



Northeast Ohio RIMS Casualty Market Update

September 13, 2016

Barbara Munch

Senior Client Manager, Risk Management
Oswald Companies

oswald®

Average Rate Changes by Line of Coverage, by Quarter

Line of Coverage	2Q2015	3Q2015	4Q2015	1Q2016	2Q2016
Auto	0.5%	1.3%	2.7%	3.6%	2.4%
GL	-3.0%	-2.7%	-3.4%	-3.2%	-3.6%
WC	-1.9%	-2.5%	-2.6%	-3.0%	-4.3%
Umbrella	-2.7%	-3.0%	-2.8%	-2.5%	-2.8%
D&O	0.7%	0.4%	0.9%	0.2%	-0.3%
EPL	1.5%	0.8%	1.6%	0.7%	0.8%

Source: The Council of Insurance Agents & Brokers

Average Rate Changes by Line of Coverage, Among 2Q2016 Renewals

Line of Coverage	At Reduced Rate	At No Change in Rate	At 1% to 10% Rate Increase	Other Result
Auto	14%	26%	50%	10%
GL	66%	25%	5%	4%
WC	71%	16%	9%	4%
Umbrella	56%	30%	9%	5%
D&O	27%	36%	22%	15%
EPL	18%	47%	21%	14%

Source: The Council of Insurance Agents & Brokers

Average Rate Changes by Account Size, by Quarter

Account Size	2Q2015	3Q2015	4Q2015	1Q2016	2Q2016
Small (<\$25K commission & fees)	-1.3%	-1.4%	-1.5%	-2.1%	-2.1%
Medium (\$25K-100K commission & fees)	-3.5%	-3.8%	-3.0%	-4.4%	-4.2%
Large (>\$100K commission and fees)	-5.2%	-4.1%	-3.7%	-4.6%	-5.3%
Average	-3.3%	-3.1%	-2.8%	-3.7%	-3.9%

Source: The Council of Insurance Agents & Brokers

Casualty Market Trends in Capacity and Underwriting Appetite

- **Capacity is strong, increasing in some lines – with the exception of Commercial Auto**
- **Many accounts can expect renewals at flat pricing, as capacity is sufficient to sustain current market pricing**
- **Cat losses have been low, helping to keep pricing stable; major events going forward could skew the dynamic**

Umbrella/Excess:

- **Expect more layering to achieve desired limits overall; certain markets are reducing the limits they're willing to offer, at least on the lead**
- **Ventilation of layers, splitting lead from upper excess, may be a tactic to maintain overall limits with a given insurer**
- **Above \$25MM, a lot of capacity remains**

Additional areas presenting challenges:

- **Primary habitational risks – senior housing, student housing**
- **OCIP & CCIP – the combination of primary and excess is getting tougher**
- **Risks with significant Auto / Trucking exposures**

Withdrawal of certain insurers from the Auto marketplace leads to higher demand of available markets

- **Capacity may be increasing for good accounts**
- **Those with challenges such as unfavorable DOT Compliance-Safety-Accountability (CSA) scores and driver issues may find premiums increasing as much as 50% to 100%**
- **The rate of increase is expected to stabilize and slow after the end of the 3rd quarter; increases thereafter may hover around 10%**

Insureds with larger fleets may find excess carriers are requiring higher underlying limits at renewal

- **Won't necessarily soften excess pricing**
- **Will facilitate greater availability of excess**
- **Communication is key: find out early whether incumbent excess insurers are changing their requirements going forward, and whether incumbent primary insurers have the ability and desire to increase primary limits**

Workers' Compensation – NCCI recommending 20% rate increase in Florida due to:

- **Westphal vs. City of St. Petersburg: Court overturned the 104-week limitation on temporary total disability benefits, reinstating the 260-week limitation in effect prior to 1994, on the grounds that workers' rights to access to courts were being violated. Uncertainty about specific impact on older claims. NCCI's rate bump for this: 2.2%**

Workers' Compensation – NCCI recommending 20% rate increase in Florida due to:

- **Castellanos v. Next Door Company: Court found mandatory attorney fee schedule unconstitutional as a violation of due process. NCCI rate bump for this: 15%**
- **Updates to Florida's Health Care Provider Reimbursement Manual, effective 7/1/2016. NCCI rate bump for this: 1.8%**

General Liability – Duty to Defend

U.S. 4th Circuit Court of Appeals ruled in Travelers vs. Portal Healthcare Solutions that the insurer was required to defend the insured against personal injury and advertising injury allegations stemming from the failure to prevent confidential patient information from being exposed via the Internet, and the parsing of what “publication” means, in contradiction of identified possible precedents. Expect tighter policy language to follow.

Punitive Damages “Most Favored Nation”

ELANY Bulletin No. 2015-14, affirms that the NY Department of Financial Services has not approved this in the admitted market and “punitive damage coverage remains prohibited in New York.”

The twist: ELANY’s bulletin says “any excess line *policy* [emphasis added] submitted to ELANY, which contains the so called “Most Favored Nation” punitive damage insurability clause or similar language, will be suspended and reported to the DFS for whatever action it deems necessary.”

Zika – No indication yet that policy provisions are in the pipeline to be amended, but consider:

- **OSHA has issued guidance with recommended employer and worker actions to avoid infection and reminds employers of existing protocols that should be considered to apply; it appears there is a perception of duty to protect**

Zika (continued):

- **Possible parallels to legal liability claims raised in the past, such as for injury to unborn (or not yet conceived) child following parent exposure to certain chemicals, under various coverages and theories:**
 - **WC & EL (who suffers the “injury” and what is that person’s relationship to the employer?)**
 - **CGL (is suit against the employer precluded, if the injured party is the child?)**

Zika (continued):

- **Are there currently, or will there be introduced in the future, limitations to medical benefit plans with respect to conditions arising from Zika infection?**
- **Impact to workforce if/as more children are born suffering from microcephaly; how is this potentially going to impact child care, worker engagement-distraction, etc.?**
- **How will affected families deal with the expense? Even if not work-related in any way, this will affect employers and their businesses.**

What's In The Pipeline?

Industry forms and policy provisions under discussion for possible introduction or revision – reflecting or possibly anticipating changes that may be made to ISO-based proprietary forms, and/or to manuscript policy forms

- **Limitation of Coverage to Designated Premises or Project – possible changes to strengthen location-specific intention, and scope of coverage, following unanticipated broad coverage interpretation in certain court decisions**
- **Products / Completed Operations – possible clarifications, expansions and restrictions with respect to Additional Insureds**

What's In The Pipeline?

- **Additional Insured Endorsements – possible introduction of new forms to extend coverage to insuring agreements typically not addressed, and/or to parties not typically described as additional insureds who may routinely require A.I. status under contracts**
- **Modifications of the definition of Insured Contract**

And on a final note...

“What has RIMS done for us lately?”



oswald[®]