Renaissance Insurance

Market Outlook 2024

Commercial Insurance

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A Complex Market

Over the last five years, the commercial insurance sector has been contending with a hard marketplace, thus posing difficult conditions for insurance buyers. These conditions were brought on by a variety of factors that motivated many insurance carriers to reassess their positions in the industry. Specifically, the increased frequency and severity of claims, growing social inflation issues, evolving cyberthreats and worsening natural disasters have contributed to reshaping the market. Consequently, hardened conditions have pressed on for multiple years, prompting most carriers to implement reduced capacity, stringent underwriting standards and rising premiums across several lines of coverage.

Throughout 2023, the commercial insurance space became an increasingly complex environment. Mirroring other areas of the economy, the sector encountered continued volatility within the past year. In some lines of coverage—namely, directors and officers liability (D&O), employment practices liability (EPL) and workers' compensation—shifting market dynamics, new capacity and optimal underwriting results set the stage for improved conditions, evidenced by decelerated price increases, and, in some cases, rate decreases. On the other hand, headwinds facing other coverage segments, such as commercial property and auto, led to diminished profitability and fueled double-digit rate jumps. Considering these inconsistencies, the commercial insurance landscape will likely remain somewhat challenging in the months ahead, minimizing the likelihood of a soft market arising in the near future.

Furthermore, businesses have had to grapple with a number of new and existing developments over the last 12 months. While 2023 saw the federal government mark the end of the COVID-19 Public Health Emergency, pandemic-related trends have still been a driving factor in various workplace adjustments and associated operational difficulties. Additionally, this past year was met with the continuation of supply chain disruptions, labor shortages, economic pressures and inflation struggles for businesses across industry lines. Complicating matters further, certain geopolitical events (e.g., the Russia-Ukraine conflict and Israel-Hamas war), advancements in artificial intelligence (AI) and a fluctuating reinsurance market have only exacerbated companies' commercial exposures. Altogether, these developments have the potential to compound claims and related costs, fostering persistent coverage concerns.

Looking ahead, industry experts anticipate that the commercial insurance sector will still carry challenges in 2024; however, it may present more favorable conditions than it has in previous years for some insurance buyers and in certain lines of coverage. Yet, some coverage segments, including commercial property and auto, will likely remain difficult to navigate. Regardless, it's essential for businesses to take a proactive approach to bolster their risk management efforts and secure adequate coverage during this time. Amid an evolving risk environment, businesses, with the help of their insurance professionals, should focus on addressing the factors they can control.

In order for business owners like you to successfully manage the commercial insurance space, it's important to consult insurance professionals who understand your industry and operations, comprehend the characteristics of the current market cycle, provide necessary tools and targeted risk management solutions to handle challenging conditions, help you plan for the future and advocate on your behalf. Partnering with these professionals will allow them to tell your story to carriers in a way that will effectively position your business come renewal time.

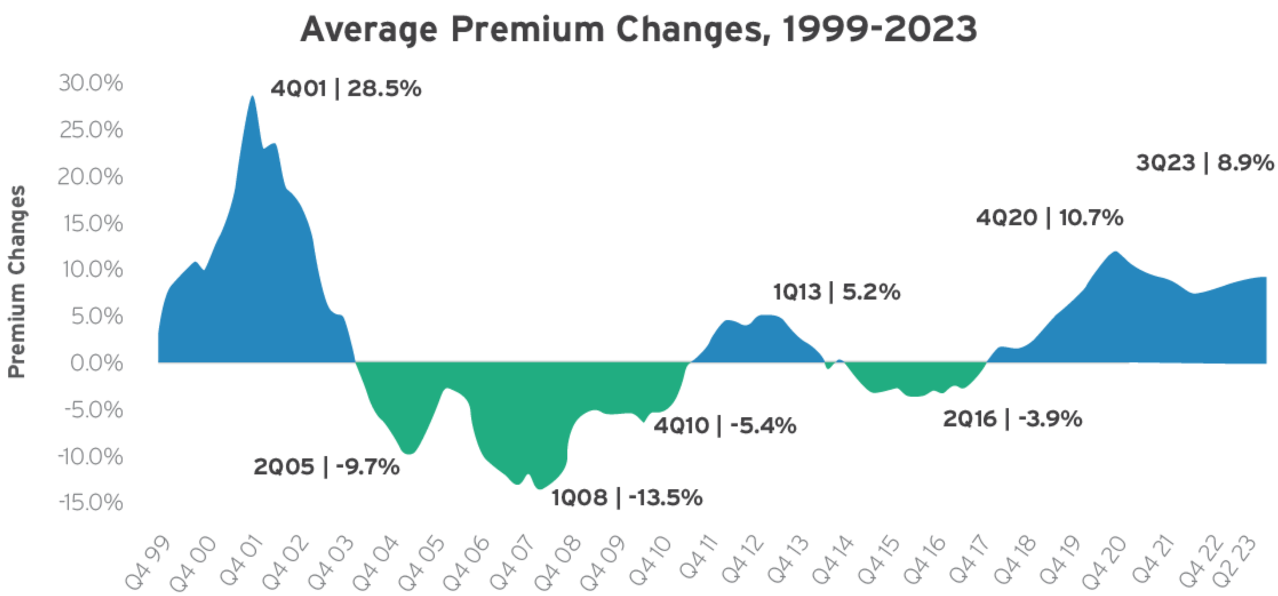
Rest assured, Renaissance Insurance is here to provide the risk management solutions and coverage expertise your business needs.

The Insurance Market Cycle: Hard Versus Soft Markets

The commercial insurance market is cyclical in nature, fluctuating between hard and soft markets. These cycles affect the availability, terms and price of commercial insurance, so it's helpful to know what to expect in both a hard and soft insurance market.

A **soft market**, which is sometimes called a buyer's market, is characterized by stable or even lowering premiums, broader terms of coverage, increased capacity, higher available limits of liability, easier access to excess layers of coverage and competition among insurance carriers for new business. On the other hand, a **hard market**, sometimes called a seller's market, is characterized by increased premium costs for insureds, stricter underwriting criteria, less capacity, restricted terms of coverage and less competition among insurance carriers for new business.

During a hard market, some businesses may receive nonrenewal notices from their insurance carriers. What's more, hard market cycles may prompt carriers to stop writing coverage in high-risk locations or even exit certain unprofitable lines of insurance.



Source: The Council of Insurance Agents & Brokers

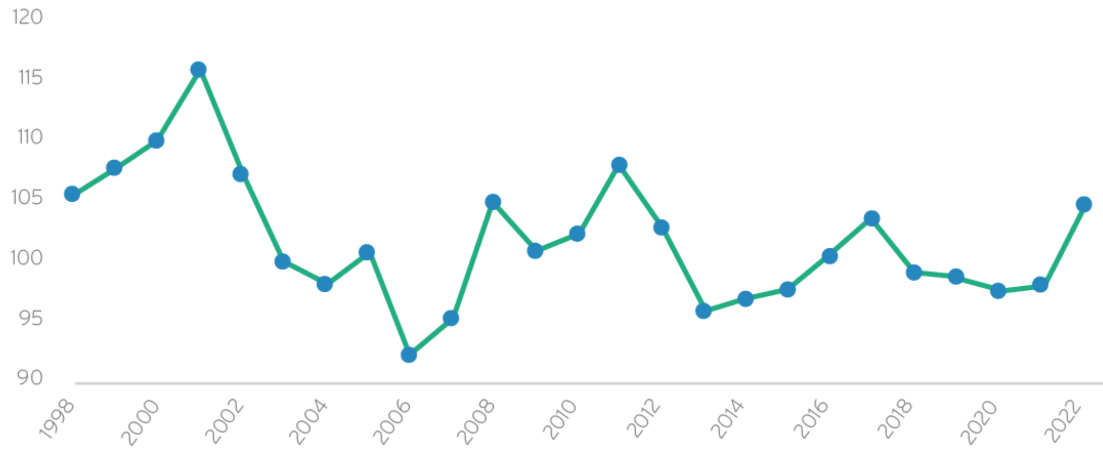
In what was one of the longest soft markets in recent years, businesses across most lines of insurance enjoyed stable premiums and expanded terms of coverage for decades. While the commercial insurance market hardened for a short period of time after the terrorist attacks of Sept. 11, 2001, the last sustained hard market occurred in the 1980s. However, after years of gradual changes, the market has largely firmed since 2019, leading to increased premiums and reduced capacity. While it's worth noting that 2023 has seen some easing conditions for certain lines of coverage, the overall market remains hard.

Many factors affect insurance pricing, but the following are some of the most common contributors to the hard market:

- **Catastrophic (CAT) losses**—Floods, hurricanes, wildfires and other natural disasters are increasingly common and devastating. Years of costly disasters like these have compounded losses for carriers, driving up the cost of coverage overall, especially when it comes to commercial property policies.

- **Inconsistent underwriting profits**—Underwriting profits refer to the difference between the premiums a carrier collects and the money paid out in claims and expenses. When an insurance company collects more in premiums than it pays out in claims and expenses, it will earn an underwriting profit. Conversely, an insurance company that pays more in claims and expenses than it collects in premiums will sustain an underwriting loss. The company's combined ratio after dividends is a measure of underwriting profitability. This ratio reflects the percentage of each premium dollar an insurance company puts toward spending on claims and expenses. A combined ratio above 100 indicates an underwriting loss.

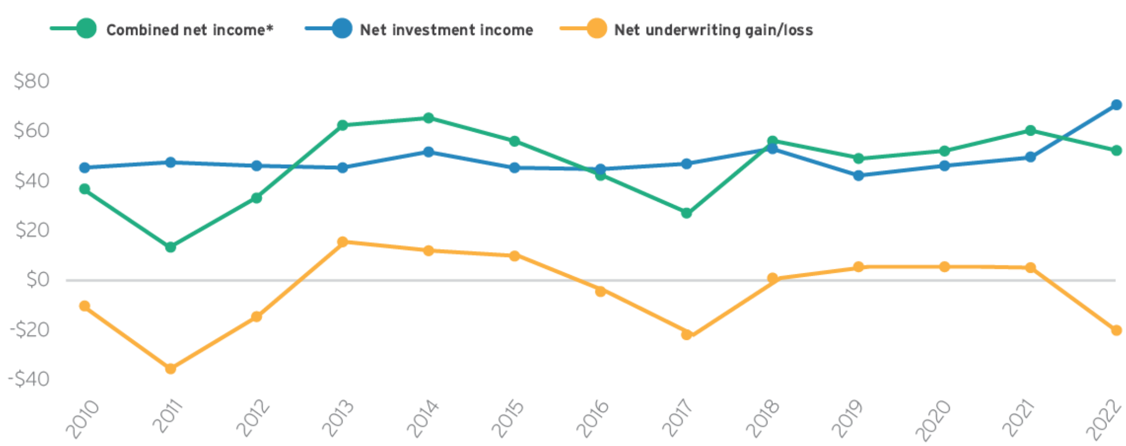
Combined Ratio for Property and Casualty Insurance, 1998-2022



†Excludes state funds and other residual insurers.
Source: ISO

- **Mixed investment returns**—Insurance companies also generate income through investments. Commercial insurance companies typically invest in various stocks, bonds, mortgages and real estate investments. Due to regulations, insurance companies invest significantly in bonds. These provide stability against underwriting results, which can vary from year to year. When interest rates are high and returns from other investments are solid, insurance companies can make up underwriting losses through their investment income. But when interest rates are low, carriers must pay close attention to their underwriting standards and other investment returns.

Operating Results for Property and Casualty Insurance, 2010-2022(Billions)



†Excludes state funds and other residual insurers. *Net underwriting gain/loss plus net investment income.
Source: NAIC, S&P and Insurance Information Institute

- **The economy**—The economy as a whole also affects an insurance company's ability to write new policies. During periods of economic downturn and uncertainty, some businesses may purchase less coverage or forgo insurance altogether. Additionally, a business's revenue and payroll, which factor into how premiums are set, may decline. This creates an environment where there is less premium income for carriers.

- **The inflation factor**—Prolonged periods of inflation can make it challenging for insurance carriers to maintain coverage pricing and subsequently keep pace with more volatile loss trends. Unanticipated increases in loss expenses can result in higher incurred loss ratios for insurance carriers, particularly as inflation affects key cost factors (e.g., medical care, litigation and construction expenses).

- **The cost of reinsurance**—Generally speaking, reinsurance is insurance for insurance companies. Carriers often buy reinsurance for risks they can't or don't wish to retain fully. It's a way for carriers to protect against extraordinary losses. As a result, reinsurance helps stabilize premiums for regular businesses by making it less risky for insurance carriers to write a policy. However, reinsurers are exposed to many of the same events and trends affecting insurance companies and make pricing adjustments of their own.

Additional Factors Influencing Insurance Rates

In addition to the above, here are other key factors that may influence your insurance rates:

The coverage you're seeking—The forms of insurance you're seeking, as well as the details of such coverage (e.g., limits of liability and value of the insured property), will affect your insurance pricing.

The size of your business—As a general rule, the more employees your business has and the larger your revenue is, the more you will pay for your insurance.

The industry in which you operate—Certain industries carry more risk than others. In general, businesses in these sectors are more likely to file insurance claims. As such, businesses involved in risky industries tend to, on average, pay more in insurance premiums.

The location of your business—The location of your business will also influence your insurance rates. If your business is in an area prone to certain natural disasters, carriers may determine that your facility is more at risk for property damage. This increased risk will translate to higher premiums.

Your claims history—Your business's claims history, often referred to as loss history, will also have an impact on insurance rates. If your business has an extensive claims history, then insurance carriers will tend to consider your company more likely to file future claims. In turn, this means that your business will be viewed as risky to insure, subjecting you to higher commercial insurance premiums.

Your risk management practices—Now more than ever, conducting a careful assessment of your business's unique exposures and establishing effective, well-documented risk management practices can make your establishment more attractive to insurance carriers. After all, having a robust risk management program in place reduces the likelihood of costly claims occurring and minimizes the potential losses your business could experience from an unexpected event.

Overall, during a hard market, insurance buyers may face complex considerations regarding their coverage. Thankfully, businesses are not without recourse in the face of a hard market. Business owners who proactively address risk losses and manage exposures will be better prepared for a hardening market than those who do not. Additionally, those who educate themselves on the trends that influence their insurance will better understand how to manage their associated costs.

Trends to Watch in 2024

Insurance experts often examine how outside trends, reforms and movements in the larger economy affect the insurance marketplace, and businesses should follow suit to determine what factors may impact their coverage. For 2024, there are a host of sweeping market developments to consider.

Social Inflation Concerns

Social inflation refers to societal trends that influence the ever-rising costs of insurance claims and lawsuits above the general economic inflation rate. According to the National Association of Insurance Commissioners, the "social" aspect of this term represents shifting social and cultural attitudes regarding who is responsible for absorbing risk (i.e., the insurer or the plaintiff). As the commercial insurance sector shifts, it's essential to understand what's currently driving social inflation.

TPLF

One of the factors driving social inflation has to do with third-party litigation funding (TPLF). Such funding refers to when a third party provides financing for a lawsuit. In exchange, the third party receives a portion of the settlement. In the past, the steep cost of attorney fees would often discourage plaintiffs from taking a lawsuit to trial. But, through TPLF, most or all of the costs associated with litigation are covered by a third party, which has increased the volume of cases being pursued. Not only is TPLF becoming more common, but it also increases the cost of litigation, sometimes to seven figures. This is because plaintiffs can take cases further and seek larger settlements.

Tort Reform

Tort reform refers to laws that are designed to reduce litigation. In particular, tort reforms are used to prevent frivolous lawsuits and preserve laws that prevent abusive practices against businesses. Many states have enacted tort reforms over the last several decades, leading to fewer claims and caps on punitive damages; for example, 2023 saw Florida Gov. Ron DeSantis sign a tort reform bill into law in an effort to curb predatory litigation practices, limit personal injury lawsuits and minimize attorneys' fees. However, some states have modified or challenged tort reforms as unconstitutional. Opponents believe tort reforms lower settlements to the point where attorneys are less likely to take on new cases and help victims get justice for their injuries or other damages. Further complicating matters, tort reform is subject to uncertainty, as it's largely tied to political leanings and the interests of individual states. Should tort reform continue to erode, there could be fewer restrictions on punitive and noneconomic damages, statutes of limitations and contingency fees, all of which can drive up the cost of claims and exacerbate social inflation.

Plaintiff-friendly Legal Decisions and Large Jury Awards

The overall public sentiment toward large businesses and corporations is deteriorating, and anti-corporate culture is more prevalent than ever. A number of factors are contributing to this increasing distrust, including the highly publicized issues related to the mishandling of personal data and social campaigns. This has considerably impacted how a jury perceives businesses in court, and organizations are held to a higher standard for issues related to how they conduct their business. In fact, juries are increasingly likely to sympathize with plaintiffs, especially if a business's reputation has been tarnished in some way in the past. As a result, plaintiff attorneys are likely to play to a jury's emotions rather than the facts of the case.

Compounding this issue, there's an increasing public perception that businesses—particularly large ones—can afford the cost of any damages. This means juries are likely to have fewer reservations when it comes to awarding damages. In the current environment, nuclear verdicts (jury awards of $10 million or more) have become more common.

Extreme Weather Events

Extreme weather events, such as hurricanes, tornadoes, hailstorms and wildfires, continue to make headlines as they become increasingly devastating and costly. What's worse, these events aren't limited to one geographic area, impacting businesses across the United States.

According to data from the National Oceanic and Atmospheric Administration (NOAA), 2023 kicked off with severe cold waves and immense snowfall in several Northeastern states, producing the most frigid wind chill (-108 degrees Fahrenheit) the country has ever recorded and costing $1.8 billion in losses. Between spring and early summer, a series of hailstorms, heavy winds and hundreds of tornadoes wreaked havoc on multiple Southeastern, Central and Midwestern states, leading to almost 100 fatalities and causing over $35 billion in losses. In the summer, more than one-third (34.3%) of the country experienced prolonged droughts and heat waves, resulting in widespread crop damage, reduced river commerce and diminished national water quality; these conditions also generated $4.5 billion in losses and contributed to 138 fatalities. Throughout the year, record-high rainfall and flash flooding across states such as California, Illinois, Kentucky, Vermont and New York damaged hundreds of properties, costing more than $6 billion in losses and causing over 30 fatalities. During the 2023 Atlantic hurricane season, at least 18 named storms produced more than $30 billion in losses, leading to over a dozen fatalities.

Some of the most devastating weather events from this past year were Tropical Storm Hilary and Hurricane Idalia. Between Aug. 16-19, the NOAA confirmed that a Category 4 hurricane with sustained winds of 145 mph rapidly formed and intensified near Mexico's West Coast before weakening into a tropical storm as it approached the United States. From Aug. 20-22, Tropical Storm Hilary became the first of its kind to enter California since 1997, bringing record-setting rainfall, flooded roads, downed trees and mudslides to the Southern part of the state. A few days later, the NOAA reported that Hurricane Idalia struck the Big Bend region of Florida as a Category 3 hurricane with sustained winds of 125 mph, making it the strongest hurricane to hit the area in over a century. From Aug. 29-31, this hurricane produced 2-8 feet of storm surges and 5-10 inches of rainfall across portions of Florida, Georgia and the Carolinas.

In addition to the devastation from these large-scale disasters, losses that occur as aftereffects of major storms or arise from small- to mid-sized weather events (also known as secondary perils) have been on the rise. For instance, the NOAA confirmed that a series of thunderstorms that produced thousands of lightning strikes in Alaska this past summer ended up spawning dozens of wildfires and burning thousands of acres across the state, causing considerable damage. Further, the NOAA reported that heavy winds stemming from the remnants of Hurricane Dora over the Pacific Ocean played a significant role in fueling the Hawaii firestorm, which went on to generate $5.6 billion in losses, claim 97 lives and ultimately become the deadliest fire in national history. Altogether, the latest industry data revealed that costs incurred from secondary perils have grown by 6.9% above the normal inflation rate each year since 2000, with average annual losses totaling $70 billion throughout the past decade.

Many weather experts believe severe storms, extreme temperatures, wildfires and flooding are the new norm. As these catastrophes become more frequent, the insurance industry will need to adopt innovative solutions to keep up with weather-related losses. Moving forward, businesses can expect to encounter additional emphasis on weather readiness from carriers.

Economic Pressures

Surging inflation has been a persistent concern in the commercial insurance space over the last few years, resulting in eroding investment income and higher administrative costs among carriers, greater underwriting uncertainty, increased claim expenses and rising premiums. Such inflation reached a peak in 2022, evidenced by the highest consumer price index (CPI) in 40 years. According to the U.S. Bureau of Labor Statistics (BLS), the CPI for all urban consumers jumped by 9.1% year over year in June 2022 and remained near record-setting levels (7%-8%) for the next several months. Although the CPI has cooled throughout 2023, it's still elevated; BLS data confirmed that it increased by 3% year over year in June 2023 before rising even further by 3.7% year over year in September 2023. As a whole, the increased CPI has driven up costs across several lines of commercial coverage, therefore inflating overall loss expenses within the property and casualty markets.

In the property insurance space, the costs to repair, replace or rebuild structures and their contents following losses have increased, prompted by rising labor and material expenses. In fact, BLS data revealed year-over-year increases in the CPI for a number of building- and construction-related elements in September 2023, including property furnishings and supplies (0.9%), tools and hardware (4.2%), and overall shelter costs (7.2%). In the auto insurance market, vehicle repair expenses and subsequent accident costs have also increased, brought on by supply chain disruptions for several critical vehicle parts (and vehicles overall). These concerns were reflected in a rising year-over-year CPI in September 2023 for new cars (2.5%) and motor vehicle maintenance and repairs (10.2%), according to BLS data.

The workers' compensation and liability insurance segments are also being affected by other forms of inflation, such as medical and wage inflation. Medical inflation refers to increasing prices for health care necessities; such inflation plays a major role in accident costs and related liability claims. BLS data confirmed that the CPI rose by 4.2%, 2.2% and 7.6% in September 2023 for medical care commodities, prescription drugs, and medical equipment and supplies, respectively. Considering these increases, medical inflation is likely to continue affecting expenses in the liability insurance space for the foreseeable future. Wage inflation, on the other hand, refers to workers' rising salaries. Amid labor market challenges, some businesses have responded by boosting their workers' pay, contributing to wage inflation. According to research from employment website Indeed, wage inflation peaked in 2022 at 9.3% but remained above 4% through 2023. Because payroll is leveraged as an exposure base to calculate workers' compensation premiums, wage inflation could prompt increased rates in this space. Further, this form of inflation may increase the risk of payroll miscalculations and create short-term disconnects between wages, benefits and workers' compensation premiums. Most states have an index for wage inflation to ensure premiums and benefits match one other, but errors can occur.

To help curb overall inflation concerns, the Federal Reserve (Fed) steadily hiked up interest rates between 2022 and 2023. While financial experts initially feared that these increased rates would lead to a potential recession—a prolonged and pervasive reduction in economic activity—across the United States, those fears began to subside by the middle of 2023; however, financial pressures on businesses may persist. Specifically, if the Fed's continued efforts to curb inflation trigger an economic downturn, it may decrease companies' sales and profits, limit their credit capabilities and reduce their overall cash flow as customers take more time to pay for products and services. This means that businesses without substantial revenues, excess reserves and the additional capital necessary to offset extended periods of loss are more likely to make difficult financial decisions to avoid insolvency or bankruptcy. As such, it's best for businesses to have adequate risk management measures in place. These measures may include establishing concrete financial plans to maintain profits, scaling back certain operations, promoting steady cash flow with shorter payment terms for customers, ensuring proper debt management, fostering strong connections with stakeholders and leveraging effective marketing strategies. Above all, it's crucial for businesses to maintain sufficient insurance coverage in a down economy and secure financial protection against possible losses, as certain commercial exposures tend to rise during such a downturn.

Going forward, financial experts predict that overall inflation trends will likely hold steady, possibly remaining above 2% through 2025. Consequently, carriers may continue to face inflation-related challenges as it pertains to maintaining coverage pricing to keep up with more volatile loss trends, thus impacting businesses and their total insurance expenses. Yet, it's worth noting that the insurance industry as a whole is better positioned to incur losses to its reserves than it was in previous periods of prolonged inflation in U.S. history (i.e., the 1980s).

Supply Chain Disruptions

Dating back to the beginning of the pandemic, the United States and much of the world have faced supply chain disruptions. Most of these issues stemmed from increased demand for various items and materials amid a slowdown in production and a subsequent lack of availability during pandemic-related closures. Even though businesses have since resumed their normal operations and increased production levels, demand for certain items and materials continues to outweigh inventory. Creating further supply chain bottlenecks, various international events (e.g., global port delays and geopolitical conflicts), extreme weather conditions, and an ongoing shortage of warehouse workers and truck drivers have slowed shipment and delivery times for some high-demand goods.

These supply chain disruptions have impacted businesses of all sizes and sectors. According to a recent survey conducted by media company CNBC, 61% of businesses reported that their current supply chains still aren't functioning normally, with many of these companies placing orders for essential inventory and materials up to six months in advance to ensure timely deliveries and avoid operational delays. As it stands, the latest research from warehousing technology company GreyOrange found that some of the most significant supply chain pain points facing companies include navigating material price increases due to inflationary pressures, sourcing stock and ensuring the integrity of supply chain data.

Supply chain issues are also impacting companies' recovery capabilities following insured losses, resulting in prolonged claims processes and substantial business interruptions. Especially in the commercial property insurance space, supply chain challenges related to building materials are forcing businesses to keep their doors closed for extended periods until they get the construction resources needed to repair or replace their affected structures. This, in turn, has drawn out some companies' indemnity periods, which refers to the time spent restoring business operations after insured losses take place. Longer indemnity periods not only generate lengthier (and often costlier) claims but can also lead to higher restoration expenses, diminished productivity, lowered staff morale, reputational damage and reduced customer retention, all of which can threaten companies' overall financial health and success. When faced with extended indemnity periods, businesses may also be more susceptible to coverage gaps and rising premiums.

Compounding concerns, the CNBC survey found that less than one-third (30%) of businesses think supply chain challenges will subside in 2024, while 22% are unsure when these difficulties will dissipate, and 29% believe such struggles will last into 2025 and beyond. With these numbers in mind, it's vital for businesses across industry lines to prepare for and minimize potential supply chain disruptions in the months and years ahead. One emerging tactic is the utilization of automated supply chain technology and other digital solutions. According to the GreyOrange report, more than half (52%) of businesses have increased their overall budgets for supply chain technology in the last 12 months; these companies' top investment priorities include achieving more accurate stock levels (32%) and leveraging data analytics to maintain real-time supply chain visibility (38%). Additional steps businesses can take include introducing updated contingency plans, forging strong partnerships with multiple vendors, prioritizing domestic supply chain solutions over international counterparts, staying informed on the latest inventory and stock trends, and searching for more environmentally friendly options. Implementing such measures could make all the difference in remaining operational amid possible disruptions.

AI Developments

AI technology, which has surged in popularity in recent years, encompasses machines and devices that can simulate human intelligence processes. Applications of this technology are widespread, but some of the most common include computer vision solutions (e.g., drones), natural language processing systems (e.g., chatbots), and predictive and prescriptive analytics engines (e.g., mobile applications). According to the International Data Corporation, the market for AI technology and other cognitive solutions is projected to exceed $60 billion by 2025, up from $1 billion in 2015. In light of this growth, it's imperative for businesses to understand the benefits and ramifications of such technology.

AI systems can potentially improve loss control measures and claims management practices for several lines of commercial coverage. For example, this technology can be utilized as a valuable safety tool to help mitigate workers' compensation exposures and associated losses by way of providing prompt diagnoses when employees get injured on the job, generating customized treatment plans to improve recovery outcomes, selecting ideal health care providers, detecting injury patterns and anomalies, determining fundamental causes of workplace incidents and suggesting methods to prevent future losses, and reducing overall claim complexity. In addition, AI tools can help companies boost operational efficiencies through automated workflows, promote greater decision-making capabilities with predictive insights and conduct more effective due diligence processes in the boardroom. This technology could, in turn, reduce companies' corporate exposures and related liability concerns. Further, carriers across coverage segments can leverage this technology to detect insurance fraud, assess policyholders' unique risks and provide 24/7 assistance throughout claims processes.

Nonetheless, AI technology also carries risks for the commercial insurance space. In particular, since this technology still relies on human algorithms, any inaccuracies or mistakes made during the initial input process could perpetuate companywide biases and produce serious errors amid corporate decisions, exposing businesses to various lawsuits and related claims. In fact, the U.S. Equal Employment Opportunity Commission (EEOC) recently released detailed guidance for businesses regarding AI-related biases and errors in the workplace, with 2023 witnessing the agency's first settlement for an AI-based lawsuit. Using this technology in certain organizational settings may also pose ethical concerns regarding data privacy and protection. What's more, federal and state legislation surrounding AI technology is frequently changing, which means that companies that neglect to ensure compliance with applicable laws could face substantial legal penalties. Lastly, cybercriminals have increasingly weaponized AI technology, exacerbating cyber losses and related claims among businesses. Primarily, cybercriminals can utilize this technology to carry out harmful activities (e.g., launching malware and social engineering scams, cracking passwords, finding software vulnerabilities and reviewing stolen data) at a rapid pace and with greater success rates, allowing them to cause major damage and even evade detection. Considering these issues, it's best for businesses to carefully review the pros and cons of AI technology and establish adequate risk management techniques before implementing such solutions within their operations.

Geopolitical Upheaval

This past year saw the continuation of severe geopolitical upheaval and international disruptions, particularly those relating to the ongoing Russia-Ukraine conflict, shifting trade dynamics between China and the United States, rising tensions amid the Israel-Hamas war and growing nation-state cyberthreats. These global events have had far-reaching impacts, prompting new tariffs, export restrictions, economic sanctions and coverage exclusions. Further, such events have exacerbated existing technological challenges, inventory backlogs, material shortages and supply chain issues. According to a recent survey conducted by Oxford Economics, more than one-third (36%) of businesses currently view geopolitical tensions as one of the top risks facing the global economy. As these events continue, companies should prepare for potential disruptions by closely monitoring evolving global trade policies and considering domestic production solutions (e.g., switching from an international vendor or raw material to a U.S. alternative) to ensure business continuity.

One of the most significant concerns associated with geopolitical upheaval is the extent to which losses stemming from international disruptions are covered by commercial insurance policies, especially as it pertains to instances of war; for example, war exclusions are common for both commercial property and cyber coverage. Regarding cyberwarfare, research from technology company Microsoft found that nation-state cyberattacks targeting critical infrastructure have jumped by 20% since 2021. Yet, securing adequate coverage for related damages has proven challenging due to war exclusions. Although these exclusions are fact-specific and often vary between policies and carriers, they generally state that damages from "hostile or warlike actions" by a nation-state or its agents won't receive coverage. Such exclusions were created to help protect carriers against potentially systemic losses that may arise amid attacks by governments, their militaries or associated groups.

To reduce any ambiguity on protection for nation-state cyberattacks, certain insurance marketplaces and carriers have recently revised their policy language surrounding war exclusions, thus providing more clear and consistent guidelines for what is and isn't covered. Some carriers have also become more apprehensive in selecting policyholders, adopted extensive application processes and introduced additional cybersecurity documentation requirements as a prerequisite for coverage. Looking ahead, it's essential for carriers and insureds to openly communicate about policy definitions and specific coverage capabilities regarding cyberwarfare. Such communication will help ensure both parties are on the same page, minimizing potential issues when claims arise. Furthermore, businesses should take a proactive approach to mitigating possible nation-state cyberthreats by implementing effective loss control measures (e.g., conducting risk assessments and reviewing digital supply chain exposures, addressing foreign attackers in cyber incident response plans, leveraging proper security software and following applicable government guidance).

Reinsurance Challenges

Reinsurance refers to an agreement made to help insurance carriers transfer their risk to a third party. It consists of a contract between a reinsurer and an insurance carrier—also called a primary insurer—that permits the carrier to transfer some of the financial exposures associated with issuing insurance policies to the reinsurer. The reinsurance sector plays a valuable role in the overall insurance landscape, allowing carriers to effectively allocate their risks and offer more capacity. In recent years, however, the reinsurance segment has faced substantial challenges. Specifically, increasing market demand and large-scale losses have forced reinsurers to make significant payouts, threatening their overall profitability and generating hardened conditions across several lines of coverage. Consequently, many primary insurers have seen their reinsurance costs increase over the last few years.

The commercial property reinsurance space has been hit the hardest by these trends, largely due to the increased frequency and severity of extreme weather events and associated CAT losses. In response, industry data confirmed that many primary insurers in this segment (especially those with elevated CAT exposures) have seen their reinsurance premiums nearly double in price throughout 2023, with some also facing lower capacity. From there, these conditions have contributed to primary insurers increasing rates and limiting capacity for their commercial property insureds, highlighting the trickle-down effect of reinsurance challenges.

Going into 2024, analysts from Fitch Ratings predict that reinsurers will start to see their profits rebound following the past year's premium hikes, increasing the likelihood that primary insurers will experience rate deceleration. This is especially true in the liability reinsurance space, where rates have the potential to flatten amid increased market competition. While commercial property reinsurance premiums will probably still rise, the Fitch Ratings analysts expect these increases to fall to single digits, thus representing some degree of moderation from the previous year. Nevertheless, limited capacity will likely press on as demand remains high in this segment. Altogether, the reinsurance market isn't projected to show signs of softening until 2025 at the earliest.

E&S Shifts

The excess and surplus (E&S) insurance segment provides coverage to policyholders seeking protection that's unavailable to them from the standard insurance market, often catering to nontraditional, unique or large-scale exposures. As a growing number of carriers operating in the standard insurance market reduce their risk appetites and either exit the sector or no longer provide coverage to policyholders in certain industries or locations, the E&S environment has flourished. That is, insureds have sought to remedy coverage gaps brought on by traditional insurance market limitations by taking some of their business to the E&S space.

According to a recent report from financial services company S&P Global, premiums written in the E&S market reached $75.5 billion in 2022, up from $62.9 billion in 2021 and more than doubling 2018's results ($34.7 billion). In 2023, the Wholesale and Specialty Insurance Association estimated that the segment grew by at least 15.9%. Further, the latest data from Fitch Ratings revealed that premiums written in the overall E&S market currently make up 9% of the entire property and casualty insurance sector, compared to less than 5% just five years prior. Even amid this surging demand and greater policy volume, industry research confirmed that the E&S market has maintained a mostly favorable pricing landscape and upheld several consecutive years of underwriting profits. As the E&S market continues to evolve, it's important for policyholders to stay up to date on the latest developments and consult trusted insurance professionals to discuss their unique coverage needs.

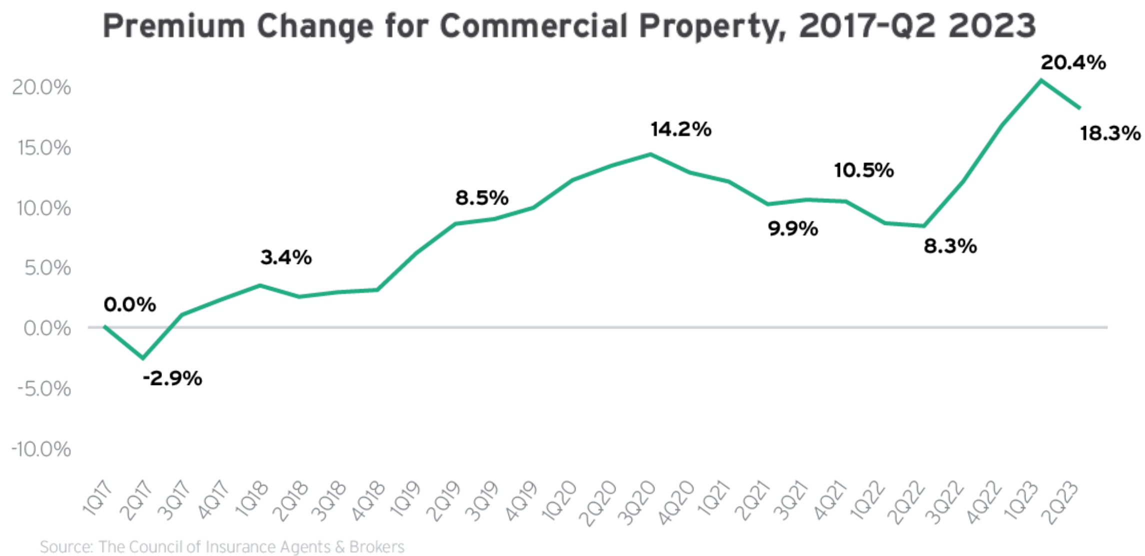
2024 Market Outlook Forecast Trends

Price forecasts are based on industry reports and Zywave surveys for individual lines of insurance. Forecasts are subject to change and are not a guarantee of premium rates. Insurance premiums are determined by a multitude of factors and differ between businesses. These forecasts should be viewed as general information, not insurance or legal advice.

LINE OF COVERAGE	PRICE FORECAST
Commercial property	**CAT-free:** +5% to +15% **CAT-exposed:** +15% to +25%
General liability	**Overall:** +1% to +10%
Commercial auto	**Overall:** +5% to +30%
Workers' compensation	**Overall:** -5% to +2%
Cyber	**Overall:** 0% to +15%
D&O	**Private and nonprofit companies:** 0% to +5% **Public companies:** -10% to +5%
EPL	**Overall:** 0% to +10%

Commercial Property Insurance

The commercial property insurance market has faced rising premiums since 2017. While such rate jumps showed some signs of slowing in 2022 by largely remaining within single digits, this moderation didn't last in 2023. According to industry data, commercial property insurance premiums surged by an average of 20.4% in the first quarter of 2023 alone, representing the first time the segment has seen average rate hikes above 20% in more than 20 years. In the latter half of the year, these rate increases persisted; the segment recorded the highest average premium jumps across all lines of commercial coverage at 18.3%. Industry data also confirmed that the commercial property reinsurance market has been particularly challenging this past year, with rate increases ranging between 25% and 100% for primary insurers exposed to CAT losses.



These unfavorable market conditions are primarily the result of another intense season of natural disasters, inflation issues and an increasingly volatile property valuation landscape. Losses stemming from these trends have forced commercial property insurance carriers to continue elevating the majority of policyholders' premiums and introducing more restrictive coverage terms. Looking ahead, insureds who conduct high-risk operations, have poor property management practices or are located in natural disaster-prone areas will likely remain susceptible to ongoing rate hikes and coverage limitations.

2024 Price Prediction:

CAT-free: +5% to +15%
CAT-exposed: +15% to +25%

Developments and Trends to Watch

- **Natural disasters**—Extreme weather events often leave behind severe property damage and associated losses for affected establishments. As such, the rising frequency and severity of these catastrophes have continued to pose concerns throughout the commercial property insurance market. According to research platform Bloomberg Intelligence, 2023 marks the fourth consecutive year in which global insured losses resulting from natural disasters are projected to exceed $100 billion. Stateside, the NOAA confirmed that the United States experienced a record number of billion-dollar weather and climate disasters in 2023, with the total cost of these events sitting at more than $57 billion. Disasters such as Tropical Storm Hilary, Hurricane Idalia and the Hawaii firestorm were particularly devastating. In addition, convective storms (e.g., thunderstorms, tornadoes and hailstorms) surged across the country this past year. In fact, industry research found that severe thunderstorms contributed to 68% of all weather-related losses in the first half of 2023, costing $35 billion and nearly doubling the 10-year average. Further, the National Interagency Fire Center reported that more than 43,000 wildfires burned over 2.3 million acres nationwide during 2023, destroying thousands of structures. Making matters worse, many climate experts predict that natural disaster trends will continue to exacerbate commercial property losses in the future.

- **Inflation issues**—Like other lines of coverage, the commercial property insurance segment has been significantly impacted by inflation issues in recent years, prompting higher premiums and claim expenses when losses occur. These issues have been brought on by a combination of fluctuating material demand, supply chain complications, surging prices for various building resources and rising labor costs across the construction sector. Although increased material costs and wage growth trends have certainly softened since their peak in 2021, they continue to exceed pre-pandemic levels, thus affecting property repair and replacement expenses and related claims. According to construction software company Gordian, the price of building materials such as insulation, electrical conduit and concrete jumped by more than 10% in 2023, while the cost of wood and steel increased by over 15%. Additionally, employment website Indeed reported that construction sector wage growth reached 4.4% in 2023, up from 3.6% in 2019. As inflation issues press on in 2024, businesses may not only face increased rates and elevated claim costs following commercial property losses but could also encounter underinsurance concerns due to outdated property valuations. In other words, businesses that don’t update their property values to reflect inflation trends could receive reduced payouts and coinsurance penalties amid commercial property losses, which may result in larger out-of-pocket expenses.

- **Insurance-to-value (ITV) considerations**—In light of current inflation issues, ensuring accurate property valuations has proven to be a difficult feat. After all, these valuations are tied to the latest building material prices, which have become more volatile over the years. In response to inflation issues affecting building expenses and valuations, insurance experts are encouraging businesses to be more diligent in performing correct ITV calculations and maintaining ample commercial property coverage; some carriers have even introduced specific ITV standards for their policyholders. An accurate ITV calculation represents as close to an equal ratio as possible between the amount of insurance a business obtains and the estimated value of its commercial building or structure, thus ensuring adequate protection following potential losses. According to recent industry research, many businesses’ ITV calculations are off by more than 30%, presenting major coverage gaps. To avoid inaccurate valuations and insufficient coverage, insurance experts recommend using the replacement value of a property when conducting ITV calculations. This value is an estimate of the current cost to replace or rebuild a property. The replacement value of a property depends on characteristics such as material and labor expenses, architect services, debris removal needs and building permit requirements. Common approaches to accurately estimating this value include getting a property appraisal from a third-party firm, leveraging fixed-asset records that have been adjusted for inflation or relying on a basic benchmarking tool (e.g., dollars per square foot).

- **Reinsurance capacity challenges**—The surge in extreme weather events, substantial underwriting losses and prolonged inflation issues have proven especially challenging for the commercial property reinsurance segment to navigate. Specifically, as natural disasters become more severe and inflation sits at elevated levels, reinsurers are facing a rise in claims, larger investment losses, diminished profitability and reduced capital. For instance, between 2021 and 2022 alone, industry research confirmed that climate-related underwriting losses across the commercial insurance space almost quadrupled. These trends have generated some degree of market uncertainty and earnings volatility, motivating reinsurers to reevaluate whether their existing methods for pricing CAT risks are effectively modeled. Consequently, some reinsurers have lowered capacity for CAT exposures or eliminated capacity altogether. Certain reinsurers have also introduced sublimits and revised their policy wording to establish more distinct coverage limitations. According to industry data, the first quarter of 2023 saw capacity for additional reinsurance coverage layers decrease by more than 50% while rates spiked by 40% to 100%. By midyear renewals, capacity continued to tighten as rates jumped by 25% to 40%. Although demand for reinsurance remains high, capacity will likely become further constrained in 2024, therefore impacting overall commercial property insurance rates, particularly among CAT-exposed policyholders.

Tips for Insurance Buyers

- Conduct a thorough inspection of both your commercial property and the surrounding area for specific risk management concerns. Implement additional mitigation measures as needed.
- Work with insurance professionals to begin the renewal process early. Many commercial property insurers are seeing an increased submission volume. Timely, complete and quality submissions are vital to ensure your application will be reviewed by underwriters.
- Determine whether you will need to adjust your organization's commercial property limits to avoid underinsuring your property and facing coinsurance penalties. This may entail updating your total insurable values as needed and conducting accurate ITV calculations.
- Gather as much data as possible regarding your existing risk management techniques. Be sure to work with your insurance professionals to present loss control measures you have in place.
- Analyze your organization's natural disaster exposures. If your commercial property is located in an area that is more prone to a specific type of catastrophe, implement mitigation and response measures that will protect your property as much as possible if such an event occurs (e.g., installing storm shutters on windows to protect against hurricane damages or utilizing fire-resistant roofing materials to protect against wildfire damages).
- Develop a documented business continuity plan (BCP) that will help your organization remain operational and minimize damages in the event of an interruption. Test this BCP regularly with various possible scenarios. Make updates when necessary.
- Report commercial property claims to your insurance carrier as soon as possible and, if applicable, take action to limit the damage caused by these claims.
- Address insurance carrier recommendations. Insurers will be looking at your loss control initiatives closely. Taking the appropriate steps to reduce risks whenever possible can make your business more attractive to underwriters.
- Keep your commercial property in good condition at all times and address building issues that could lead to insurance claims immediately.

General Liability Insurance

Rising claim frequency and severity have generated hardening conditions across the general liability insurance segment in recent years, prompting ongoing rate increases, stringent underwriting standards and limited capacity. Fortunately, carriers experienced slightly better underwriting results in 2022-23, paving the way for rate deceleration. In other words, although rates have continued to increase during this time frame, they have done so at a slower pace than in previous years. According to industry data, average premium increases hovered between 6% and 7% during most of 2022; throughout 2023, such rate hikes remained between 4% and 5%.

Nonetheless, several concerning trends across the segment—including rising litigation concerns, increasing medical expenses, and heightened risks related to per- and polyfluoroalkyl substances (PFAS)—still have the potential to threaten claim costs and negatively impact overall market performance. As such, policyholders can anticipate another year of modest premium increases in 2024. Renewal results will likely depend on policyholders' unique exposures, class and loss history. Additionally, insureds who operate in sectors with elevated liability risks (e.g., real estate, construction, manufacturing, retail and hospitality) may be vulnerable to larger rate hikes, more restrictive underwriting standards and difficulties obtaining higher coverage limits.

2024 Price Prediction:

+1% to +10%

Developments and Trends to Watch

- **Litigation concerns**—As the United States becomes an increasingly litigious society and social inflation drives up the frequency and severity of insurance claims, businesses face a growing number of lawsuits following liability incidents (actual or alleged) and, in turn, greater penalties from such legal action. Multiple factors influence rising litigation and social inflation issues within the liability market, including additional attorney advertising, TPLF and nuclear verdicts. In particular, attorney advertising has grown progressively more widespread, spanning various mediums (e.g., television, print and social media) and highlighting opportunities to take legal action in a range of scenarios—thus promoting further litigation against businesses. According to the American Tort Reform Association, attorneys collectively spend up to $250 million creating and dispersing more than 3.5 million local legal advertisements each quarter.

  Furthermore, industry experts are projecting the global TPLF industry—which permits third parties to invest in lawsuits by financing attorneys or their clients in exchange for a portion of any resulting settlements—to reach $30 billion by 2028, presenting more avenues for litigation against businesses. In fact, industry research confirmed that attorneys are already experiencing internal rates of return of at least 25% on their TPLF investments. In addition to attorney advertising and TPLF, nuclear verdicts are on the rise, particularly in the case of class action lawsuits. According to independent public relations firm Marathon Strategies, the five years leading up to the COVID-19 pandemic saw the total sum and median of nuclear verdicts increase by 178% and 41%, respectively. Although these numbers decreased in 2020 due to pandemic-related court closures, they skyrocketed in the following years; the average nuclear verdict nearly doubled from $21.5 million in 2020 to $41.1

million in 2022, while the sum of these verdicts jumped from $4.9 billion to $18.3 billion in the same time frame. Altogether, increased litigation, rising verdicts and surging social inflation issues have largely contributed to elevated general liability insurance claim costs. In some cases, such litigation has posed underinsurance concerns for businesses, leaving them with coverage gaps and substantial out-of-pocket expenses amid associated claims.

- **Increased medical expenses**—Coverage for medical costs stemming from third-party injuries is one of the most critical components of general liability insurance. Consequently, surging medical expenses have compounded claim costs in the segment throughout the past few decades, with no end in sight. According to the BLS, the total value of medical care has jumped by 115.1% since 2000. Medical inflation is tied to several different factors, including increased drug costs, elevated treatment expenses due to advancements in medical technology and evolving care methods, and rising wages among health care workers. Specifically, the BLS found that prices for prescription drugs, outpatient care and hospital services increased by 3.1%, 5.7.% and 4.2%, respectively, over the previous 12 months. However, it's worth noting that inflation among overall goods and services began exceeding medical inflation in 2023, evidenced by monthly consumer and producer price index data from the BLS. This is a rare occurrence, as medical care and health spending generally outpace growth across the rest of the economy. Regardless, surging medical expenses will likely continue playing a major role in elevated general liability insurance claim costs in 2024 and beyond.

- **PFAS exposures**—PFAS consist of a large grouping of over 7,000 chemicals that have been widely manufactured and distributed across the United States since the 1940s. Because PFAS don't break down easily within the environment or the human body, these substances are also known as "forever chemicals." PFAS can be present in various products, including food packaging, nonstick cookware, household cleaners, firefighting agents, textiles, furniture and auto parts. Over the past few years, PFAS have been the subject of increased scrutiny stemming from recent developments regarding the health and safety of these substances and their environmental impacts. Namely, PFAS have been linked to several health conditions, including certain cancers and immune dysfunction. As more information regarding the risks of PFAS comes to light, regulatory issues involving these substances have ensued.

  Although two main types of PFAS (i.e., perfluorooctanoic acid and perfluorooctane sulfonate) have already faced regulatory action—resulting in these substances no longer being manufactured in the United States since 2015 and 2002, respectively—the federal government recently implemented multiple efforts to limit PFAS usage and exposure in the coming years and beyond. Such efforts include creating national water quality standards related to PFAS contamination, designating certain PFAS as hazardous substances, enhancing PFAS reporting requirements, limiting PFAS discharge from industrial sources, and conducting and publishing toxicity assessments for various PFAS. Apart from federal legislation, 15 states currently have standards restricting PFAS contamination within soil and groundwater. Additionally, New York and New Jersey have already listed PFAS as hazardous substances within their regulatory regimes.

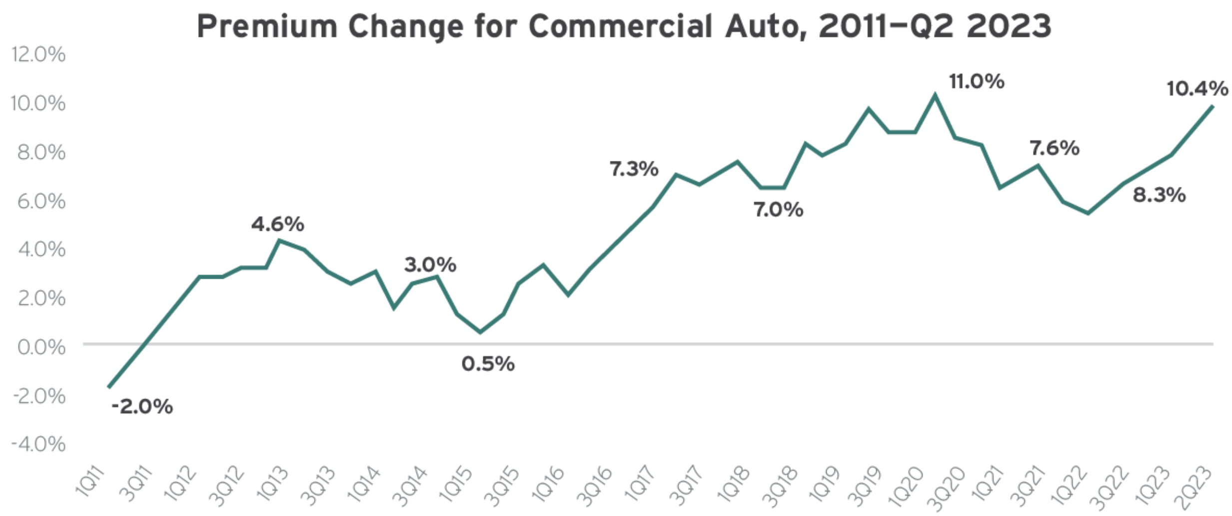
  This legislation has contributed to a rise in litigation and subsequent liability concerns for businesses that are found responsible for causing PFAS contamination amid their operations. For instance, multiple manufacturers have faced lawsuits due to their operations resulting in contaminated soil or drinking water and allegedly leading to health complications for individuals located near their worksites. While recent PFAS litigation has been directed primarily at manufacturers, it's certainly possible that businesses across additional industries could encounter lawsuits related to the use of these substances in their products and packaging, prompting liability claims and associated losses. What's worse, many carriers have begun excluding coverage for PFAS-related losses from their general liability policies. As regulatory pressures and litigation concerns related to such chemicals press on, businesses that manufacture PFAS, sell products containing these substances or utilize packaging with PFAS may experience elevated liability exposures. Further, businesses facing PFAS-related incidents could be more susceptible to coverage exclusions and out-of-pocket losses.

Tips for Insurance Buyers

- Work with risk management experts to educate yourself on key market changes affecting your rates and how to respond using loss control measures.
- Ensure your establishment has measures in place to reduce the likelihood of customer or visitor injuries (e.g., maintaining safe walking surfaces and promoting proper housekeeping).
- Create workplace policies and procedures aimed at minimizing PFAS exposures. Consult legal counsel to ensure compliance with applicable PFAS legislation.
- Examine your general liability coverage with trusted insurance professionals to ensure your policy limits match your insurance needs.

Commercial Auto Insurance

The commercial auto insurance market has faced hardening conditions for much of the past decade, as evidenced by significant underwriting losses, plummeting profitability and continued rate hikes. Although 2022 saw lower average premium increases due to strengthening reserves and 2021's combined ratio falling below 100 for the first time in several years, this deceleration wasn't here to stay. According to credit rating agency AM Best, 2022's combined ratio jumped back up to 105, representing $3.3 billion in underwriting losses. In response to this poor market performance, industry data revealed that average rate jumps reached 8% in the first half of 2023. By the latter half of the year, the majority of policyholders experienced premium increases near or above double digits.



Source: Council of Insurance Agents & Brokers

Various factors have led to such difficult market conditions, including widespread driver shortages, nuclear verdict concerns, inflation issues and distracted driving challenges. Altogether, these cost-driving trends have pushed claims frequency to pre-pandemic levels and exacerbated overall loss severity throughout the segment. As a result, policyholders with large commercial fleets and additional auto exposures have had greater difficulty securing excess layers of coverage alongside elevated program pricing. Considering these developments, most insureds—regardless of industry or vehicle class—can expect to encounter ongoing premium hikes going into 2024. Further, policyholders with sizeable fleets or poor loss history may be more susceptible to double-digit rate jumps, reduced capacity and possible coverage restrictions.

2024 Price Prediction:

+5% to +30%

Developments and Trends to Watch

- **Driver shortages**—While labor shortages have become a top concern for many industries in recent years, the transportation sector has been particularly impacted by a lack of commercial drivers. According to the American Trucking Associations (ATA), the nation's driver shortage totaled 64,000 open positions in 2023 and is forecasted to reach a record high of 82,000 in 2024. What's worse, the ATA anticipates that rising freight demand and an aging workforce could cause the driver shortage to skyrocket to 160,000 open positions by the end of the decade. To help minimize this shortage, a growing number of businesses have adjusted their driver recruitment and retention strategies, including offering higher wages, improving working conditions, providing professional growth opportunities and tapping into underrepresented demographics (e.g., women) to expand their talent pools. Yet, many businesses have still had to lower their driver applicant standards to fill open positions. These drivers often have fewer years of experience and shorter driving records. Such factors can make these new employees more likely to be involved in accidents on the road, contributing to an increase in commercial auto losses and related claims.

In order to combat risks stemming from inexperienced drivers, the federal government introduced the DRIVE Safe Integrity Act in May 2023. This bipartisan legislation aims to enhance safety and training standards for both new and current drivers, as well as promote the adoption of a permanent apprenticeship program for young commercial drivers who are just starting their careers in transportation. Even with these regulatory efforts underway, it has become increasingly important for businesses to establish initiatives of their own to educate new drivers and encourage them to prioritize safety behind the wheel, thus minimizing accidents and associated losses.

- **Nuclear verdict concerns**—Social inflation has affected many lines of commercial coverage in recent years; however, the commercial auto insurance market has seen some of the most devasting impacts. This is mainly due to trends in the trucking industry, including a surge in nuclear verdicts. According to the American Transportation Research Institute (ATRI), trucking verdicts have increased by more than 50% each year for the past decade, with nuclear verdicts in the sector doubling during this time frame. Furthermore, a recent report from the U.S. Chamber of Commerce Institute for Legal Reform found that auto accidents account for nearly one-quarter (22.8%) of all nuclear verdicts across litigation types, with the mean auto accident-related nuclear verdict sitting at $33.8 million. In total, the Insurance Information Institute (III) reported that the culmination of social inflation and nuclear verdicts has led to a $30 billion surge in commercial auto claim costs since 2012. Due to the rise in nuclear verdicts, attorneys are more inclined to go to trial, which typically extends litigation and significantly raises the cost of defending a claim. Making matters worse, the ongoing surge in nuclear verdicts has contributed to many commercial auto insurance carriers either decreasing their risk appetites and restricting coverage offerings or exiting the market altogether. Consequently, insureds affected by nuclear verdicts are less likely to have sufficient coverage for these events—potentially leading to financial devastation when they occur.
- **Marijuana legalization considerations**—The last five years have seen a growing number of states legalize marijuana. Currently, 24 states have legalized recreational marijuana, and 38 have legalized medicinal use; however, this substance is still illegal at the federal level. As marijuana legalization continues to evolve and state and federal laws remain at odds with each other, this substance has presented a range of risks for businesses. Namely, such legalization could increase the likelihood of commercial drivers operating vehicles under the influence of marijuana, which has been proven to impair decision-making skills, coordination and reaction time. In turn, marijuana legalization could lead to a rise in accidents on the road and related commercial auto losses. To mitigate this risk, the U.S. Department of Transportation (DOT) prohibits drivers from using marijuana behind the wheel and requires them to submit to routine drug testing, with failed tests potentially resulting in adverse employment actions (e.g., license disqualification, suspension or termination).

Nevertheless, recent research revealed that many commercial drivers no longer support the DOT's marijuana requirements and want testing procedures to change. According to a report from the ATRI, more than 100,000 commercial drivers tested positive for marijuana and were removed from their roles between 2020 and 2022. Among these drivers, nearly three-quarters (73%) were still in prohibited status as of 2023 after failing to comply with the DOT's return-to-duty protocols following a failed drug test, suggesting that those who test positive for marijuana are opting to leave the industry rather than go through the process of regaining their driving eligibility. What's more, the ATRI's report found that 72.4% of drivers support "loosening" marijuana laws and testing policies, while 66.5% want the substance legalized at the federal level. Altogether, this means that continued enforcement of the DOT's requirements could end up exacerbating existing driver shortages and associated commercial auto exposures across the transportation sector.

- **Inflation issues**—In addition to social inflation, general inflation issues have impacted the commercial auto insurance segment in several ways over the last few years. Specifically, inflation has driven up the cost of various auto parts and associated vehicle repair expenses. According to the BLS, vehicle repair prices jumped 23% between 2022 and 2023, nearly quadrupling the average inflation rate. This rise in costs stems from continued advancements in vehicle technology, fluctuating demand for auto parts, global shipment disruptions, labor shortages and ongoing supply chain complications. Apart from increasing auto part and vehicle repair expenses, inflation has also exacerbated the cost of treating third-party injuries following accidents on the road. Namely, prices for medical equipment, surgical procedures and other advanced treatment methods have all climbed. As a whole, inflation issues have compounded commercial auto claim costs and premiums. In fact, a recent III report revealed that inflation has led to claim expenses across the segment totaling an estimated $95 billion to $106 billion higher than they otherwise would have throughout the past decade.

- **Evolving technology**—Vehicles have continued to grow more advanced and incorporate new technology (e.g., blind-spot cameras, backup alarms, GPS devices and other sensors) in recent years, providing opportunities to increase driver safety and bolster operational efficiency among commercial fleets. Automatic braking technology and advanced driver-assistance systems have also risen in popularity, offering features such as lane departure warnings, blind spot detection, and front and rear crash prevention. Smartphones have even begun pushing road safety by providing more hands-free features, deploying "driving mode" options that silence notifications behind the wheel and offering various safe driving applications. When implemented correctly, this technology has the potential to significantly reduce accidents on the road and minimize related costs and insurance claims for businesses with commercial vehicles and drivers.

Tips for Insurance Buyers

- Examine your risk management practices relative to your fleet and drivers. Enhance your driver safety programs by implementing or modifying policies on safe driving.

- Design your driver training programs to fit your needs and the exposures facing your business. Establish effective onboarding and educational initiatives for new drivers. Regularly retrain drivers on safe driving techniques.

- Ensure you are hiring qualified drivers by using motor vehicle records (MVRs) to vet a driver's past experience and moving violations. Disqualify drivers with an unacceptable driving record. Review

MVRs regularly to ensure that drivers maintain good driving records. Define the number and types of violations a driver can have before losing their driving privileges.

- Consider vehicle technology solutions where appropriate to strengthen and supplement other loss control measures.
- Implement an employee retention program to maintain experienced drivers.
- Prioritize organizational accident prevention initiatives and establish effective post-accident investigation protocols to prevent future collisions on the road.
- Examine your Federal Motor Carrier Safety Administration BASIC scores to identify gaps in your fleet management programs, if applicable.
- Comply with applicable commercial driving legislation, particularly as it pertains to road safety, vehicle maintenance and drug testing policies.
- Determine whether you should make structural changes to your commercial auto policies by speaking with trusted insurance professionals.

Workers' Compensation Insurance

Prolonged market stability, strong reserves and profitable underwriting results have generated favorable conditions across the workers' compensation insurance segment for nearly a decade, paving the way for flat premiums or moderate rate decreases for most policyholders. According to the National Council on Compensation Insurance (NCCI), the segment produced a combined ratio of 87 in 2022, demonstrating continued profitability and representing the ninth consecutive year in which the ratio fell under 100. Nevertheless, it's worth noting that the ratio bottomed out at 79 in 2016 and has slowly risen ever since, posing the potential for diminished profitability going forward.

A few trends could be contributing to this climbing ratio. While advancements in workplace safety solutions and AI have helped mitigate employee injuries and illnesses (as well as associated workers' compensation claims), developments such as inflation, shifting workforce demographics, ergonomic exposures among remote staff and employee mental health challenges have posed some market concerns.

Although favorable segment conditions pressed on in 2023, industry experts have reported that reserve redundancies stemming from reduced presumptive liability issues since the beginning of the COVID-19 pandemic and increased market competition could drive down underwriting profits in 2024. Fortunately, these experts also confirmed that it would take a drastic shift in segment losses to actually push the ratio over 100, thus limiting potential impacts for policyholders. As a result, most policyholders can expect another year of flat premiums or modest rate reductions, while those with higher experience modification factors may encounter increased pricing and possible coverage restrictions.

2024 Price Prediction:

-5% to +2%

Developments and Trends to Watch

- **Experience modification factor changes**—An experience modification factor plays a key role in the cost of workers' compensation premiums. This figure represents an employer's claims history compared to other businesses of a similar size in the same industry. It is determined using a formula set by the NCCI or state-specific rating bureaus, depending on the employer's jurisdiction. Based on this formula, either a credit or debit is applied to the employer's premium. Considering the impact of this figure on workers' compensation costs, it's important for businesses to note that the NCCI, which governs the workers' compensation system in 36 states, is making alterations to specific elements of its experience modification factor formula for 2024. These changes are going to be rolled out on each applicable state's regular filing date, ranging between the end of 2023 and the first half of 2024. The formula itself will remain unaltered; however, there will be adjustments in how certain foundational components of the formula are derived to more accurately account for cost variations among states.

  There are two specific changes taking place: a transition from a nationwide primary/excess split point to a state-specific split point and implementation of state-specific split points, as well as a revision of the calculation of the state accident limitations. Such changes are being made to better reflect each state's average claim costs and align with other state-specific variables. These changes may appear minimal, as the fundamental experience modification factor formula and methodology remain unchanged, but they have the potential to increase or decrease employers' workers' compensation premiums. In light of the NCCI's alterations, businesses operating within applicable states should familiarize themselves with the upcoming changes and be prepared for possible premium adjustments.

- **AI solutions**—AI technology has the potential to change many aspects of the workplace, especially as it pertains to preventing and managing occupational injuries. Thus, implementing this technology could have a significant impact on organizations' workers' compensation programs. In particular, such technology can utilize advanced imaging, scanning and data analysis techniques to provide fast diagnoses when workers get injured on the job, deliver more in-depth insights regarding employees' conditions, and promptly review medical records and injury characteristics to generate customized treatment plans. Further, AI tools can be paired with wearable devices and sensors to offer real-time monitoring of injured employees, automate certain rehabilitation components and adjust treatment plans as needed based on workers' recovery progress. In turn, this technology can help expedite and enhance injured employees' recovery outcomes, therefore mitigating related workers' compensation losses. What's more, AI solutions can promote cost-effective claims management by leveraging sophisticated coding capabilities and predictive analytics to determine primary causes of workplace incidents and suggest methods for preventing future incidents, detect injury trends and patterns, recommend top-performing health care providers, identify possible treatment anomalies and cost drivers, and reduce overall claim complexity. In fact, the latest industry data revealed that using AI technology can help employers lower their workers' compensation claim expenses by up to 45%. Looking ahead, businesses can't afford to ignore the benefits of incorporating this technology within their workers' compensation programs.

- **Employee mental health challenges**—Mental health consists of individuals' emotional, psychological and social well-being. In times of distress, individuals may experience poor mental health. Emotions associated with poor mental health include grief, stress, sadness or anxiousness. According to the Centers for Disease Control and Prevention, mental health concerns are on the rise, with 1 in 5 U.S. adults experiencing mental illnesses—such as anxiety, depression or post-traumatic stress disorder (PTSD)—each year; however, just one-third of these individuals seek help. What's worse, the National Safety Council confirmed that instances of both moderate and severe mental health distress (especially when left untreated) have been linked to a greater risk of workplace incidents. This is likely because employees facing mental health concerns are often less engaged and aware of potential safety hazards, resulting in poor decision-making. These incidents lead to not only injured employees but also higher workers' compensation costs. Considering these findings, it has become increasingly critical for businesses to adopt supportive workplace cultures and incorporate mental health initiatives within their employee well-being efforts. Such initiatives may include training supervisors to monitor staff for signs of mental health distress, creating awareness campaigns and events to reduce stigma (e.g., meditation or yoga classes), forming employee assistance programs, providing flexible scheduling and ample time off, offering written resources and encouraging workers to utilize helplines or contact mental health professionals as needed.

  In addition to considering mental health initiatives to better support employees and reduce potential workplace incidents, it's vital for businesses to keep in mind that many states have or are in the process of enacting legislation that would expand workers' compensation coverage to include job-related mental health conditions. In other words, workers may be able to receive benefits for mental health concerns occurring in the scope of employment and stemming directly from their job responsibilities. This legislation has been on the rise since the beginning of the pandemic, during which some employees encountered a decline in their mental health due to larger workloads and more stressful or dangerous job conditions (e.g., health care workers experiencing PTSD from treating an influx of severely ill patients during COVID-19 surges or retail workers facing anxiety from dealing with angry or aggressive customers amid supply shortages).

Forty-one states have adopted laws that provide some level of coverage for occupational mental health concerns, with various federal and state bills currently underway. Nonetheless, coverage capabilities and eligibility requirements vary between states; some of this legislation only offers benefits for mental health conditions arising in certain industries or stemming from unexpected or unusual workplace incidents, and most of this legislation places the burden of proof on impacted employees, meaning workers have to provide clear evidence that their conditions resulted from their jobs to obtain coverage. Since it can be difficult to objectively measure mental health concerns or prove they were caused by employment, securing such benefits could be an uphill battle for some workers. In any case, this legislation makes it all the more important for businesses to prioritize employees' mental health to minimize associated workers' compensation exposures.

- **Ergonomic exposures among remote staff**—The initial onset of the pandemic pushed businesses across industry lines to transition to remote operations, requiring their employees to work from home. As the pandemic subsided, some employers implemented return-to-office initiatives, while others continued to offer remote or hybrid arrangements, thus creating a large-scale shift in the overall proportion of employees working from home. According to global media company Forbes, 12.7% of employees worked remotely full-time in 2023, while 28.2% had hybrid schedules. Furthermore, Forbes found that a vast majority (98%) of employees have expressed a desire to work remotely for at least a portion of the workweek.

  Many employers initially thought their remote staff would be less prone to job-related injuries, but the past few years have proven otherwise. Specifically, some employees' remote work setups are contributing to musculoskeletal disorders, causing workers' compensation concerns. Recent industry research found that remote employees with poorly designed workstations, namely those lacking effective ergonomic measures, are more likely to experience ailments such as carpal tunnel syndrome, repetitive motion injuries, back pain, neck and shoulder sprains, headaches and digital eyestrain. According to this research, more than 40% of all workers have reported an emergence of or increase in back, shoulder and wrist pain since 2020, highlighting the severity of the problem. Multiple studies have also shown that remote employees tend to work more hours per day than their on-site counterparts, often from nonergonomic areas (e.g., bedrooms, dining tables or couches) instead of dedicated home office spaces, providing additional opportunities for occupational injuries. Because remote employees can technically work at any given time (even outside standard business hours), some safety experts have asserted that these employees pose 24-hour workers' compensation exposures.

  According to the freelancing platform Upwork, an estimated 32.6 million Americans will still be working from home in some capacity by 2025, representing more than one-fifth of the labor force. This means remote and hybrid arrangements (and their associated workers' compensation exposures) are here to stay. As such, many businesses have started implementing measures to minimize possible remote work injuries, including creating telecommuting policies, setting fixed work hours and rest periods, establishing clear home workstation guidelines, providing remote work safety training, and conducting regular checkups aimed at identifying and remedying potential occupational hazards.

- **Shifting workforce demographics**—Businesses of all sizes and sectors have been impacted by substantial labor shortages over the last several years. There are a range of factors currently contributing to such shortages. Specifically, multiple workforce movements have occurred since the beginning of the pandemic, motivating a considerable number of employees to leave their positions in search of new roles that better suit their changing job priorities (e.g., greater work-life balance, higher pay, additional benefits and increased flexibility) or exit the labor market altogether. In response, many businesses have resorted to hiring more inexperienced and entry-level employees. Additionally, employees in the baby-boom generation are working far longer than their predecessors, with many holding off on retirement until they reach their 70s. According to the BLS, the share of workers ages 75 and older in the labor force is projected to grow by 96.5% over the next decade. These trends have, in turn, shifted overall workforce demographics, resulting in a larger proportion of both new and aging employees and elevating related occupational safety and workers' compensation exposures.

  Regarding new employees, these workers are more susceptible to experiencing on-the-job incidents and injuries than their tenured counterparts. A recent industry report revealed that 34% of occupational injuries stem from employees who have been in their roles for less than one year, leading to nearly 7 million missed workdays and contributing to one-third of total workers' compensation claim expenses. While new workers play a major role in claim frequency, older employees heavily influence claim severity. According to the previously mentioned industry report, workers ages 60 and older account for just 13% of occupational injuries, but these injuries are often much more severe and take longer to recover from. Consequently, average workers' compensation claim costs for employees in this age group are 15% higher than those aged 34-49 and 140% greater than those aged 18-24. As these employees take up a rising proportion of the labor market, employers are more likely to face exacerbated claim expenses. Considering these challenges, adopting effective employee retention strategies and providing routine, in-depth safety training for all workers have become top priorities for many businesses.

- **Inflation issues**—The last couple of years have been met with growing inflation concerns, impacting individuals and industries across the board. The commercial insurance market is no exception to these concerns. In the realm of workers' compensation, this segment is primarily affected by the following types of inflation:

  - **Medical inflation**—Such inflation refers to rising costs for medical resources (e.g., physician services, health care facilities and supplies, and pharmaceuticals). These costs—which the National Library of Medicine asserts comprise the largest share (60%) of workers' compensation expenses—are typically determined a year in advance based on projections by Medicare and private insurance contracts. According to the NCCI, medical costs in the workers' compensation segment increased by an average of 1.5% annually between 2012 and 2019, while such costs jumped by 2% in 2021 and another 3.7% in 2022, more than doubling the 10-year average. Making matters worse, the Centers for Medicare and Medicaid predict health care spending will increase by 5.4% each year through 2028, presenting ongoing medical inflation concerns. Yet, the segment is better equipped to handle inflation issues than other commercial lines of coverage due to its past several years of profitability. Many states also have fee schedules in place for workers' compensation coverage, which are predetermined expenses for medical resources. These fee schedules are intended to keep treatment costs for injured employees and associated claim expenses more affordable. Regardless, elevated workers' compensation costs brought on by medical inflation are likely to persist in the coming years.

- **Wage inflation**—Amid rising cost-of-living expenses and ongoing labor challenges, many businesses have increased their workers' pay to boost attraction and retention efforts, resulting in wage inflation. According to the BLS, average year-over-year wage increases spanned between 4.5% and 5.3% throughout 2021-23, up significantly from 2.6% in 2020. Because payroll is leveraged as an exposure base to calculate workers' compensation premiums, wage inflation could prompt increased rates. After all, higher wages are tied to greater benefits, and it's crucial for benefits and premiums to remain in balance to ensure workers are adequately reimbursed for lost income following occupational illnesses or injuries. The NCCI also reported that the surge in employees receiving raises and moving from lower-wage positions to higher-paying roles could increase the risk of payroll miscalculations and create short-term disconnects between wages, benefits and workers' compensation premiums. Most states have an index for wage inflation to ensure premiums and benefits keep up with each other, but it's still possible for errors to occur.

Tips for Insurance Buyers

- Implement safety and health programs to address common risks, especially when using a loss-sensitive workers' compensation program.
- Conduct routine safety training for employees of all ages and experience levels.
- Consider implementing various digital solutions, such as wearable safety technology and AI tools, to help prevent incidents, treat employee injuries and navigate the claims process within your workers' compensation program.
- Review the NCCI's upcoming changes to certain components of its experience modification factor formula. Consult trusted insurance professionals to determine how these changes may impact your workers' compensation premiums moving forward and discuss strategies to improve your experience modification factor.
- Establish workplace wellness initiatives aimed at preventing or treating chronic health conditions and improving the overall well-being of your staff. Additionally, consider incorporating mental health resources and support options within employee wellness offerings.
- Develop an effective return-to-work program that properly supports employees in the process of healing from a work-related illness or injury and resuming job duties following their recovery.
- Develop policies and procedures aimed at helping remote employees make their workspaces more ergonomic and prevent injuries while working from home.
- Ensure accurate payroll projections. Correct wage information is critical for accurate premium calculations, especially amid rising inflation concerns. Errors in payroll projections could present serious consequences, such as inadequate rates, insufficient benefits or a lack of ample coverage following costly claims.
- Pay close attention to applicable state-regulated and carrier-negotiated fee schedules for workers' compensation coverage. Through the utilization of fee schedules, employees can receive much-

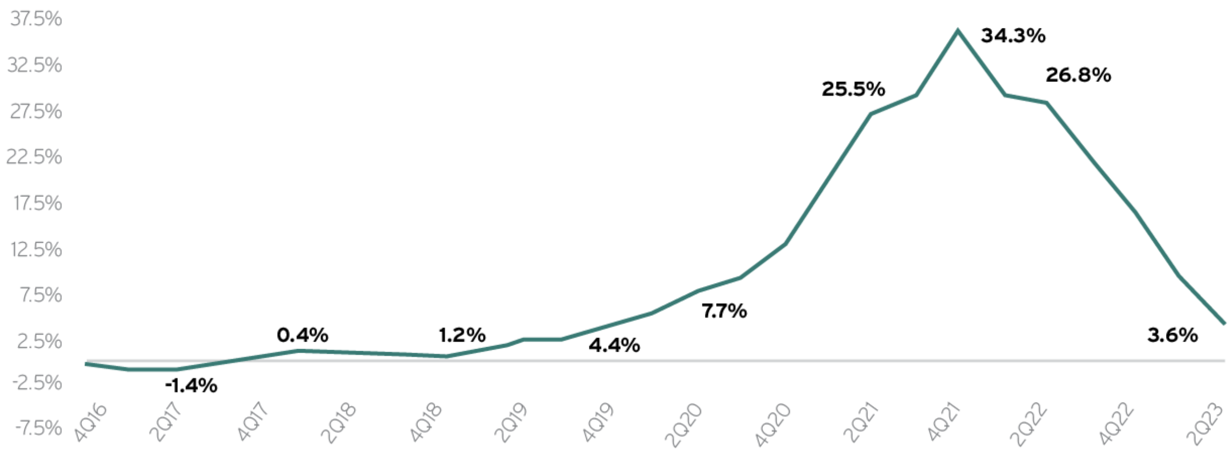
needed health care for work-related illnesses and injuries without significantly driving up claim costs, even with medical inflation issues on the rise.

- Have clear processes established for handling workers' compensation claims as diligently and efficiently as possible. Effective claim management protocols can often help mitigate claim severity and prevent similar losses from occurring in the future.

Cyber Insurance

Over the last couple of years, evolving technology, increased threat vectors and growing attacker sophistication have driven up the frequency and severity of cyber incidents, causing a rise in cyber insurance claims and subsequent underwriting losses. As a result of this volatile risk environment, most policyholders have faced continued premium hikes. Specifically, industry data found that average cyber insurance rate increases peaked at 34% in the fourth quarter of 2021 and remained in double digits for the entirety of 2022. Fortunately, the segment experienced underwriting profitability in 2022, allowing for market conditions to soften throughout 2023. As such, industry research confirmed that most policyholders encountered more modest, single-digit rate increases this past year; according to Zywave's latest Hard Market Conditions Pulse Survey, more than half (62%) of insurance brokers and agents saw their clients' cyber insurance premiums decline, remain flat or rise by less than 10% in 2023.

Premium Change for Cyber, Q4 2016–Q2 2023



Source: Council of Insurance Agents & Brokers

Despite rate deceleration trends across the segment, it's worth noting that many insureds are still experiencing widespread coverage restrictions, further scrutiny from underwriters regarding cybersecurity practices and exclusions for losses stemming from certain events (e.g., incidents involving the wrongful collection of data, cyberwarfare and ransomware). Furthermore, some policyholders with elevated cyber exposures continue to face double-digit rate jumps.

Moving into 2024, industry experts anticipate that market conditions will likely keep softening, albeit at a slower pace than in 2023. Nevertheless, this segment sees frequent changes and reacts to such developments faster than other lines of coverage, making pricing predictions difficult to pin down. More than anything, policyholders with a strong cybersecurity posture and a deep understanding of the current threat landscape will be best equipped to navigate the coming year's cyber insurance market. This means that insureds who fail to adopt proper cybersecurity protocols or experience a rise in cyber losses may encounter ongoing premium hikes and coverage restrictions for the foreseeable future.

2024 Price Prediction:

0% to +15%

Developments and Trends to Watch

- **Data collection concerns**—A growing number of businesses have begun leveraging biometrics, pixels and other tracking technology to gather personal information from stakeholders for various HR, advertising and marketing processes; however, doing so poses several data privacy concerns. For instance, businesses that neglect to comply with applicable international, federal and state legislation (e.g., The General Data Protection Regulation, the Health Insurance Portability and Accountability Act, the Biometric Information Privacy Act and the California Privacy Rights Act) when collecting, processing and storing stakeholders' data could face substantial regulatory penalties, costly lawsuits and associated cyber losses. Compounding concerns, cyber insurance carriers are increasingly excluding coverage for losses caused by the wrongful collection of data, leaving businesses largely unprotected against this exposure. With this in mind, it's critical for businesses that leverage tracking technology to maintain compliance with relevant data privacy laws and prioritize obtaining stakeholders' consent before using their personal information, thus keeping associated cyber losses to a minimum.

- **AI exposures**—While AI technology can certainly offer benefits in the realm of cybersecurity—streamlining threat detection capabilities, analyzing vast amounts of data and automating incident response protocols—it also has the potential to be weaponized by cybercriminals, therefore exacerbating cyber losses and related claims among businesses. In particular, cybercriminals can utilize AI technology when creating and distributing malware, cracking passwords, deploying social engineering scams, identifying software vulnerabilities and analyzing stolen data. This technology can enable such activities to be carried out faster and with greater success rates, allowing cybercriminals to cause major damage and even evade detection. One of the most significant risks associated with AI technology in the hands of cybercriminals is the ability to formulate persuasive phishing messages with minimal effort, making these scams much more prevalent. For example, cybercriminals can use AI-powered chatbots to impersonate legitimate sources, such as banks and other businesses, to trick unsuspecting individuals into sharing sensitive information. To help combat losses stemming from weaponized AI technology, some businesses have begun implementing more comprehensive cybersecurity measures, particularly as it pertains to threat identification and data protection initiatives (e.g., updated security software, advanced access controls and routine employee training).

- **War exclusion considerations**—Nation-state cyberattacks remain a top concern in the cyber insurance space, especially as geopolitical challenges (e.g., the Russia-Ukraine conflict) contribute to global cyberwarfare worries. According to a recent report from the World Economic Forum, 93% of cybersecurity experts and 86% of corporate executives said they believe geopolitical instability will likely cause a catastrophic cyberattack in the coming years. Complicating matters, coverage for cyberwarfare has become more difficult to secure. Namely, international insurance marketplace Lloyd's of London issued a bulletin in August 2022 requiring its insurers to revise their standalone cyber insurance policies' war exclusions to specifically prohibit coverage for "losses arising out of war and cyber operations that are a part of war." These requirements went into effect on March 31, 2023. Lloyd's of London pushed for this modernized war exclusion language in an effort to minimize systemic losses from cyberwarfare across the insurance industry, but it has proven challenging to obtain a market consensus on such language. In any case, as nation-state cyberthreats and associated losses continue to become more prevalent, additional carriers are likely to follow in Lloyd's of London's footsteps and implement updated war exclusions to better shield themselves against large-scale payouts.

- **Ransomware threats**—Ransomware attacks, which entail cybercriminals compromising devices or servers and demanding large payments be made before restoring the technology (as well as any data stored on it), have skyrocketed over the past decade. These attacks impact businesses of all sizes and sectors, especially small- and medium-sized establishments. What's worse, these attacks often carry costly losses—as a result of both substantial payment demands and technology and data recovery efforts. According to industry data, ransomware incidents jumped by nearly 400% between 2019 and 2021 before slightly cooling off in 2022. Yet, 2023 saw a resurgence in these attacks; a recent survey conducted by IT company Sophos found that such incidents increased by 47% in the first quarter of the year alone, while the average ransom payment increased by 55% during the same period. The survey also revealed that 40% of businesses affected by ransomware attacks in 2023 issued payments of $1 million or more to the perpetrators, up from just 11% in 2022. Looking ahead, research and market intelligence firm Cybersecurity Ventures confirmed that ransomware incidents will cost businesses up to $265 billion annually by 2031, with a new attack happening approximately every two seconds. In light of increasing ransomware threats, many cyber insurance carriers have started implementing stricter underwriting standards and requiring policyholders to document cybersecurity practices aimed at mitigating these attacks before providing coverage, while some have excluded coverage for such incidents altogether.

- **Business email compromise (BEC) risks**—BEC scams involve cybercriminals impersonating seemingly legitimate sources (e.g., senior-level employees, suppliers, vendors, business partners or other organizations) via email. Cybercriminals use these emails to gain the trust of their targets, tricking victims into believing they are communicating with genuine senders. From there, cybercriminals convince their targets to wire money, share sensitive information (e.g., customer and employee data, proprietary knowledge or trade secrets) or engage in other compromising activities. These scams are among the most expensive types of social engineering losses, and they have become a major threat to businesses across industry lines. According to the FBI, BEC scams have cost businesses $51 billion in exposed losses throughout the past decade. Making matters worse, these scams have seen a significant rise in recent years, with such incidents surging by 47% since 2020 and even outpacing malware attacks during the first half of 2023. Considering these trends, it has become all the more important for businesses to have precautions in place to prevent, detect and respond to BEC scams to keep related cyber losses at bay.

Tips for Insurance Buyers

- Work with your insurance professionals to understand the different types of cyber coverage available and secure a policy that suits your unique needs. Start renewal conversations early.

- Take advantage of loss control services offered by insurance carriers to help strengthen your cybersecurity measures.

- Focus on employee training to prevent cybercrime from affecting your operations. Employees should be aware of the latest cyberthreats (e.g., AI-powered attacks, cyberwarfare, ransomware and BEC scams) and ways to mitigate them.

- Keep organizational systems secure by utilizing a virtual private network, installing antivirus software and endpoint detection and response solutions, implementing firewalls and email authentication technology, restricting employees' administrative controls and encrypting all sensitive data.

- Store backups of critical data in a secure, offline location to minimize losses in the event of a ransomware attack.
- Update workplace software on a regular basis to ensure its effectiveness, and consider using a patch management system to assist with updates.
- Establish an effective, documented cyber incident response plan aimed at remaining operational and minimizing damages in the event of a data breach or cyberattack. Test this plan regularly by running through various scenarios with staff. Make updates to the plan as needed.
- Consult insurance professionals and legal counsel to determine your organization's regulatory exposures in regard to applicable data protection and cybersecurity laws. Make compliance adjustments as needed.
- Develop workplace policies that prioritize cybersecurity, including an internet usage policy, a remote work policy, a bring-your-own-device policy and a data breach response policy.
- Be sure to consider potential nation-state threats when establishing your organization's cybersecurity policies and protocols.

D&O Insurance

Throughout the past five years, the D&O insurance segment has been characterized by frequent and abrupt changes, largely brought on by technological advancements and evolving cyber risks; environmental, social and governance (ESG) developments; and litigation shifts. According to industry data, the majority (between 75% and 96%) of publicly traded companies experienced ongoing rate increases from 2018-21; yet, by the first quarter of 2022, only about one-third (34%) of such policyholders encountered rising premiums. This market moderation pressed on in 2023 as rates continued to soften. In fact, industry research found that 91% of publicly traded companies saw reduced premiums in the first half of the year, with average rate decreases ranging between 10% and 25%. These improving conditions are likely the result of new market entrants, bolstered underwriting appetites and growing capacity for higher excess layers of coverage, which have fostered increasingly competitive market dynamics.

Although the segment has also started to stabilize for private and nonprofit companies, these organizations are still deemed higher risk by carriers than their publicly traded counterparts. As such, industry data confirmed that rates for these policyholders have continued to increase, albeit at a slower pace than in prior years. Heading into 2024, industry experts anticipate that favorable market conditions will persist, allowing for decelerated premiums and widened capacity. However, industry research confirmed that more than three-quarters (79%) of D&O underwriters believe segment risks are still increasing. With this in mind, even as overall conditions improve, policyholders operating within challenging industries, possessing poor loss history or utilizing insufficient risk management measures could remain susceptible to possible rate jumps and coverage difficulties.

2024 Price Prediction:

Private and nonprofit companies: 0% to +5%
Public companies: -10% to +5%

Developments and Trends to Watch

- **AI exposures**—AI technology can perform a variety of cognitive functions typically associated with the human mind, such as observing, learning, reasoning, problem-solving and engaging in creative activities. As it pertains to the boardroom, many corporate leaders have begun leveraging AI systems to create organizational files and reports, analyze company data and, in some cases, make important business decisions. According to a recent study, more than two-thirds (69%) of public companies now utilize AI tools as part of their due diligence processes. While this technology has the potential to help board members boost efficiencies, enhance objectivity and promote improved decision-making capabilities with predictive insights, it also carries unique risks. Namely, if AI systems are implemented incorrectly or rely on inaccurate human inputs, these tools could end up perpetuating biases, producing widespread errors, posing ethical concerns regarding data privacy and protection, and minimizing overall corporate transparency. In these instances, stakeholders may hold senior leaders accountable for AI-related failures, prompting costly lawsuits and subsequent D&O losses.

  What's more, legislation regarding AI technology and its use in the boardroom is constantly changing. As it stands, several federal regulations and multiple state and local laws address AI in the workplace, with a handful of additional government initiatives currently underway. This legislation primarily requires businesses to establish policies that clearly define AI technology's roles and responsibilities in their corporate decision-making operations and ensure proper oversight of such tools to reduce the risks of potential biases, errors or privacy issues. Considering these evolving regulatory concerns, senior leaders who neglect to comply with applicable AI legislation could face significant legal penalties and associated D&O losses. Above all, because this is a relatively novel topic in the D&O space, the use of AI in the boardroom could ultimately lead to confusion regarding who is responsible for related losses and liabilities. This may make it difficult to determine how companies' D&O coverage will respond to AI-related claims, possibly resulting in compounded risks and insurance gaps.

- **Litigation shifts**—From 2018-21, publicly traded companies and their senior leaders were faced with a surge in litigation and related D&O claims, often as a result of (allegedly) breaching U.S. Securities and Exchange Commission (SEC) requirements or encountering challenges amid initial public offerings (IPOs) and special purpose acquisition company (SPAC) transactions. Fortunately, this litigation largely subsided throughout 2022 and 2023, thus mitigating associated losses. Here's an outline of these litigation shifts:
    - **Less securities class action lawsuits**—A securities class action lawsuit refers to legal action brought on by a group of shareholders who claim to have experienced financial losses due to the publicly traded company they invested in (and its senior leaders) violating securities laws, such as SEC regulations on ensuring accurate financial statements and disclosures. These lawsuits nearly doubled over much of the past decade, peaking at 268 cases in 2019 (not including merger and acquisition-related filings or derivative cases), according to industry research. Since then, however, such lawsuits have dropped off significantly; 168 filings were recorded in 2022, representing a 37% decrease from the previous three years, while less than 100 cases took place in the first half of 2023. This reduction in litigation has, in turn, helped lower the frequency of D&O claims. Nevertheless, it's worth noting that settlement costs stemming from securities class action lawsuits have spiked above the 10-year average, threatening to drive up claim severity. The latest industry data confirmed that these costs reached $3.1 billion in the first six months of 2023 alone, up from $2.4 billion in the entirety of 2022. That being said, businesses should remain vigilant in reducing their exposure to such lawsuits and large-scale D&O losses.
    - **Fewer IPOs and SPAC deals**—A SPAC is a corporation developed with the primary intention of raising investment capital through an IPO, which refers to the process of a private company going public by selling its shares on a stock exchange. The secured funds are then utilized to acquire an unspecified business (also called a target company) that is later identified following the IPO. SPACs surged in popularity at the start of the decade, with many companies viewing these transactions as a more efficient way to go public. According to industry data, SPAC deals more than doubled between 2020 and 2021, jumping from 248 to 613. Traditional IPOs also increased during this time frame, rising from 212 to 400. In response to this surge, the SEC focused on holding senior leaders who conduct SPAC transactions more accountable for potential wrongdoings, such as failing to perform their due diligence on a target company's finances or providing shareholders with misleading information. This caused a major increase in IPO- and SPAC-related litigation and associated D&O losses. However, as fewer companies opted to go public between 2022 and 2023, these transactions cooled off by more than 400%. Specifically, industry research found that IPOs dropped to 88 and SPAC deals fell to 86 in 2022, whereas the first half of 2023 saw such transactions fall to 56 and 18, respectively. This reduced

activity has provided limited avenues for litigation, keeping related D&O claims at bay. Yet, it's vital to keep in mind that the road to the de-SPAC process, which entails a SPAC finalizing the merger with its target company, can take several months (or even years), creating a possible lag between these transactions and related litigation. This means that the high number of SPAC deals that occurred in prior years could lead to ongoing litigation and D&O losses in the future.

- **ESG issues**—ESG activism has also made a noticeable impact on the D&O market. Senior leaders have been held more accountable for upholding their companies' commitments to environmental and social initiatives by stakeholders, regulators and the public, fueling increased litigation against such leaders and associated D&O claims. Due to the ongoing rise in natural disasters, deforestation, and water and biodiversity degradation, climate change has been the main focus of ESG-related litigation, with much of the litigation alleging that senior leaders have not fully disclosed the material risks of climate change or promoted eco-friendly operations. According to the latest report from the United Nations' Intergovernmental Panel on Climate Change, global efforts are no longer on track to limit Earth's rising temperatures to the 1.5 degrees Celsius target by 2050, thus further motivating stakeholders to condemn companies that don't demonstrate a genuine and proactive commitment to environmental sustainability. What's worse, the Grantham Research Institute revealed that global climate change litigation has already contributed to more than 2,000 lawsuits and related D&O losses against businesses.

  In response to these concerns, the SEC proposed changes to its climate change disclosure rules for publicly traded companies in 2022. Such changes include requiring companies to share more details on their climate-related risks, associated mitigation measures and greenhouse gas emissions. Additionally, several international leaders and organizations (e.g., the European Union and the International Sustainability Standards Board) followed suit in 2023 and proposed similar requirements. Although these standards have faced some pushback, they are likely to take effect in the coming months and years. Altogether, such requirements could exacerbate climate change litigation and subsequent D&O losses for noncompliant companies. Complicating matters, recent research found that many companies and their senior leaders are unprepared for these rules to be enforced. According to the international professional services network Klynveld Peat Marwick Goerdeler, only one-quarter of businesses are ready to have their ESG data externally reviewed.

  Even as companies make it a priority to maintain eco-friendly operations, they should be sure to avoid greenwashing. Greenwashing refers to a deceptive marketing practice in which companies produce misleading information to trick the public into believing their products, services or mission have more of a positive impact on the environment than is accurate. This practice undermines companies that actually implement sustainability efforts and can make it harder for consumers and investors to make eco-friendly decisions. As stakeholders take more legal action in this area, setting unrealistic ESG targets could lead to additional litigation and D&O losses.

- **Cybersecurity concerns**—Cyberattacks continue to surge for businesses of all sizes and sectors, sometimes leading to litigation against senior leaders and related D&O claims. After all, decisions made by senior leaders are often intensely scrutinized following cyberattacks. Possible D&O losses can arise from allegations such as senior leaders failing to take reasonable steps to protect stakeholders' personal or financial information, implement controls to detect and prevent cyberattacks, and report incidents or notify the appropriate parties. Amid increasing ransomware threats and rising digital warfare exposures, cybersecurity has become a worldwide D&O concern. According to a recent survey, almost two-thirds (62%) of global directors consider cyberattacks, data loss and digital crime among their top D&O risks. Compounding these risks, the SEC officially voted in favor of and adopted final rules that amended its cybersecurity disclosure requirements for publicly traded companies on July 26, 2023. Originally proposed on March 9, 2022, these amendments include enhanced and standardized guidelines regarding cybersecurity governance, strategy, risk management and incident reporting. The implementation of these final rules could result in further litigation and associated D&O losses for noncompliant companies going forward.

Tips for Insurance Buyers

- Examine your D&O program structure and limits alongside your insurance professionals to ensure they are appropriate and take market conditions and trends into account.
- Consult insurance brokers, loss control experts and underwriters to gain a better understanding of your D&O exposures and cost drivers in the market.
- Work with your senior leadership team to carefully review the risks of leveraging AI technology in the boardroom and applicable legislation. Establish clear policies and procedures regarding the proper use of AI tools in corporate decision-making processes.
- Make sure your senior leadership team carefully assesses potential exposures and maintains compliant, honest practices amid IPOs and SPAC transactions. Pay close attention to SEC requirements for such transactions.
- Ensure your senior leaders follow safe financial practices (e.g., timely payments, educated investments, accurate documentation and reasonable reimbursement procedures). Be transparent with stakeholders about your organization's economic state to avoid misrepresentation concerns.
- Be sure your senior leadership team is actively involved in monitoring your organization's unique cyber risks, implementing proper cybersecurity practices to help prevent potential attacks (especially in the realm of remote work arrangements), ensuring compliance with all applicable data security standards and establishing an effective cyber incident response plan to minimize any damages in the event of an attack.
- Prioritize establishing eco-friendly initiatives among your senior leadership team. However, ensure that these initiatives remain realistic to avoid greenwashing concerns. Furthermore, be sure your senior leadership team conducts their due diligence and provides proper reporting as it relates to climate change concerns.

EPL Insurance

Amid challenging market conditions, most EPL insurance policyholders have experienced ongoing rate jumps, underwriting scrutiny and limited capacity over the last several years. The immensity of such premium increases and coverage limitations varied based on sector, location, potential exposures and prior losses. Additionally, retention increases became the norm across the segment, with further pressure on primary retention.

Fortunately, these conditions have slightly cooled in the past 12 months, allowing for rate deceleration. According to industry data, most insureds with good claims history encountered premium hikes ranging between 5% and 15% in 2022, while 2023 saw average rate increases hover between 3% and 7%, showcasing signs of moderation. Zywave's latest Hard Market Conditions Pulse Survey confirmed these findings, as more than three-quarters (75.5%) of insurance brokers and agents reported that their clients' EPL insurance premiums declined, stayed flat or increased by single digits in 2023. In light of claim frequency and severity falling below initial projections this past year, most EPL carriers have also resumed writing new business.

Going into 2024, most insureds can expect another year of modest rate increases. Yet, it's important to note that policyholders with poor loss history or who operate in certain states (e.g., California, New York, Illinois, Texas and Florida) and industries (e.g., health care, hospitality, education and retail) may continue to face more substantial rate hikes and coverage restrictions. These challenges will likely persist for high-risk insureds for the foreseeable future. Furthermore, all policyholders can anticipate the segment's stringent underwriting standards to press on in 2024 and beyond, with a heightened focus on having formalized and functioning risk management measures in place, especially as it pertains to minimizing losses stemming from certain cost-driving trends (e.g., regulatory issues, discrimination concerns and rising employment litigation).

2024 Price Prediction:

0% to +10%

Developments and Trends to Watch

- **Increased regulatory scrutiny**—Within the last few years, the White House and the EEOC have collaborated on various regulatory initiatives to fight systemic discrimination in the employment landscape. Such discrimination refers to workplace policies and procedures that can place underserved groups at a disadvantage (e.g., racial injustices and gender pay disparities). According to the EEOC's latest report, the agency filed 143 new employment discrimination lawsuits during fiscal year 2023, representing more than a 50% increase from the previous year. Among these lawsuits, 25 were systemic in nature, nearly doubling the number of systemic filings over the past three years. Looking ahead, the EEOC recently released its Strategic Enforcement Plan (SEP) for fiscal years 2024-28, highlighting the agency's subject matter priorities for the next five years as it works to prevent systemic discrimination in the workplace. Some enforcement priorities from the agency's new SEP have been priorities previously, while others reflect future goals. These priorities include eliminating barriers in recruitment and hiring; protecting vulnerable workers and those in underserved communities from employment discrimination; addressing selected emerging issues, such as long COVID-19 and technology-related discrimination; preventing systemic harassment; and preserving access to the legal system by addressing employment waivers, releases, and nondisclosure and nondisparagement agreements. As regulatory scrutiny continues to rise in the employment space, it is all the more crucial for businesses to maintain documented workplace policies and procedures that foster a culture of inclusivity, thus mitigating the risk of systemic discrimination lawsuits and associated EPL losses.

- **Discrimination concerns**—Apart from increased regulatory scrutiny surrounding systemic discrimination, legislation and litigation related to the following forms of employment discrimination have contributed to rising EPL exposures and losses:
    - **Size discrimination**—Federal employment laws currently prohibit workplace discrimination based on a range of protected characteristics (e.g., age, gender, sex, race, religion and national origin); however, these characteristics don't expressly include height and weight. As a result, some states and municipalities have started implementing new legislation aimed at addressing size discrimination in the workplace. These changes have largely stemmed from employees across the country voicing their support for expanding protected characteristics to include height and weight, thus safeguarding workers from facing adverse treatment due to their size.

      At the municipal level, Binghampton, New York, and San Fransisco, California, both revised their municipal codes regarding discrimination to include "height and weight" as protected characteristics. The cities of Madison, Wisconsin, and Santa Cruz, California, updated their municipal codes to include "physical appearance" and "physical characteristics," respectively, as protected categories. Both Urbana, Illinois, and Washington, D.C., altered their local discrimination laws to include "personal appearance" as a protected characteristic. New York City is the latest municipality to make these legislative changes, passing a new law that bans workplace discrimination based on "an individual's actual or perceived height and weight."

      At the state level, the Washington State Supreme Court recently ruled that obesity should be included in the definition of "disability" under state discrimination legislation, therefore adding weight as a protected category; states such as Michigan, Massachusetts, New York state and New Jersey have either already implemented or plan to introduce laws that would invoke similar requirements. As more areas follow suit and establish workplace discrimination legislation regarding height and weight, businesses that fail to ensure fair treatment of employees of all shapes and sizes could face significant legal penalties, lawsuits and subsequent EPL losses.
    - **Pregnancy discrimination**—While there are various types of gender-based discrimination that women may face on the job, pregnancy discrimination is one of the most prevalent. Pregnancy discrimination refers to the unfavorable treatment of a female job applicant or employee based on pregnancy, childbirth or a related medical condition. Such discrimination can occur during the hiring process, throughout an employee's pregnancy or upon their return to work. Amid growing awareness of this topic in the workplace, the federal government introduced two new pregnancy discrimination laws at the end of 2022 that officially went into effect in 2023. Although certain federal laws already address pregnancy discrimination, including the Pregnancy Discrimination Act (PDA), the Americans with Disabilities Act (ADA) and the Fair Labor Standards Act (FLSA), this new legislation—namely, the Pregnant Workers Fairness Act (PWFA) and the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act)—aims to enhance existing protections for pregnant employees and working mothers.

The PWFA requires applicable employers to make reasonable accommodations for qualified employees' working limitations stemming from pregnancy, childbirth or associated medical conditions. This law also expands the definition of a "qualified employee," allowing accommodations for a larger group of workers rather than only those who qualify for a pregnancy-related disability under the ADA, as previously required by the PDA. The PUMP Act, on the other hand, revised FLSA standards to require applicable employers to give both exempt and nonexempt employees a feasible break time in the year following childbirth to express breast milk as needed. This legislation also requires employers to provide employees with a designated area (other than a bathroom) for expressing breast milk without being seen or disturbed.

Complicating matters, these laws have been accompanied by a rise in litigation. Specifically, media company Bloomberg found that federal pregnancy discrimination lawsuits have surged by 67% since 2016. Although pregnancy discrimination complaints to the EEOC are down, claim settlements stemming from these complaints have skyrocketed. The EEOC reported that such settlements currently total more than $20 million annually, representing more than a 30% increase from the 10-year average. When considering out-of-court settlements, these numbers are likely even higher. What's worse, legal experts anticipate these trends to continue in the coming years, exacerbating companies' related EPL exposures and losses.

- **Pay transparency considerations**—The federal government has displayed growing interest in managing the gender pay gap over the last few years, especially as it pertains to passing the Paycheck Fairness Act. If this proposed law eventually goes into effect, it would explicitly address sex-based wage discrimination and introduce further procedural protections to existing federal pay equity legislation, including the Equal Pay Act of 1963 and the FLSA. In addition to these federal efforts, the EEOC included equal pay initiatives in its SEP for 2024-28. Further, some states and municipalities are implementing pay transparency and wage discrimination legislation of their own. In particular, cities across New Jersey and Ohio and states such as Colorado, California, Illinois, Washington, New York, Nevada and Rhode Island have recently introduced laws that require employers to disclose wage and other financial information throughout the hiring process; this legislation is set to go into effect between 2023 and 2025. According to the latest data from the National Women's Law Center, more than a quarter (26.6%) of employees throughout the country are now protected by pay transparency legislation. As these laws continue to evolve, businesses (especially those with multistate operations) should be prepared to comply with applicable wage equality requirements and take steps to minimize related litigation and EPL claims.

- **AI issues**—In an effort to help streamline their employment processes, some businesses have turned to AI systems. These systems leverage programmed algorithms and data sets to deliver automated employment decisions, all without the need for human intervention. According to the Society for Human Resources Management, up to 85% of organizations now use AI technology for HR operations, such as recruitment, hiring, performance evaluations and retention determinations. While these systems can certainly offer various benefits to the businesses that use them, such technology may also pose EPL exposures. For instance, AI systems—although intended to provide impartial results—may contribute to discriminatory employment decisions if the algorithms and data sets entered within these systems are biased toward specific groups. Depending on how frequently AI technology is used, biased decisions could occur on a mass scale, presenting multiple avenues for discrimination-based litigation and associated EPL claims. The past few years have already seen several major companies, such as Google and Amazon, held responsible for AI system failings that demonstrated gender biases.

In 2023, the EEOC released guidance aimed at helping employers that use AI technology comply with federal fair employment laws. The new guidance focuses on preventing discrimination under Title VII of the Civil Rights Act (Title VII), which applies to employers with 15 or more employees and prohibits discrimination based on protected characteristics. Such guidance encourages employers to carefully review their hiring decisions and determine whether the use of AI systems to make those decisions may result in a disparate impact on groups protected under Title VII. Along with other federal agencies, the EEOC also recently issued a joint pledge to vigorously enforce Title VII and other anti-discrimination laws as the utilization of AI technology becomes more common. What's more, 2023 saw the EEOC's first AI-based discrimination settlement take place, in which a company in New York agreed to pay $365,000 after a lawsuit filed on behalf of more than 200 job applicants alleged that the company's AI-powered hiring system was set up to automatically reject candidates above a certain age. Considering these developments, it's imperative for businesses to assess their AI technology for possible biases to mitigate litigation risks and EPL losses.

Tips for Insurance Buyers

- Assess your employee handbook and related policies. Ensure you have all appropriate policies in place, including language on discrimination, harassment and retaliation.
- Implement effective sexual harassment prevention measures (e.g., a zero-tolerance policy and a sexual harassment awareness program), reporting methods and response protocols.
- Promote diversity, acceptance and inclusion in the workplace through routine employee training. Be sure to educate staff on emerging discrimination topics (e.g., pregnancy and size discrimination) and related prevention and response measures. Take any reports of discrimination seriously.
- Document all evaluations, employee complaints and situations that result in employee termination.
- Consult legal counsel for state-specific employee wage and hour guidance, including those regarding pay transparency and wage discrimination laws.
- Evaluate the algorithms for any AI systems utilized within employment processes to prevent discriminatory decisions and ensure compliance with applicable EEOC guidance.

Moving Forward

It can sometimes seem as if the forces determining your insurance rates are beyond your control. But, as an insurance buyer, it's important to know how your premiums are calculated, what trends influence the market and what you can do to get the best price.

Your claims history—which you can control—has an enormous impact on whether your rates go up or down. That's where implementing a solid risk management plan will help steer your pricing in a more favorable direction, both now and in future renewal periods.

The following are five key components of a successful risk management strategy:

1. Pinpoint your exposures and cost drivers.
2. Identify the best loss control solutions to address your unique risks.
3. Create a solid business continuity plan to account for disasters and other unpredictable risks.
4. Build a company culture focused on safety.
5. Manage claims efficiently to keep costs down.

In addition to implementing the above risk management strategies, working alongside an experienced insurance broker is equally crucial. Qualified insurance professionals can help their clients analyze their business, understand their exposures and establish a suite of customized insurance policies that act as a last line of defense against claims. A broker will also thoroughly explain your policies, notifying you of any additional considerations to keep in mind.

Remember, the insurance landscape is complex, and although the predictions found in this outlook are based on expert research, they are subject to change. Fortunately, your partners at Renaissance Insurance are diligently monitoring the market throughout the year and will keep you informed of any changes that might affect your business.

For More Information

This document is not intended to be exhaustive, nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel or an insurance professional for appropriate advice. For more details regarding the information contained in this report, contact Renaissance Insurance today.

In addition to helping you navigate the insurance market, Renaissance Insurance has resources to assist in your risk management efforts. Business owners who proactively address risk, control losses and manage exposures will be adequately prepared for changes in the market and will get the most out of each insurance dollar spent.