are seeing increases year-over-year. Given the broad-based coverage that private company/NFPs enjoy (full “entity” coverage), some terms and conditions are tightening, including increased retentions and the loss of some elements of coverage for the entity. Broad coverage for claims against individual D&Os (including Side A/Side A Difference in Coverage (DIC) D&O protection) still remain, except in extreme cases.

Overall, the full-year 2020 private company/NFP D&O market will likely see increases on average of:

- Primary layers: up 10% to 25%.
- Retentions: up to 100% or more (Example: \$75,000 going to \$150,000).
- Excess layers: up 10% to 40% as increased limit factor (ILFs) percentages also increase.

For the most financially troubled or COVID-19-exposed firms, increases can well exceed the high end of the range.

**Side A:** Side A and Side A DIC premium increases for private/NFP organizations will

depend on the likelihood of bankruptcy and other company-specific factors. Distressed firms may see large (50%+) pricing increases on Side A coverage.

Private and NFPs that do not currently buy dedicated Side A D&O insurance should consider buying. Those that do should reexamine limits adequacy.

**Increased Underwriting:** All companies will face COVID-19 specific questions about the operational and financial impact of the crisis on their business. Questions about corporate governance are also likely (for example: what changes have been made to evaluate the risks, respond accordingly and keep stakeholders informed?).

**Limits/Capacity:** Maintaining capacity is not a major concern, but companies will have to engage more insurers to keep the same limits, in many situations. Some carriers are reducing limits at renewal (for example: from \$10M to \$5M) as they seek to limit exposure.

In severe cases, when significant claims remain open, extended limits (as opposed to refreshed limits at renewal) may be a buyer’s only option.

**Coverage:** Coverage pullbacks have begun, including industry-specific considerations. Firms in industries with anti-trust exposures (healthcare, for example) may struggle to retain any anti-trust coverage extensions. Privacy/confidentiality-related exclusions may also be proposed or mandated by carriers at renewal. Other potential cover restrictions USI is monitoring include broader prior notice exclusion language and more draconian Notice of Circumstance (NOC) requirements. In the wake of COVID-19 claims, insurers could look to expand the Bodily Injury or Property Damage (BIPD) exclusion by:

- a. Changing the “for” preamble language to broad form “based upon, arising out of...” language and/or
- b. Removing any emotional distress or mental anguish carve-backs to the BIPD exclusion.

Many private company/not-for-profit D&O policy forms are “duty to defend” (the insurer has the duty to defend claims once coverage is triggered). However, we are seeing some companies push to convert to a non-duty to defend (indemnity) form, meaning that the insured defends the claim(s) and gets indemnity from the insurer for the covered allegations. In this situation, the buyer needs to get approval of counsel (and the rates to be charged) from the insurer and must keep the insurer up to date on the progression of the claim(s).



## How USI Can Help

USI can assist private companies and not-for-profit organizations with their D&O risk management needs by:

- Starting the placement process early and engaging more insurers in the marketing process.
- Identifying potential emergent Event-Driven Litigation (EDL) exposures as part of holistic pre-placement internal underwriting. USI works with clients and prospects to identify specific EDL risks, including COVID-19 exposures, that could trigger D&O claims.
- Securing favorable baseline D&O terms as part of a USI “Panel” of carriers. These pre-arranged terms can make it more difficult for proposed carriers to restrict coverage for USI clients.

## Employment Practices Liability (EPL)

**Overall:** Our 2019-2020 Market Outlook and Q4 Update predicted premium increases of up 5% to 20%, depending on class of business (industry), the number of employees and the core states of domicile and operation. The actuality of Q4 2019 and early 2020 was that EPL pricing saw a market of flat to up 10% in premium changes. In late February, this trend changed significantly given the onset of the COVID-19 crisis.

Given the dramatic increase in unemployment, significant company furloughing programs and unprecedented regulatory changes like the Families First Coronavirus Response Act (FFCRA), negative trends are expected to worsen, further exacerbating an already firming market. Increases in premium and Self-Insured Retentions (SIRs), and carrier trepidation (in competing in the EPL marketplace amidst the dramatic COVID-19 economic impact), are expected for at least the rest of 2020. Some carriers are pulling back from writing any “new” EPL business (i.e., clients who have either not previously bought the coverage, or who are potentially new insureds to the carrier). Further, California, Illinois, and New York (among other states) remain problematic for EPL risks due to specific regulatory concerns.

While renewals have not faced mass “non-renewal” situations, EPL risk can be a lagging risk that will have to be watched carefully for the next few quarters. Given the broad impact of COVID-19 across the entire economic spectrum, there is no industry or business size that is insulated from increased EPL exposure. However, businesses that are closed longer because they are deemed non-essential and/or that require a physical employee presence to deliver goods or services may see more negative results.

**Premium and Retentions:** We are seeing premium increases across the board, ranging from up 10% to 50% depending on risk-specific parameters. Retentions are experiencing increases of up 25% to 100%+, depending on what actions have been taken in the wake of the COVID-19 crisis, recent loss history, and location (state or states). Higher retentions for claims by “highly compensated” employees, state-specific, and for class (or mass) action claims, are becoming more commonplace. Again, for those companies purchasing EPL for the first time, buying additional limits, or looking to change carriers, the market is increasingly hard.

**Claims:** While there has not been a parabolic uptick in claims activity to date, there has been an overall increase. There is also a broad belief that once our economy reestablishes some level of normalcy with regulatory and court activity ramping back up, EPL claims activity will spike and further deteriorate market conditions. Areas of concern, particularly those risks exacerbated by COVID-19, include:

- Age discrimination claims in violation of the Age Discrimination Endorsement Act (ADEA), particularly given the aging U.S. population and the impact of the COVID-19 crisis on older workers.
- Disability discrimination claims based on the Americans with Disability Act (ADA) arising out of the accommodations that will be needed as the economy reopens.
- Continued racial and gender discrimination claims, particularly in the wake of any layoffs that appear to have had a disparate impact on an individual group or groups.
- Wage & Hour (W&H) claims as companies deal with changing workforces, putting pressure on proper classification and tracking overtime wages owed.
- Whistleblower and retaliation claims arising out of alleged violations of many federal laws, including the ones previously noted as well as: Occupational Safety and Health Administration (OSHA), Worker Adjustment and Retraining Notification Act (WARN Act), National Labor Relations Act (NLRA), and others. Also, changing regulatory exposures on the state and local levels are likely to have a similar impact.

Third-party claims (brought by non-employees for harassment or discrimination) may also spike as companies implement their reopening procedures and protocols.

Considering EPL claims can have a “long tail” and that Reductions in Force (RIFs) will

likely continue throughout 2020 and into 2021, we expect the EPL market will continue to harden.

Further, we are still monitoring several pending Supreme Court decisions (most notably regarding LGBTQ rights in the workplace) that may increase overall carrier exposure to EPL claims in the future.

**Coverage:** In addition to the aforementioned changes in retentions, we are seeing some leading carriers underwrite certain risks more intensely. The use of biometric screening in employment has resulted in carriers asking employers to answer questions regarding the use of these methods. Allegations of violations of the Biometric Information Protection Act (BIPA), passed in Illinois in 2008, have increased and some carriers have added exclusions for this overall exposure. On a related topic, some EPL carriers are now looking to exclude all “confidential information”-related employment exposures from EPL policies, forcing coverage analysis to another line of coverage – Cyber Liability. In all cases where exclusionary language is unavoidable, maintaining coverage for retaliation allegations is critical for EPL buyers.

## How USI Can Help

USI can review EPL policies with a particular focus on a) who is insured and b) whether there are any concerning exclusions and can also:

- Evaluate whether specific coverages will be available (i.e., punitive damages and wage and hour coverage).
- Help engage all available risk management services that are negotiated as part of standard EPL coverage.
- Help prepare clients for the expanded underwriting questions that will be asked.

## Fiduciary Liability

**Overall:** The adverse macroeconomic and worldwide stock market volatility due to the COVID-19 lockdowns has led to premium increases of up 10% to 25%. Increases in retentions are also becoming more common. Premium and retention increases exceeding the above range are possible for those firms with:

- High levels of company stock holdings in their retirement plans
- Excess fee litigation exposures or losses, or
- Employee Stock Ownership Plans (ESOPs) – as valuations may be outdated or severely impacted in a down economy

Clients that secured zero-dollar retentions in the past will likely find this unattainable. Organizations with zero-dollar retentions are seeing those replaced at renewal with \$10,000 to \$50,000 minimum retentions, depending on underwriting variables.

Overall, we expect the market to continue firming through 2020.

**Limits:** Carriers continue to manage capacity (i.e., carriers offering \$5M in limits as opposed to \$10M), which can lead to the need to secure excess limits. Excess limits that used to be competitively priced are firming, and some typical excess fiduciary liability carriers are limiting new business considerations.

**Coverage:** In addition to increased retentions, we are seeing multiple carriers looking to place “excessive fee litigation” exclusions across many classes of business (expanding from educational and healthcare-related not-for-profits), which is problematic given the increased litigation exposure. We have also seen some proposed limitations in coverage related to government-funding exposures.

**Summary:** In a macroeconomic downturn, fiduciary claims tend to increase as employees return to work and focus on account balances in their 401(k) accounts, perhaps questioning the investment choices (funds) made available by the plan sponsor and the fees and costs associated with the management of the plans. Also, the adequacy of health and welfare plans in a post-COVID-19 environment is a possible focus of plan participants.

## How USI Can Help

USI risk consultants liaise with USI’s dedicated employee benefits practice for assistance with the services previously noted, or with any other retirement plan-related questions. USI will also:

- Work with clients on appropriate governance controls, which can include the creation of the Employee Retirement Income Security Act of 1974 (ERISA)/ fiduciary advisory boards and regular updates to a plan sponsor’s boards of directors.
- Prepare clients for new or expanded underwriting questions about service provider selection and comparison processes (401(k) and other financial service providers).
- Share risk management and consulting support made available by fiduciary liability insurers.

## Crime/Fidelity Bonds

**Overall:** With the mounting frequency and severity of “social engineering” (fraudulent inducement/business email compromise) losses and a macroeconomic downturn due to COVID-19, we anticipate that the rest of 2020 will see premium increases up 10% to +25% range. We also see likely increases in retentions/deductibles, particularly for employee dishonesty, computer and fund transfer fraud, and for social engineering extensions of coverage. Insurers will continue to rely on main form and supplemental application details to thoroughly underwrite internal control and verification procedures used by insureds in order to protect assets from theft and social engineering/accounts payable-type losses.

Given the economic impact of COVID-19 across all organizations, insured companies’ financial statements will be more highly scrutinized for limits of coverage in excess of \$1M.

**Applications:** All carriers use different versions of the internal control and verification questions and some incorporate exclusionary language around the failure to follow these controls. The pullback of available social engineering limits and these additional questions will likely be seen throughout 2020, especially if answers given by Insureds create concern.

**Employee count:** Given current and anticipated Reductions in Force (RIFs), furloughs and increased work from home arrangements, underwriters will be closely monitoring an insured’s ability to maintain proper segregation of duties and effective checks and balances. While fewer employees may arguably suggest less risk, some Fidelity/Crime underwriters may not see it that way as there is an increased exposure due to the stress on employees’ segregation of duties. Also, impending RIFs may make remaining employees fearful of potential job loss and more likely to consider acts of theft and fraud. Companies with a track record of no losses and maintenance of strong internal controls will receive the most favorable results.

**Limits:** Some carriers may deploy limits more conservatively. While we do not anticipate insurers restricting policies to one aggregate (commercial crime limits typically apply to each and every loss; financial institution bonds typically offer a double aggregate), we may see insurers maximizing limits offered to \$10M or less.

## How USI Can Help

- USI can help clients understand the details sought by underwriters at renewal regarding information technology processes and procedures. Highlighting positive risk practices for underwriters will help differentiate a buyer’s risk.

- We will also differentiate clients by industry. As an example, working from home risks and controls in a post COVID-19 environment will be critical for a professional services firm, but less so for a construction firm.
- For those crime risks that potentially cross over with Cyber Insurance, USI can explain the differences and manage the coverage applicability across both policy types. In the event of a reduction in limits overall, or a reduction for social engineering coverage alone, USI can secure additional limits in the excess market.

## Professional Liability/Errors & Omissions (E&O)

The Professional Liability/Errors & Omissions market, not inclusive of Medical Malpractice, is in flux and is generally firming. Most sectors have experienced premium and retention increases in Q1-Q2 of 2020. Also, please see the section entitled “Technology Errors & Omissions.”

**Non-financial institutions:** Law firms, mortgage processors, accountants, consultants, architect and engineers, and project-specific construction and trusts (performing any valuation-based service or risk) are seeing a decrease in the number of primary and excess markets willing to write E&O coverage. This is leading to premium increases of up 15% to 50%, with increased retentions as well. Additionally, carriers are re-evaluating their total limits (or capacity) offered at renewal, similar to other lines of coverage. For example, a carrier previously offering \$15M in limits likely will reduce capacity to \$10M. If the new \$5M layer charges the same rate as the primary \$10M, this will increase the overall premium. Limit reduction trends seem to be gaining momentum, becoming more commonplace for all industries.

Added exclusions and a deeper underwriting process (particularly management of subcontractor and third-party consulting arrangements) are becoming more commonplace. Examples: some carriers are removing the “automatic additional insured when required by contract” provisions and asking more questions about management oversight of suppliers.

**Financial Institutions (FI):** Investment advisors, broker-dealers, deposit-taking institutions and insurance companies are all under underwriting scrutiny given the economic turmoil. The depletion of investment portfolios, the volatility of the financial markets and the post-COVID insurance claims environment have all created uncertainties for FI E&O underwriters, driving up premiums and retentions.



Overall, due to COVID-19 impacts, there is a focus on how all professional services firms are addressing deadlines and the continuity and quality of services performed. Reductions in Force (RIFs) and compensation cuts may increase the E&O exposures that a firm will face and could result in additional litigation or regulatory investigations, further hardening the E&O marketplace.

## How USI Can Help

USI anticipates and provides our clients with the underwriters' operational and practice-related questions early in the renewal process. By helping clients understand the questions and prepare appropriate responses, we help drive the most favorable outcomes available. We will also help:

- Track the most competitive and creative insurers in the marketplace to better understand their underwriting appetites and their willingness to creatively negotiate terms and conditions.
- Highlight a client's risk differentiators in order to position them optimally in the marketplace.
- Determine if current E&O policies adequately address the new professional risks, as many service providers are diversifying offerings due to revenue needs. USI can amend current coverages as needed.

## Network Security/Privacy Liability (Cyber)

While for the most part, the market for Cyber remains competitive, certain placements have begun to experience levels of hardening. This hardening is principally being driven by historically soft excess rate factors and spiked levels of ransomware attacks across multiple industry verticals. With this changing environment we have seen Self-Insured Retentions (SIRs) and premiums for those companies under \$1B in revenue slowly increase. Additionally, insurers are becoming more insistent about increased application materials designed to provide insurers with more specific information about a company's information security technical controls, policies and protocols.

Bad actors have also become increasingly savvy in not only attacking those industry verticals rich with confidential information, but also those that support them. This includes infrastructure and third-party vendors, who serve as the foundation for these companies. Their reasoning is simple: Why attack a hospital when you can attack the vendors that support them?

It is critical to note that businesses over \$1 billion in revenue and those in "challenging classes" like Retail, Hospitality, Healthcare and Financial Institutions, continue to receive increased pricing and SIRs, and require additional underwriting metrics. For these larger companies and challenged classes of business, increases in premium up to 20% and SIR increases up to 50% have been seen. We expect this trend to continue throughout 2020. Those accounts with \$1 billion or more in revenue and claims paid can expect 20% to 35% baseline premium increases, higher SIRs, and requests for additional underwriting metrics.

Pre-pandemic ransomware and phishing attacks were on track to reach historical heights; today this environment has been further exposed by the pandemic. Many non-essential companies have switched to a remote work environment that is likely to stay in place. While remote work environments are not new, the number of workers doing their work remotely has increased substantially. These workers are utilizing varied ways to connect, transact, and access company assets. Some will utilize company devices; others will use their own devices to connect. Both access methods bring forth additional exposures that insurers are carefully monitoring.

**Technology Errors & Omissions (E&O):** The Technology E&O marketplace is at the center of a perfect storm. While capacity is plentiful (limits up to \$800M advertised in the marketplace), premium rates, particularly excess rates, are firming rapidly as the market appears to be overcorrecting historically soft excess rates. Targeted claim campaigns against technology providers resulting in disruption to a customer's business are increasing. Insurers are seeking to manage the risk to their overall portfolio by increasing premiums in general. Programs with flat exposure variables are experiencing primary rate increases of 5% to 10% and excess rate increases of 20% to 40%. Insurers are also requesting additional information designed to provide a deeper understanding of a buyer's professional liability/E&O risk.

## How USI Can Help

Through its vast network of regional, national, and international Cyber Solution Specialists, proprietary tools, and expertise in privacy and network risk, USI is well-equipped to help clients understand their coverage options and pursue the appropriate solution. We will also help clients understand the:

- Interaction between Cyber, Crime, Property, EPL, and Kidnap and Ransom (K&R) coverages and how to optimize them.
- Difference between coverage options and their impact.

## Transaction Liability - Representations & Warranties (R&W)

From 2017 to the first half of Q1 2020, the number of insurers and capacity available in the R&W space grew exponentially (from 6 or 7, to just over 20). R&W rates declined on average 10% or more each year up to the latter half of 2019, where rates were still falling but not as steeply – flat to down 5%. In Q1 of 2020 rates were relatively flat, but in the wake of the COVID-19 crisis and ensuing slowdown in M&A (Merger and Acquisition) activity, rates have begun to decline slightly again. Once M&A activity and resulting submission activity return to normalized levels, we do expect rates to stabilize at early 2020 levels. Self-Insured Retention (SIR) levels remain at .9% to 1% of the Enterprise Value (EV) of the transaction for deals in the \$250 million EV and below class. Transactions over \$350 million to \$500 million EV continue to have a .75% SIR. In most cases the SIR will reduce to .5% after 12 to 18 months.

COVID-19 and the economic slowdown have led to dramatically lower M&A transaction volume since March of 2020. We expect activity to remain low through Q2 2020, with anticipation that we will see a push to deploy the war chests of investment capital currently “on the sidelines” in Q3 2020. We do expect to see the R&W product employed more for distressed asset sales and bankruptcy-related Section 363 sales as faltering business and bankruptcies will create the need for asset sales and outside capital investments.

Underwriters are mixed on COVID-19 exclusions. Some have made it a policy to exclude COVID-related claims while others (for now) are approaching this on a more industry-dependent basis. The Booking, Entertainment, Airlines, Cruise/Casinos and Hotels (BEACH) industries are clearly the most impacted and most likely to have a COVID-19 exclusion. All insurers in this space will flag COVID-19 as a key underwriting diligence issue or as a heightened risk that may result in an exclusion (depending on the diligence provided during the underwriting process).

Claim frequency continues to run in the 20% range (one claim for every five transactions). Transactions larger than a \$500 million EV are typically incurring claims marginally over 20% with smaller transactions just under 20%. We expect to see an increase in claims being filed in the second half of 2020 as macroeconomic conditions remain challenging. The economic slowdown will likely lead to poor results for firms that have recently been acquired. This may affect earnings, earnouts, and other matters where a buyer may feel the seller’s representations in the purchase agreement have been breached. R&W claims relating to breaches of the major customer/material contracts representations continue with a steady frequency. This claim frequency has led to the insurers being notably more attentive in their underwriting of these representations than they had been three-to-six months ago. One of the silver linings found in the current M&A slowdown is that more insurers are interested in writing transactions in the \$20 million EV range, historically considered “too small” by most insurers.

## How USI Can Help

- USI can leverage our extensive experience and capability in Transaction Liability to help our clients work through standard acquisitions as well as more challenging transactions involving distressed assets and Section 363 asset sales.
- Navigating the final underwriting phase can be challenging with underwriting questions sometimes leading to proposed exclusions. USI’s R&W expertise regularly helps in mitigating or eliminating these exclusions.
- Smaller EV-based transactions can mean more first-time buyers participating in the unique procurement process for R&W insurance. USI’s R&W team can successfully and efficiently walk these new players through each step and challenge.
- When brought into the front end of deal negotiation, USI can demystify the R&W procurement process and shed light on pricing, underwriting requirements, policy terms, timing and other expectations—paving the way for a “no surprises” experience.



# INTERNATIONAL

**Primary Foreign Casualty:** Rates for Guaranteed Cost programs have stabilized and are remaining flat. In addition, we've seen a lowering of limits (redeployment of capacity on upper layers and lowering of limits Excess of \$5 million). As related to Automobile, we are seeing rate increases of 15%+.

**Primary Foreign Property:** For risks that have good loss experience, we are seeing 20%+ for non-cat exposed risk and 40%+ on risks in exposed catastrophe zones. As related to Enhanced Underwriting, carriers are requiring location-specific engineering reports and detailed Construction, Occupancy, Protection and Exposure (COPE) information prior to offering quotations.

## Impacts of COVID-19:

- Due to global “lockdown initiatives,” we are experiencing delays in receiving carriers’ quotes and responses.
- The requirements of carrier inspections are impacting quotation delivery. We have seen instances where carriers want to inspect property locations, but because of “lockdown initiatives,” the engineers are not allowed on the premises.
- Carriers are also requiring documentation from the Insured as to their COVID-19 mitigation strategy.
- In tariff-rated countries (countries where the government usually sets the property rates) we are seeing an enforcement of the Vacancy Clauses within commercial property policies.
- United Kingdom Employers Liability is triggered out of negligence, causing death, injury or disease arising out of the course of employment. If a claim is made pertaining to work-related disease arising from COVID-19, the policy will defend on behalf of and “if found legally liable,” indemnify the Insured. Therefore, the employee would first need to establish and prove a breach of duty on the part of the employer.

Market Update	Q4 2019-2020	Q2 2020
International Liability	Flat. Auto up 15% +	NO CHANGE
International Property, CAT Exposure	Up 5% to 15% +	Up 40% +
International Property, Non-CAT Exposure	Up 5% to 15% +	Up 10% to 20% +

Some insurance carriers have started implementing absolute exclusions for communicable diseases on the General Liability policies for certain industry verticals such as healthcare, real estate, hospitality, non-profits and non-governmental organizations. Carriers have also started implementing substantial self-insured retentions for foreign Workers’ Compensation exposures as relates to communicable diseases on the same industry verticals.

- In China, carriers are now reducing the originally offered sub-limits on endorsements, which provided affirmative coverage for Disease and/or Defective Sanitation.

## How USI Can Help

USI facilitates a global risk assessment for companies with decentralized multinational insurance programs. By moving to a centralized Controlled Master Program, clients can achieve overall premium savings, have concurrency and consistency of coverage, eliminate coverage redundancy and eliminate potential gaps in coverage. We will also help:

- Guide clients toward establishing schedules and protocols for identifying and evaluating international exposures throughout the year.
- Guide clients toward developing and establishing processes to push standardized loss control and safety procedures across their organizations.
- Keep our clients informed about changes in foreign local coverages, requirements, and laws related to insurance that could impact ongoing operations.

# AVIATION

Market Update	Q4 2019-2020	Q2 2020
Aviation	Up 15% to 30%	NO CHANGE

## Rates Continue to Soar

The global aviation insurance market has continued to harden in the first quarter of 2020, and we expect this trend to continue in the second quarter. In 2019, aviation insurers struggled with significant claims activity and a premium base that was well below sustainable levels. There have been many years of unprofitable underwriting results across all disciplines within aviation, and the entire market has turned, contracted, and become very selective about what it is willing to write. We have seen average increases across our aviation portfolio ranging from 15% to 30%, but some categories are under additional pressure. We have also seen all underwriters closely examine the coverages they are providing and withdraw capacity for supplementary coverages.

To better understand why this is happening, it is important to know that the aviation insurance market has had an unprecedented and steady decline over the past 12-years. Pricing has gone so far below a healthy market level that insurer reserves are depleted and in need of replenishment. The situation is compounded by the number of big-ticket losses that insurers have incurred over the last few years, including those related to record-breaking airport settlements, grounded aircraft, plane crashes involving fatalities, and natural disasters.

With fewer insurance carriers and an inordinate number of submissions, many insurers have responded to the current market conditions by adjusting their portfolios and risk appetite. As a result, underwriters are now spending two-to-three times longer evaluating risks and brokers are urging their renewal clients to start discussions very early, at least six months in advance, to leave adequate time for researching appropriate options.

The COVID-19 pandemic is also further eroding the premium base of the aviation insurance industry. Thousands of aircraft in the United States have been parked and insureds have sought premium returns via lay-up clauses and changing coverage to 'ground only'. We have not seen a significant impact to aviation insurers yet, but as the pandemic continues to shut down air travel around the globe it will ultimately have a negative impact on the balance sheets of aviation insurers. There is a strong possibility that aviation insurers will continue to push for higher premiums and seek to replace premium that is being lost due to the contracting premium base.

As a result of the pandemic, other issues have arisen that are specific to pilot medical certificate currency and the ability to attend formal training. Pilots are also struggling to maintain enough flight hours for proficiency. These are all issues that could have a negative effect on coverage depending on the specific conditions and warranties found in aviation policies.

UST's aviation practice group has created bulletins to address these issues in detail. Here are just a few of the ways in which aviation businesses are being affected by the current market challenges:

### ■ Owner-Flown Aircraft

- Higher liability limits are scarce, coverages are being slashed, and high deductibles are being added.
- Pilot training is being scrutinized more heavily, which is resulting in more stringent pilot warranties.
- Relaxed approaches to recurrent training requirements have been replaced by non-negotiable training/safety protocols.
- Premium increases are in the high double digits: between 50% to 100% on single pilot operations.

### ■ Charter Operations

- Those with a clean loss history may be placed on a quota share basis (in which multiple markets share in the risk), resulting in increases in premium, lowered liability limits, higher deductibles, and fewer supplemental coverages.
- Extensive loss history could mean difficulty in finding 100% placement.

### ■ Rotor Wing Aircraft

- This category has been especially hard hit, with rate increases of 50% to 150% and climbing, depending on loss history.



As the aviation insurance market continues trending in this direction, those interested in buying or renewing insurance are advised to implement a clearly defined, comprehensive risk management strategy to keep pricing, exposures, and potential losses in check and protect against these and other potential outcomes:

- **Manufacturers' Product Liability:** potential rate increases of 40%+, depending on the critical nature of the product and limit needed.
- **Airport and Municipality Coverage:** potential rate increases of 50%+, with every coverage scrutinized, reduced, or eliminated.
- **Coverage Enhancements:** potential to be discontinued, including popular options like Excess Auto Liability.
- **Grounding Liability/Product Recall:** potential to become severely limited or discontinued.
- **Multi-Year Terms:** potential to become severely limited or unavailable.

## How USI Can Help

USI works closely with our aviation clients to develop a comprehensive risk management strategy tailored to their unique exposures and focused on mitigating their cost of risk. This is all part of the USI ONE Advantage®, our fundamentally different, team-based consultative approach to risk management that simplifies processes, maximizes results, and provides our aviation clients with greater peace of mind. Processes include:

- Generating complete analytics to understand and quantify exposures.

- Reviewing program options and retention opportunities.
- Evaluating program limits and coverage needs.
- Developing an extensive, comprehensive underwriting submission and loss mitigation narrative highlighting training and safety protocols, risk control/claim management measures, and more (which helps to demonstrate “best-in-class” status).
- Researching markets and identifying carriers with whom clients can build strong relationships.

The USI ONE approach is especially valuable when purchasing or renewing coverage during challenging times like these, when companies may be pressured to accept the pricing, terms, and conditions imposed on them by restrictive carriers.

## Helpful Tips

Your company can support USI's ONE Advantage approach – and improve your chances of a favorable outcome – by following these helpful tips:

- Provide detailed information so we can better understand your risk management situation and needs.
- Complete applications and questionnaires fully and completely.
- Highlight your focus on safety and pilot training protocols, especially training that goes above and beyond Federal Aviation Administration (FAA) requirements.
- Be open to underwriter visits and loss control visits.



# ENVIRONMENTAL

The upward trend of environmental claim severity and frequency continues in 2020. Currently dominating the headlines are the unprecedented COVID-19 claims that will further accelerate environmental claim activity, particularly for those Insurers who had “viruses” within the definition of Pollution Conditions. Insurers have been retrenching in certain areas for the past few years and will be even more cautious moving forward. Rates will be fairly stable, except for Environmental Casualty-combined General Liability/Pollution structures, which will have more volatility.

There is no getting around it, environmental risks are getting more complicated and complex. And, now with the COVID-19 pandemic, claims submitted to environmental insurers for disinfection/cleanup, business interruption and toxic tort arising from the virus, will have an effect on future coverage, including scope of policies, capacity and rates.

Over the past decade, the environmental marketplace has expanded significantly to include over 50 insurers in the space, which has led to significant competition and more customized solutions, all with a much better risk-trade for buyers. In 2020, there is likely to be a hold on new entrants, given the pandemic, and we are already seeing that certain insurers have cut capacity. Some environmental insurers may even exit areas of the business or potentially withdraw from the market. The outcome of business interruption coverage, litigation, or state action for virus coverage will have some bearing on environmental insurance capacity and pricing in the foreseeable future.

Specific to COVID-19, we are seeing the insurers reduce or eliminate virus coverage from their policies, to the extent they were providing any virus coverage at all. The insurers have also developed varying exclusions, either broadly as respect to viruses, or specific to COVID-19. If they continue to offer any level of virus coverage going forward, they are providing generally small sub-limits of \$1 million or less and specific to disinfection/cleanup, with no coverage for business interruption or toxic tort liability.

**Note:** if there are midterm changes to a policy such as related to an acquisition, Insurers may attempt to apply these new virus (or specific COVID-19) coverage restrictions at that time, and at minimum to the newly added entity or covered locations.

Finally, there are emerging risk issues such as the man-made chemical PFOA/PFOS, now called the “forever chemical” by many, which appears to be fairly ubiquitous in our drinking water. Underwriters are scrutinizing these chemicals. They may apply exclusions to policies as they are watching the regulatory developments with the Environmental Protection

Market Update	Q4 2019-2020	Q2 2020
Environmental Combined General Liability/Pollution	Up 5% to 8%	Up to 10%
Excess Combined General Liability/Pollution	10% to 20%	10% to 20%+
Environmental Contractors' Pollution	Flat to down 10%	NO CHANGE
Environmental Pollution Legal Liability	Down 5% to up 5%	Flat to inflationary increases.

Agency (EPA) and various states that are considering imposing stringent cleanup standards in the future. Additionally, underwriters will also scrutinize the risk associated with toxic tort liability given that manufacturers of these chemicals have also paid out billions of dollars for citizens who have been injured from these chemicals. Environmental insurers have closely been watching the uptick of climate change risk and ongoing litigation, with some of those insurers deciding to exit the market for industries that are primarily in coal, or where revenue is primarily derived from coal. This will make finding environmental solutions for the coal industry even more challenging in an already limited marketplace.

## The Market Today

- Highly competitive.
- 50+ Insurers.

## Market Capacity

- Over \$600 million. Stable, more new players but with Mergers & Acquisitions (M&A) activity likely keeping overall capacity stable.

## Overall Marketplace Trends

- **Expansion of Coverage:** more markets offering some broader coverage enhancements to capture greater market share, such as first-party Diminution in Value. Also, Defense Outside of Limit, either at a defined limit or in some cases on a Contractors' Pollution Policy, unlimited defense coverage. A new Cost Cap Policy has returned for cleanup projects exceeding \$5 million.
- **Transactional Risks:** 10-year term policies for historical Pollution Legal Liability are still available from a short list of insurers.
- **Higher Hazard Risks:** such as energy, mining, petrochemical, power and utility firms and fuel hydrant systems, including airports, may find that only short policy terms of one-to two-years are available.



## How USI Can Help

- Create an environmental profile to identify exposures associated with operations; quantify and qualify the impact on the organization to set risk management and insurance.
- Develop formal and customized risk maps to identify frequency and severity of fines and penalties for noncompliance, spill events, known and unknown remediation, and Toxic Tort Liability.
- With significant liabilities, develop sophisticated risk model platforms using Monte Carlo analytics to look at a range of probabilities and to forecast potential liabilities over a long horizon.



# INDUSTRY UPDATE

## MANUFACTURING & DISTRIBUTION

The Manufacturing & Distribution market is performing in line with the projections noted throughout this report, with two additional trends worthy of mentioning:

### 1. Cargo

In response to significant CAT losses, adverse loss development and poor underwriting results, the Cargo market, specifically Stock Throughput, went through a significant market correction over the last two years. This included a handful of syndicates exiting the marine market and others taking corrective action to restore the profitability of their books by implementing higher deductibles and rate increases, and by restricting certain classes of business and coverage terms.

As both London and U.S. markets remain focused on improving underwriting results, we continue to see rising rates and restrictions around terms and limits for tougher classes of business such as soft commodities, temperature sensitive product, and liquor distilleries. These industry sectors remain challenging in the current market, with insurer's taking a closer look at how they deploy their capacity. However, for preferred classes of business, both London and US Markets can still be competitive options.

### 2. Product Recall

As a result of an increasing regulatory environment and advancements in technology and traceability, product contamination and recall continue to rise with above-average frequency in the consumer products sector as well as the Food & Beverage sector, where recalled Food & Drug Administration (FDA) food units increased 319%, to 8.8M in 2019.<sup>1</sup>

Despite this continued increase in product recalls, the insurance market remains stable with rates flat up to 7%, driven by the type and nature the product. New carriers are entering the space providing sufficient capacity. However, many are moving to reduce limits with shared and layered programs.

Source:

<sup>1</sup><https://www.stericycleexpertsolutions.com/wp-content/uploads/2019/11/ExpertSolutions-RecallIndex-Q32019-LQ-WEB.pdf>

### How USI Can Help

In guiding clients toward achieving favorable coverage outcomes, USI recommends taking the following steps:

- Begin the renewal process at least 150-days prior to inception.
  - Complete a loss analysis early to assess the impact of program structure, retention, and risk mitigation efforts. This establishes your “ask” of the market, allowing for early indications from incumbents and understanding of your options around limits, retentions, coverage and price.
- Work with your broker to evaluate all market options in the U.S. and London. Focus on risk appetite and industry.
- Clearly identify and differentiate each risk to the marketplace, reinforcing risk quality and mitigation efforts; this is imperative.

## REAL ESTATE

Real Estate renewals should be in line with the projections for each line of coverage reflected in this report.

### Impact from COVID-19

According to many news reports, the real estate industry has been dramatically impacted by COVID-19. The shutdown of businesses has led to the inability of many tenants to pay rent; the true impact on rental income is likely to be revealed in the third quarter of this year. Rent deferral or rent concession strategies have been used to accommodate tenants where the impact was most significant.

An increase in online retail and buying activities could lead to even worse results for tenants who rely on foot traffic to drive revenue. Lenders, including the government, are working with borrowers on debt repayment schedules.

These challenges are occurring during a changing and hardening property and casualty insurance market. The various coverage lines are specifically addressed in separate sections of this report, but for real estate, the hardest hit pre-COVID-19 coverages included the property and umbrella markets. We have seen increases in property and liability programs ranging from 10% to 500%, depending on the geography, loss history and impact of social inflation on claim settlements.

It is difficult to predict what renewals will look like for any given client, but quality risks will have the benefit of being highly scrutinized and thoroughly underwritten.

### How USI Can Help

In response to COVID-19, USI suggests these important actions:

- Explore premium credits for reduced General Liability exposures.
- Continue to maintain your property – communicate active maintenance strategies, security provisions, fire protection maintenance and upkeep to your carrier.
- Review and/or update your Business Continuity Plan. Consider any peril that could impact your location – flood, wind/hail, earthquake, and hurricane.
- Ensure that you review any vacancy provision in your property policy and negotiate changes to that coverage restriction with your carrier.
- Make sure your Cyber coverage protects you for employees working remotely and the exposures to phishing attempts, ransomware, and other Cyber threats.
- Communicate future capital expenditure plans to your carrier.



## HEALTHCARE

The availability of risk transfer capacity for healthcare clients is stable. However, most underwriters are more selective about accepting a “risk”. They are reducing their exposure to large losses due to social inflation by offering lower limits of liability.

The pricing of risk transfer for healthcare clients continues to rise and has been trending in this direction for the last year. This trend will continue for the foreseeable future and throughout the response to the COVID-19 pandemic. Our expectation for rate increases during the remainder of this year range from 10% to 25% for Professional Liability renewals.

## How USI Can Help

USI supports our clients by taking these and other important steps:

- Advocates on behalf of the client that infectious disease exposure took place within the scope of employment, or is presumed to have taken place within the scope of employment, so that coverage will apply.
- Works with the client to ensure all Workers’ Compensation claims are reported as soon as practicable, and that nurse case management is utilized as quickly as possible to reduce indemnity and medical expense.
- Ensures that the Employer’s Liability limit is adequate for the exposure and any claims are assigned to an adjuster with Employer’s Liability experience.



## CONSTRUCTION

We continue to see the market move from transitioning to firming across all major lines of business and are paying attention to the following:

**Builder's Risk:** Capacity for frame projects is continuing on a downward spiral with most markets reducing capacity to small lines, if providing a line at all. The continued deterioration is largely due to a combination of large losses on projects more than 50% complete, natural catastrophes, and devastating wildfires. With the reduced capacity, rates are starting to increase substantially. It is critical to have protective safeguards such as fencing, guards, and Closed-Circuit TV (CCTV) on these projects in order for markets to respond.

**Auto Liability and Physical Damage:** Carriers continue to push for increases on accounts with larger fleets of vehicles, even if the account is performing well. Increases are settling between high single-digit percentages to 25%, based on the location and type of fleet. Larger deductibles for physical damage as well as instituting a liability deductible have been other ways carriers are looking to contain losses.

**Umbrella/Excess:** Capacity is beginning to shrink for clients who have large excess liability programs, either on their corporate renewal or on a project-specific basis. Carriers continue to drive rates up while reducing limits and requiring higher attachment points, in some cases due to the continued poor underlying performance.

**Skilled Labor:** Skilled labor shortage, aging workforce and temporary labor remain the biggest issues for contractors in most geographies and most industry sectors. A strong safety culture along with continuous training and a rigorous claims management process coupled with a robust return-to-work plan, will help control Workers' Compensation costs. Temporary labor is becoming an increasing concern as firms attempt to solve for the skilled labor shortage. Identifying who is accountable for the health and wellness of an employee needs to be clearly identified in both the contract with the leasing firm and the insurance policy to manage the risk appropriately.

**Primary Casualty:** The number of carriers writing frame construction, both commercial and residential, continues to shrink, and they have capacity issues similar to the Builder's Risk carriers.

**Modular Construction:** Pre-fabrication and offsite modular construction is increasing substantially due to compressed build schedules, drive for quality, and cost efficiencies. In the COVID-19 environment, the added benefit is a build environment that allows for

appropriate social distancing. Careful understanding of this production model is necessary as there could be challenges around worker classification, product vs. work, transit/supply chain, and surety implications.

**Cyber:** Increased reliance on technology for design, construction, safety and operations, along with an increased work from home environment, is creating a breeding ground for cyber criminals. A robust cyber security assessment, mitigation and management process will be necessary as we continue in this current environment.

**Surety:** More stringent underwriting processes are being required and implemented for sureties to get comfortable with contractor operations and their financial health and wellness. Particular attention is being paid to cash flow and liquidity along with a more in-depth review of contract obligations. For general contractors, sureties and insurance companies are looking for a more consistent and thorough subcontractor pre-qualification program as part of a sound strategy to mitigate delays or defaults. We are starting to see a contraction in the commercial surety marketplace due to COVID-19 and the belief that claims are on the horizon.

### How USI Can Help

USI's risk advisers encourage a disciplined risk management approach rooted in a strong safety culture implemented from the top down, coupled with an appropriate risk tolerance level to maximize cash flow during this challenging time. In guiding clients toward achieving more favorable coverage outcomes, USI recommends taking the following steps:

- Begin discussions early and often with all project participants and insurance and surety carriers.
- Create a construction risk assessment plan based upon the characteristics of your operations to enable USI's construction advisory team to plan the best way to avoid, mitigate or finance your risks.
- Monitor risks at each stage of your projects to address any real or perceived risks in real-time, using the construction risk assessment plan.
- Be mindful of capacity deployment.

USI also offers these suggestions for working productively with your risk advisers:

- Consult on market submissions with the intention of highlighting a strong/improving safety culture and risk management approach, and to communicate your organization's strategy.
- Develop analytics around various risk financing opportunities, which can lead to improved decision-making and better outcomes.

## PUBLIC ENTITY

The Public Entity market has and is performing in line with the projections noted throughout this report.

### Coronavirus Lessons Learned to Date

It is not possible to discuss the full impact that COVID-19 has had on every facet of the Public Entity business. Schools, park and recreation facilities, sports venues, transportation authorities, airports, healthcare facilities and senior centers provide lifelines to many individuals, resulting in significant disruption when they are forced to shut down or limit operations – and for police, fire, and emergency response operations, it is not always possible to conduct their work from home, which creates additional challenges and employee risks.

The pandemic has forced the industry to reevaluate and revise the policies and procedures involved in developing a communication plan for, and across, every department. This reminds us of the importance of having a comprehensive and up-to-date business continuity plan.

One notable increase in exposure for Public Entities is in the Cyber Liability arena, given the increased number of employees working from home. Employers should review their Cyber programs and insurance policies to ensure they are current and provide sufficient protection.

## How USI Can Help

In guiding clients toward achieving favorable coverage outcomes, USI recommends taking the following steps:

- Get an early start, begin the renewal process 180- to 150-days prior to inception. This allows for early indications from incumbent markets to understand your options around limits, retentions, coverage and price.
- Work with your broker to evaluate all market options in the U.S. and London. Focus on risk appetite and industry.
- Focus on the parts of your program you need to improve rather than on the entire program.
- Prepare comprehensive market submissions with the intention of highlighting a strong/improving safety culture and risk management approach. Make it your story.

- Discuss your situation with USI's Risk Control team; they can assist you in updating your safety programs and business continuity plans.
- Develop analytics around various risk financing opportunities, which can lead to improved decision-making and better outcomes.



## AGRICULTURE

The Agriculture industry has been impacted by these and other important market challenges:

**Property:** The last few years have been tough on Agribusiness as it relates to the property market. Flooding, grain dust explosions, grain dryer and other related fires, and severe wind and hail events have hurt the performance of this line with all major Agribusiness markets. This experience is negatively impacting Agribusiness reinsurance treaties, which in turn pushes down rate changes and limit restrictions that impact renewal terms. USI takes a proactive approach to addressing this situation by starting the renewal process far in advance of expiration, and keeping our clients frequently updated on our progress. We also focus on offering multiple program structures and retention options to help find the right balance between risk transfer and risk retention.

**Auto Liability:** The increased frequency and severity of catastrophic automobile events, many involving fatalities, and the social increases in the cost of claims resolutions have been driving auto liability rate changes. Agribusiness companies with any size fleet should take a proactive approach to their fleet safety program to allow for favorable positioning in the renewal process. Clients can utilize USI's Risk Control team to better understand loss trends based on their claim history and identify proactive approaches to minimize future claims. USI Fleet Team Services can provide Federal Motor Carrier Safety Administration (FMCSA) safety and compliance assistance and resources to help ensure that clients' operations are fully compliant.

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*The last few years have been tough on Agribusiness as it relates to the property market.*

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**Umbrella/Excess Liability:** The Umbrella/Excess liability rate and capacity changes in Agribusiness are largely being driven by the automobile liability activity. The other major liability driver has been an increase in the frequency and severity of Liquefied Petroleum (LP) gas explosions. It is more important than ever before to follow industry-recognized best practices and procedures for LP operations. For example, employee training, a formalized leak check procedure, and thorough recordkeeping processes should be implemented in any company with LP services, as these renewals will be heavily scrutinized by underwriters.

### How USI Can Help

USI suggests that clients begin the renewal process early, at least 150-days prior to inception. Getting an early start is critical, as it will allow for early indications from incumbents to understand your options around limits, retentions, coverage and price. Additionally, we suggest that you work with your broker to evaluate all market options across both

U.S. and London markets. Focus on risk appetite and industry.

- USI helps by taking a three-pronged approach, combining the best available options with domestic standard markets, domestic Excess & Surplus (E&S) markets, and London E&S markets to provide the most favorable outcome.
- Each risk should be clearly identified and differentiated to the marketplace to reinforce risk quality and mitigation efforts. Our deep industry experience allows us to better control the narrative and drive results.



## LIFE SCIENCES

The Life Sciences market has performed better than the overall market, with certain coverage lines experiencing premium reductions, which contradict the broader marketplace. We attribute this to the fact that insurance companies continue to see Life Sciences companies as desirable risks, due to a highly regulated Food & Drug Administration (FDA) environment. As a result, carriers have introduced or expanded their underwriting appetite.

That said, absent competition, incumbent insurers are trying to follow the broader marketplace with Property, Marine Cargo and Automobile lines seeing the mid-range of premium increases noted throughout this report. However, competition will often result in multiple attractive options across all lines of coverage, but especially Product Liability, Workers' Compensation, and Property.

The Product Liability market contains a notable exception, this being any company with past or present exposure to selling Opioid, Narcotics, and other Controlled Substances. The litigation filed against the pharmaceutical industry by states and municipalities in addition to individuals who have suffered the effects of addiction, have caused insurers to broaden their exclusions and decline offering new coverage to companies even if they no longer manufacture or distribute those products.

## How USI Can Help

USI suggests that clients take the following steps when renewing or purchasing coverage:

- Begin the renewal process 150-days prior to inception.
- Work with your broker to evaluate all market options. Focus on risk appetite and product mix.
- Access U.S. and London markets, and be open to multiple insurers on your program as opposed to one insurer offering all coverages in a "Package" format.
- It is imperative that each risk be clearly identified and differentiated to the marketplace, reinforcing risk quality and mitigation efforts. It is critical to have data on facility characteristics, safety programs, and global supply chain exposures.
- Delineate the Product Liability risk profile (high, medium, low) to make it easy for underwriters to get their arms around the therapeutic class and specific product risk factors.
- Carefully review contracts to determine risk transfer/assumption language that impacts the revenue exposure base associated with the Product Liability premium rating.
- Assess all clinical trial activity to determine which studies have been impacted either in a delayed start, longer duration, or reduced patient population.



## How can we help?

To help clients navigate these challenging times USI has implemented a STEER (Steer Through Epidemic & Economic Recovery) Task Force. This cross-functional team is working to provide timely COVID-19 information, understand cross-industry and geography impact and evolving responses, and to develop and deliver tailored solutions to help clients steer through this epidemic challenge and economic recovery. For additional resources, tools, information, and links, please visit our COVID-19 resource page: [www.usi.com/public-health-emergencies](http://www.usi.com/public-health-emergencies)



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