

**CITY OF HAYS COMMISSION MEETING
CITY HALL, 1507 MAIN STREET, HAYS, KS
THURSDAY, JUNE 10, 2021 – 6:30 P.M.
AGENDA**

1. Call to order by Chairperson.
2. **MINUTES:** Consider approval of the minutes from the regular meeting held on May 27, 2021. (PAGE 1)
3. **CITIZEN COMMENTS:** (non-agenda items).
4. **CONSENT AGENDA:** (Items to be approved by the Commission in one motion, unless objections are raised).

UNFINISHED BUSINESS

(No business to review)

NEW BUSINESS

5. **PROPERTY/LIABILITY COVERAGE RENEWAL – 2021/2022:** Authorize the City Manager to renew the 2021/2022 property/liability coverages with the MPR package in the amount of \$262,616 to be funded from the Intergovernmental Insurance and Surety line item. (PAGE 9)
6. **COMMISSION INQUIRIES AND COMMENTS**
7. **EXECUTIVE SESSION (IF REQUIRED)**
8. **ADJOURNMENT**

ANY PERSON WITH A DISABILITY NEEDING SPECIAL ACCOMMODATIONS TO ATTEND THIS MEETING SHOULD CONTACT THE CITY MANAGER'S OFFICE 48 HOURS PRIOR TO THE SCHEDULED MEETING TIME. EVERY ATTEMPT WILL BE MADE TO ACCOMMODATE ANY REQUESTS FOR ASSISTANCE.

MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF HAYS, KANSAS
HELD ON MAY 27, 2021

1. CALL TO ORDER BY CHAIRPERSON: The Governing Body of the City of Hays, Kansas met in regular session on Thursday, May 27, 2021 at 6:30 p.m.

Roll Call: Present: Mason Ruder
Michael Berges
Ron Mellick
Shaun Musil
Absent: Sandy Jacobs

Vice-Mayor Ruder declared a quorum was present and called the meeting to order.

2. MINUTES: There were no corrections or additions to the minutes of the regular meeting held on May 13, 2021; the minutes stand approved as presented.

3. FINANCIAL STATEMENT: Kim Rupp, Director of Finance, reviewed the financial summaries of the revenue and expenditure activities of the City of Hays for the month ended April 30, 2021.

Month-to-date (MTD) general fund sales tax collections were at \$549,055 which was a decrease of \$34,960 or -6% as compared to last year. Year-to-date (YTD), general fund sales tax collections are at \$2,561,971, up \$11,182 or .44%. The six month average is at -1.36% which was a decrease of -9.95% when compared to a year ago. MTD county sales tax collections were at \$68,827 with the YTD total at \$311,482.

The report of top ten quarter-to-date (QTD) sales tax collections by classification was down \$367 or -.02%.

The portfolio of certificates of deposit on April 30, 2021 totaled \$32,500,000 with a weighted average interest rate of .04% down -1.75% from a year ago. The total par value of the US Treasury Notes is \$5,025,000 with a

weighted average yield to maturity of .06%. The total balance of the Money Market account on April 30, 2021 was \$19,750,000 with a current yield of .05%. Total investments are down \$6,252,000.

Ron Mellick moved, Shaun Musil seconded, to approve the Financial Statement for the month of April, 2021 as presented.

Vote: Ayes: Mason Ruder
Michael Berges
Ron Mellick
Shaun Musil

4. CITIZEN COMMENTS: There were no comments.

5. CONSENT AGENDA: There were no items on the Consent Agenda for consideration.

NEW BUSINESS

6. 2020 AUDIT: As required by Kansas Statute, the City of Hays hires an outside firm to conduct an annual audit of City finances. The audit represents an unbiased opinion of business practices and the financial soundness of all City funds.

Kim Rupp, Director of Finance, thanked his staff, Lori Hertel, Brenda Kitchen, Jami Breit, Rachel Albin, and Shanna Koster for all they do to ensure a clean audit.

Melissa Romme and Jami Benyshek of Adams Brown presented the 2020 Audit to the Commission.

Shaun Musil moved, Ron Mellick seconded, to accept the 2020 Audit for the City of Hays as presented by Adams Brown.

Vote: Ayes: Mason Ruder
Michael Berges
Ron Mellick
Shaun Musil

7. WATER PRODUCTION SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) IMPROVEMENTS: DESIGN, INTEGRATION AND INSTALLATION SERVICES – AWARD OF BID:

Jeff Crispin, Director of Water Resources, stated the SCADA system that operates the water plant and 25 ancillary sites including: production wells, booster stations, and water towers, was installed in 1993. The computer system is used for gathering and analyzing real time data and to monitor and control equipment both at the water plant and in the field. The current system is outdated, unreliable, and requires a substantial upgrade to ensure continuity of operations of the water system. Since installation 28 years ago, there have been many advancements in hardware and connectivity that have left our system behind.

The current system communicates data and allows general control to assets remotely from the water plant via radio frequency and has proven to be unreliable. Currently, the water plant is unable to communicate with 12 sites. Miscommunication is due to outdated equipment, software configuration problems, impairments such as antenna and cable issues, and clear line of site from antenna in the field to the water plant.

Mr. Crispin stated the best solution to ensure reliable communications between the water plant and assets is through a secure fiber optic connection. Connectivity of this manner would be best accomplished through a paid monthly connection call a “Managed Option” from a local provider utilizing their infrastructure. Mr. Crispin stated 18 of our 25 assets have fiber access readily available. City staff is working to have the remaining seven locations connected and the local provider is willing to make those connections at no cost to the City. All 25 sites would have a firewall installed and fiber connection. This will ensure a reliable connection to our assets in all weather conditions. No longer will we have to rely on antennas, radio frequency, and interference.

Staff solicited proposals for the Water Production SCADA Improvements Project. The project included a Base Bid as well as 2 Alternates. Bids were opened on February 2, 2021 with R.E. Pedrotti of Mission, Kansas being the low bidder.

- Alternate 1 Site Surveillance System – To provide one camera at each remote site location, intrusion detection at each remote site location, and four cameras at the Water Treatment Plant.
- Alternate 2 Service Contract Extension – A three year extension to the maintenance/warranty contract.

City Staff recommends approval to authorize the City Manager to enter into an agreement with R.E. Pedrotti in the amount of \$801,225 for the base bid plus Alternate 2. Staff deemed that Alternate 1 is not necessary at this time due to the high costs.

The RFP was created specifying the same hardware and software that was installed with the upgrade of the Water Reclamation and Reuse Facility project. This would ensure that parts between plants could be interchanged if necessary.

Mr. Crispin stated that although the water and wastewater systems are computer operated, they are both separate from the City's Information Technology (IT) Department. The system is not connected to the City's intranet system.

Michael Berges moved, Ron Mellick seconded, to authorize the City Manager to enter into an agreement with R.E. Pedrotti in the amount of \$801,225 for design, installation, and integration of a new SCADA system for the water plant to be funded from Water Capital.

Vote: Ayes: Mason Ruder

Michael Berges

Ron Mellick

Shaun Musil

8. AIRPORT APRON REHABILITATION AND BEACON REPLACEMENT –

AWARD OF BID: Jamie Salter, Director of Hays Regional Airport, stated bids were received for the rehabilitation of the apron and replacement of the beacon at the Hays Regional Airport. This project is included in the 2021 Airport Capital Improvement Program and is eligible for Federal funding.

The apron was originally constructed in 1991 and is showing signs of deterioration. It is in need of rehabilitation to extend its service life. The primary purpose of the apron is aircraft parking. The damaged panels produce debris that can damage aircraft and become projectiles, creating a safety hazard for those accessing the areas.

The existing beacon was constructed in 1962 and has exceeded its expected service life of 20 years. Maintenance on the beacon requires the use of a bucket truck, as it is unsafe to climb. Replacement with a new rotating beacon with a tilt-down pole will make it easily accessible for maintenance as no special equipment is necessary for access. A new beacon will result in increased reliability and decreased maintenance costs. A beacon serves as a visual navigational aid to indicate the location of the airport.

The sole bid came from APAC Kansas, Inc. with a total price of \$1,142,393, which is below the engineer's estimate of nearly \$1.4 million. This includes \$23,075 of items ineligible for FAA reimbursement. The ineligible items include portions of Taxilane F adjacent to the apron. Completing these areas at the same time will result in a more quality product and increase longevity in that area. The remaining cost is covered at 100% as part of the Airport Rescue Grants.

The total cost of this project is \$1,514,025. The FAA Airport Improvement Program projects are traditionally funded at 90%, with a local City match of 10% required. As a combination of Airport Improvement Program and American Rescue Plan Act funding, this project will be funded at 100% through the FAA with no City share required other than the \$23,075 for ineligible items.

Assuming a timely award of grant by the FAA, the project will be completed by the end of 2021. Construction will have no impact on commercial air service but will require aircraft to taxi to and from the terminal in a different location for the first 30 days of the project. Construction is also phased to minimize the effect on other airport operations.

Ron Mellick moved, Shaun Musil seconded, to accept the bid from APAC Kansas, Inc in the amount of \$1,142,393 to rehabilitate the apron and replace the

beacon at the Hays Regional Airport, contingent upon the FAA awarding a grant for Federal funding, and authorize the City Manager to carry out this project including the execution of the FAA grant agreement when offered.

Vote: Ayes: Mason Ruder
Michael Berges
Ron Mellick
Shaun Musil

9. AIRPORT APRON REHABILITATION AND BEACON REPLACEMENT – CONSTRUCTION ENGINEERING SERVICES:

Jamie Salter, Director of Hays Regional Airport, stated the previous agenda item addressed bids received for the rehabilitation of the apron and replacement of the beacon at the Hays Regional Airport. Inspection and observation of the construction needs to be accomplished according to FAA guidelines to satisfy the terms of the grant funding, to assure proper adherence to the plans, and to ensure quality construction. The City's Airport Engineering Consultant, Burns and McDonnell (BMcD), has presented a scope of services and fee to accomplish the required construction oversight and project documentation. The cost for these services is \$247,000 and is eligible for 100% funding through the FAA.

Shaun Musil moved, Michael Berges seconded, to authorize the City Manager to execute Work Authorization No. 2 with Burns and McDonnell in the amount of \$247,000, contingent upon the award of a Federal grant to be funded 100% through the FAA.

Vote: Ayes: Mason Ruder
Michael Berges
Ron Mellick
Shaun Musil

10. PROGRESS REPORT: Collin Bielser, Assistant City Manager, presented a monthly report of city-related activities, services, and programs.

11. HAYS HAPPENINGS/UPCOMING EVENTS: Melissa Dixon, Director of the Convention and Visitors Bureau, presented information on events that will be going on in Hays during the month of June. She also shared a three year

summary of visitor and consumer analytics for Hays. She stated the information included in the reports was obtained through mobile device tracking and credit card transaction reporting. The study only included people coming from 50 miles outside of Hays, so local activity was not included. It provided data such as a visitor profile, information on where visitors came from, and what they did when they got to Hays.

12. COMMISSION INQUIRIES AND COMMENTS: The Commissioners wished everyone a happy and safe Memorial Day.

Commissioner Berges congratulated the Hays High Baseball team on their state win as well as their track team that received many awards. He also wished good luck to TMP-Marian athletes who will participate tomorrow.

Commissioner Berges also stated the recent remodel of the Hays Public Library is phenomenal and he is looking forward to their open house. He also thanked the Hays Public Library staff for taking care of the kids that were at the library when the storm hit and for keeping them safe.

The meeting was adjourned at 7:39 p.m.

Submitted by: _____

Brenda Kitchen – City Clerk

CITY OF HAYS

AGENDA ITEM COVER SHEET

COMMISSION AGENDA ITEM NO. 5

MEETING DATE: 6-10-2021

TOPIC:

Property/Liability Coverage Renewal 2021/2022

ACTION REQUESTED:

Authorize the City Manager to renew the 2021/2022 Property/Liability Coverages with the MPR package in the amount of \$262,616 to be funded from the Intergovernmental Insurance and Surety line item.

NARRATIVE:

The City's Property/Liability Coverage is up for renewal on 7/1/2021. Arthur J. Gallagher provides oversight for the City as the Insurance Broker. Arthur J. Gallagher had conversations with other insurance carriers and concluded that Midwest Public Risk (MPR) offered the lowest cost option for the renewal of the City's package. The outcome translates into a 7% increase or \$17,271 more than the prior period. City staff recommends pursuing the 2021/2022 Property/Liability Coverage renewal in the amount of \$262,616 with the incumbent as per the expiring policies.

PERSON/STAFF MEMBER(S) MAKING PRESENTATION:

Kim Rupp, Director of Finance

ADMINISTRATION RECOMMENDATION:

City staff recommends renewing the 2021/2022 Property/Liability Coverage with the incumbent package for \$262,616.

ATTACHMENTS:

Staff Memo
Gallagher Winter Market Update

Commission Work Session Agenda

Memo

From: Kim Rupp, Director of Finance

Work Session: June 3, 2021

Subject: Property/Liability Coverage Renewal 2021/2022

Person(s) Responsible: Kim Rupp, Director of Finance

Summary

The City's Property/Liability Coverage is up for renewal on 7/1/2021. Arthur J. Gallagher provides oversight for the City as the Insurance Broker. Arthur J. Gallagher had conversations with other insurance carriers and concluded that Midwest Public Risk (MPR) offered the lowest cost option for the renewal of the City's package. The outcome translates into a 7% increase or \$17,271 more than the prior period. City staff recommends pursuing the 2021/2022 Property/Liability Coverage renewal in the amount of \$262,616 with the incumbent as per the expiring policies.

Background

Each year City staff and its Insurance Broker complete the task of reviewing and preparing for the renewal of the Property/Liability Coverage package. Below is a chart showing the history of premiums on this package.

	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022
Annual Premiums	\$196,660	\$223,753	\$228,228	\$245,345	\$262,616

The package this year includes the following categories.

- *Buildings*
- *Contents*
- *Vehicles*
- *Equipment*
- *Other Property*
- *General Liability*
- *Sewer Liability*
- *Auto Liability*
- *Crime*
- *Law Enforcement*
- *Public Officials*
- *Cyber Liability*

Discussion

State of the Market

Attached is Gallagher's "Winter Market Update" (Feb. 2021) report. Gallagher is the world's largest public entity broker in the world and the third largest insurance brokerage globally. As you will see in the report, pieces of it speak to how "hard" the market has become, specifically related to the municipal sector. Catastrophic storms and nuclear legal verdicts, specifically in the governmental arena, have driven costs and deductibles up, while coverage restrictions have become commonplace. A few things stand out from this report:

1. The average property rate increase for Gallagher clients is roughly 22%. In speaking with our broker, Charlie Herr, this number falls under the average for Gallagher Public Sector book of business because of the consolidation of risk that governments naturally have.
2. The median verdict for liability claims over the last two years has doubled. As one can imagine, many of these verdicts are specific to the public entity space because the risks that governmental entities possess: Law Enforcement, Fire, Sexual Abuse (schools), and Discrimination.
3. COVID-19 caused a major disruption to insurance company's profitability and legal spend. Presumptive laws across the country have forced insurance companies to pay COVID-19 workers' compensation claims and there are thousands of lawsuits out there against insurance companies related to coverage denials for businesses claiming loss of income from a covered peril.
4. The cyber liability market is arguably the hardest coverage in the market today because of the increase in cyber-attacks that came as a product of the work-from-home lifestyle.

Marketing the City of Hays, KS to Other Insurance Companies

While Arthur J. Gallagher and Co. did not directly send information to the marketplace, Charlie and his team did gauge interest from the key players who could provide competitive options to the MPR offering:

- 1) Intact (formerly OneBeacon who purchased the renewal rights to BRIT's book of business in the fall of 2020, before the rebranding) and...
- 2) Travelers - because of their ability to provide a package offering resulting in premium credits.

Here was the feedback from each market...

- Intact – Due to past adverse loss experience as the city's former carrier (BRIT), and with the requirement of a much higher property deductible, Intact formally advised that they would not offer an option because they would be uncompetitive to what MPR's renewal offering will be.
- Travelers – While Travelers did not formally decline to quote, they elected not to knowing that MPR was renewing at a (roughly) 7% increase. In addition to the very good renewal from MPR, Travelers also elected not to quote because they knew the terms, conditions and pricing that they would have to offer, because of their reinsurance agreements (much higher property deductibles), would not be competitive.

In addition to Gallagher’s review of the marketplace, the City of Hays was approached by a local company, Insurance Planning, to market the insurances with a regional insurance company, Employer’s Mutual Casualty (EMC). After much discussion, Insurance Planning and the City of Hays determined that EMC would not be a feasible option for the city’s property and casualty insurances.

Midwest Public Risk

As the market continues to harden for governmental entities, risk pools are becoming more and more of an attractive option, especially for cities in Kansas. The MPR renewal is very good compared to that of what the open marketplace could offer the city of Hays. This was made possible, in large part, because MPR moved the property insurance brokerage from Alliant Insurance Services to our broker, Charlie Herr, with Arthur J. Gallagher and Co. Overall, the MPR program will renew their yearly budget at a 7% increase which far surpasses the results that the rest of the market is realizing.

Legal Consideration

There are no known legal obstacles to proceeding as recommended by City staff.

Financial Consideration

Current Program:

The renewal for 2021/2022 amounts to \$262,616, an increase of \$17,271 as compared to last year. MPR limited its renewal to a 7% increase overall. The majority of that increase is in property. MPR moved some of the contributions from liability to property, such as property reinsurance, due to increases in costs on that side over the past few years. Therefore, there is a larger than normal increase in property but a very nominal increase in liability contributions to offset the property. Insured values were adjusted by MPR to reflect that.

Property Description	20-21 Total Insured Values	21-22 Insured Values	Increase/(Decrease)	20-21 Member Contribution	21-22 Member Contribution	Increase/(Decrease)
Buildings	\$54,473,356	\$54,485,356	\$12,000	\$60,105.90	\$70,425.51	\$10,319.61
Contents	\$9,056,367	\$9,056,367	\$0	\$9,992.79	\$11,705.88	\$1,713.09
Vehicles	\$8,235,564	\$8,902,385	\$666,821	\$9,087.12	\$11,506.85	\$2,419.73
Equipment	\$3,808,092	\$4,113,922	\$305,830	\$4,201.85	\$5,317.50	\$1,115.65
Other Property	\$7,589,948	\$7,589,948	\$0	\$8,374.75	\$9,810.45	\$1,435.70
Payroll/Liability	\$11,475,793	\$9,759,415	(\$1,716,378)	\$153,582.97	\$153,850.20	\$267.23
Total Property/Liability Contributions				\$245,345.38	\$262,616.39	\$17,271.01

Options

The City Commission has the following options:

- Renew the policy with MPR.
- Provide staff with further guidance.

Recommendation

City staff recommends renewing the 2021/2022 Property/Liability Coverage with the incumbent package for \$262,616.

Action Requested

Authorize the City Manager to renew the 2021/2022 Property/Liability Coverages with the MPR package in the amount of \$262,616 to be funded from the Intergovernmental Insurance and Surety line item.

Supporting Documentation

Gallagher Winter Market Update

Winter Insurance Market Update

FEBRUARY 2021



Gallagher

Insurance | Risk Management | Consulting

2021 Market Headwinds

As we enter 2021, a number of compounding factors are driving the current insurance marketplace. First, there has been a substantial increase in the number of large weather-related loss events. Second, interest rates remain near historical lows, and third, the industry is dealing with an increasing loss trend in liability lines. Each of these factors help drive up prices and reduce coverage availability. Add to all these factors a global pandemic and a tightening in the reinsurance marketplace—the market is experiencing a high sense of uncertainty. This uncertainty is contributing to the feeling that this is a time where the market has entered into a new phase of recalibration. Many would call this recalibration a hard market for certain lines of coverage and industries in the U.S.

This hardening market is an underwriting-driven marketplace. In a traditional hard market, capital (and consequently capacity) is reduced, thereby limiting the availability of insurance. This marketplace is driven by the need for underwriters to make a profit from underwriting versus relying on investment income. Carriers remain intensely focused on underwriting discipline, ensuring they secure the right terms and pricing on certain lines of coverage that have historically not performed from an underwriting standpoint.

The pace of the United States' economic recovery and the outcome of the active hurricane season could alter some of the underlying fundamentals of the current marketplace. However, in all likelihood, the conditions that exist today are not changing anytime soon, and it will take carriers some time re-underwriting their books of business to overcome the challenges associated with the current marketplace. Accordingly, all market indications point to a continuation of premium increases for the balance of the year and throughout 2021.

Utilizing Gallagher Drive[®], our proprietary data and analytics platform, our brokerage team can provide specific rate guidance for your line of coverage, industry and geography. Combined with deep expertise in your particular industry and business, Gallagher can help you navigate today's highly nuanced market.

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Line of Coverage	Current Marketplace (Range of Rate Increases)
Property	+15% to +20% or more
Umbrella	+20% to +30% or more
General Liability	+5% to +10%
Commercial Auto	+7% to +12%
Workers' Compensation	-2% to +5% or more
D&O (Private)	+10% to +25% or more
D&O (Public)	+25% to +45% or more
Cyber	+15% to +50% or more

“This is certainly the most dynamic property market since 2001.”

Martha Bane
Gallagher Executive Vice President
and Managing Director

Property

The pace of change in the property marketplace continues to accelerate beyond most other lines of coverage.

According to Executive Vice President and Managing Director for Gallagher’s Global Brokerage Property practice, Martha Bane, “This is certainly the most dynamic property market since 2001. Loss trends have continued to outpace pricing models and, as a result, we have seen underwriters accelerate pricing increases especially over the last year.”

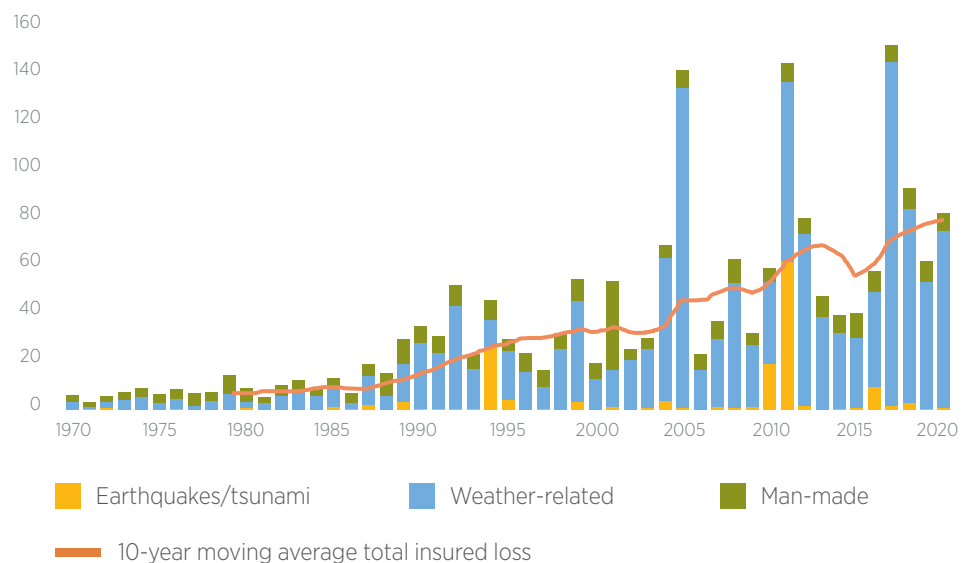
- Three of Gallagher’s largest property carriers **reported average rate increases of 22%** on their national property book.
- Due to rising loss trends and inadequate pricing, the national account property space (TIV > \$125M) has been under distress for a large number of carriers.
- The changes in coverage terms and conditions in the property marketplace have been significant. Increasing deductibles, shrinking sublimits—especially in catastrophic exposed geographies (CAT)—and carriers’ conservative limit deployment can lead to less favorable terms and conditions for clients.
- The rise in non-catastrophic (convective) storm losses continues to impact the industry.

According to The National Oceanic and Atmospheric Administration, the 2020 Atlantic hurricane season saw the highest number of named storms on record with 30 named storms in total.

Hurricanes and typhoons are not the only weather-related events wreaking havoc on the market. In early August, the upper Midwest was impacted by a derecho weather event, which brought straight-line wind speeds in excess of 100 mph to portions of Illinois, Iowa, Minnesota and Wisconsin. There were numerous reports of widespread damage, especially across Iowa. In addition, ongoing wildfires impacted California, Washington and Oregon. All in, the industry has experienced another year of significant catastrophic losses.

GLOBAL REPORTED INSURED LOSSES BY TYPE

Insured losses from 1970–2020 in USD billion at 2020 prices



Source: [Swiss Re](https://www.swissre.com)

Workers' Compensation

Overall, workers' compensation rates increased slightly from prior quarters, which is noted in other public sources of information, including CIAB (+1.5%). We predicted that reduced exposures, negative rates and lower-than-expected claim frequency would lead to reduced premiums for insureds, and a better-than-expected combined ratio for carriers.

Overall, workers' compensation rates increased slightly from prior quarters.

- **Multiple carriers noted positive rate increases on workers' compensation renewals in the second half of 2020.** Reserve development trends are the driving force behind major changes in the workers' compensation marketplace, and they have remained favorable. As a result, we do not expect the workers' compensation marketplace to start behaving like the property or excess markets anytime soon; however, we believe we are at the beginning of a turning point in the workers' compensation marketplace. We think this turn will be more gradual—moving from its current state of slightly negative to slightly positive in the coming quarters.
- Certain industries tied to the COVID-19 crisis, such as Construction, Healthcare, Food and Agriculture, etc., face an increased risk of exposure.
- There are many scenarios and prognostications about COVID-19, and the possibility that presumption of compensability may be extended to all employees could impact the workers' compensation industry.
- More than 20 states have now proposed or enacted COVID-19-related workers' compensation bills.

The median average verdict for the top 50 cases in the U.S. has doubled in the past four years.*

Primary General Liability

General liability loss costs continued to rise in the fourth quarter as the overall legal landscape continues to shift in the U.S.

- The frequency of large judgments, increases in litigation financing and an empowered plaintiff bar continue to challenge the industry.
- The median average verdict for the top 50 cases in the U.S. has doubled in the past four years.*
- Clients with tougher product exposures—those operating in Healthcare or other sectors that are susceptible to higher frequency of lawsuits—can expect larger rate increases.
- One area worth watching in the coming months is whether there is a liability exposure for companies failing to adequately follow and communicate public health guidelines. For example, a company not providing appropriate personal protective equipment (PPE).
- Insurance carriers are beginning to introduce or enhance their communicable disease exclusions in response to COVID-19.

Even though loss costs have been rising, plenty of capacity remains. **We expect a firming rate environment to continue, with rate increases in the mid-to-high single-digit range for desirable risks.**

Commercial Auto Liability

Despite several years of price increases in commercial auto liability, rates continued to increase in the fourth quarter despite a drop in claim frequency due to the COVID-19 pandemic.

- Many primary umbrella/excess markets are requiring higher commercial auto liability limits of \$2 million to \$5 million, or in some cases \$10 million.
- Loss costs are rising as new technologies make vehicles more expensive to repair. We expect carriers to continue to push rate increases across the board in commercial auto liability.

Rate increases are continuing through the excess liability tower as excess markets are focused on rate relativity and rate adequacy.

Umbrella/Excess Liability

Umbrella and excess liability placements have been greatly impacted by several underlying inflationary factors. The rising inflation associated with commercial auto coupled with an increase in medical costs, wage growth, cost of goods and services, and social inflation are the primary forces driving the drastic changes we are seeing in the marketplace.

- **2020 rates continued to climb to their highest levels in recent years—more than 15% on almost every renewal—with significantly higher increases on the vast majority of larger clients, especially clients with heavy auto fleet exposures or clients who operate in higher-hazard industries.**
- Social inflation goes to the sensibility of juries and how that translates into the expected value of claim outcomes. Social inflation is generally defined as an increase in insurance costs due to rising litigation, larger jury verdicts and overarching anti-corporate sentiment in the economy.
- Carriers are concerned with a litigation environment largely favoring plaintiffs and climbing jury verdicts.
- Many carriers are also restricting the amount of limit they are willing to put forth, or repositioning their capacity at a higher level. For example, carriers that have historically offered \$25 million lead umbrella policies are now limiting their lead positions to \$10 million or less, in most cases.
- A recurring message from the market involves capacity management. Carriers want to limit their exposure to these higher umbrella and excess layers. We've experienced multiple instances when clients were not able to buy the limit they purchased last year because of a lack of availability. That means that clients need to involve substantially more carriers and often substantially more premium to achieve the same limits as those expiring.
- Rate increases are not limited to the primary carrier. Rate increases are continuing through the excess liability tower as excess markets are focused on rate relativity and rate adequacy.
- In a post-COVID-19 environment, communicable disease exclusions are also being added. These exclusions are wide-ranging, with some eliminating all communicable diseases and others only COVID-19. The restrictive terms and conditions might have a material impact on the value of the coverage beyond the hard dollar structure and pricing changes imposed upon renewal.
- In addition to communicable disease exclusions, underwriters have added a host of others, including sexual abuse and misconduct (SAM), traumatic brain injury (TBI), wildfires, opioids, cannabis, glyphosate and on-premises violent acts.

Accordingly, we do not anticipate much change in the casualty environment in 2021. The fact of the matter is that rates still have a long way to catch up to loss-cost trends. General liability and commercial auto costs will continue to climb modestly, umbrella and excess pricing will rise, higher umbrella and excess layers will be limited, and the industry will keep a careful watch on the impact of COVID-19 on the workers' compensation marketplace.

Fewer and fewer carriers wish to write primary and first excess D&O layers.

Directors & Officers

The Directors & Officers (D&O) marketplace has been distressed for several quarters, as average claims have increased substantially in recent years. **The market's deterioration has continued with every aspect of the public company D&O marketplace being impacted, including premium, retention, capacity, attachment and terms and conditions. The market for privately held companies is not nearly as hard as the publicly traded D&O market, although larger private companies will still see double-digit increases.**

Capacity

- Carriers are often reducing capacity.
- Some carriers have a moratorium on new D&O business.
- Fewer and fewer carriers wish to write primary and first excess D&O layers.

Terms and Conditions

- Reduced capacity for shareholder derivative demand investigative costs, most notably in excess layers.
- Removal or reduction of limit reinstatement provisions on Side A Difference in Conditions (DIC) policies.
- Restricting pre-negotiated extended reporting provisions (ERP), especially for anything more than one year.

Pricing

- Very dependent on market segment, financial condition, claims history and current pricing.
- Unfavorable industries have seen or may soon see increases in excess of 85%.
- Typical publicly traded company D&O renewals can expect increases of 25% to 45% or more.

Market Segments of Most Concern

- Hospitality
- REITs (retail)
- Airlines
- Restaurants
- Retail
- Entertainment
- Automotive

Market Segments Also of Concern

- Life sciences
- Technology
- Large market caps
- Construction
- Higher education

The 2020 Beazley Breach Briefing* reported a 131% increase in ransomware attacks compared to the previous year.

Cyber

The Market Hardens

With the rise in ransomware attacks across the U.S. and increases in carrier-reported losses, the cyber insurance market hit an inflection point in 2020. **We have moved from a long period of flat-to-falling cyber insurance premiums to a marketplace where underwriters are regularly seeking rate increases in an approximate range of 15% to 50% or more.** We're seeing this trend cut across most industry sectors with larger companies subject to greater increases and increased underwriting scrutiny.

- Increases in the frequency and severity of ransomware claims, which manifested in 2020, continue to drive the hardening of the cyber market.
- The 2020 Beazley Breach Briefing* reported a 131% increase in ransomware attacks compared to the previous year. Additionally, reports of seven- and eight-figure ransom demands are becoming more common.
- The sudden onset of COVID-19 resulted in the majority of the global workforce moving to remote locations, which created an environment that is inherently less secure for organizations.
- The threat landscape continues to worsen. We are seeing increases in cyber claims frequency and severity driven by ransomware, increased risks to remote workforce, supply chain risk, and emerging strengthening of privacy laws. Most carriers are increasing their underwriting scrutiny around cyber risk—proprietary applications, reliance on third-party system scans, etc. We expect this trend to continue for the foreseeable future.

Take Steps to Assess Your Cyber Risk

- Review cyber policies to evaluate the scope of coverage, and how it may cover cyber losses related to the use of employee-owned devices and remote networks. A specific focus should be concentrated on how a policy might define “computer networks,” “computer systems” and other key terms.
- Be aware that cyber claims costs for business interruption losses are almost always impacted by waiting periods before coverage will apply and limited to a specific period of restoration.
- Review policies carefully to see whether any portion of the loss may be covered. For example, if faced with a social engineering loss, it is possible that lost funds may not be covered in the cyber policy and that other policies, such as crime policies, may apply.

*Source: https://www.beazley.com/news/2020/beazley_breach_briefing_2020.html

Challenging Risk Profile Characteristics

While the hardening market is not as severe as compared with the market of the early 2000s, pockets of the marketplace certainly resemble that of a traditional hard market. Due to the variability that we're seeing in this market and specific account characteristics, individual rates may vary from the ranges noted at the beginning of this report.

PROPERTY

- » Limits: \$50 million+ TIV
- » Frame/habitational/auto/dealer
- » CAT exposure
- » Molten metals
- » Food & Agribusiness
- » Plastics/polycarbon tech
- » Any locations with large hail exposure
- » Outstanding engineering recommendations

INDUSTRIES

- » Senior Living
- » National Accounts
- » Transportation & Logistics
- » Marine
- » Habitational/apartments
- » Nonprofit
- » Public Sector
- » Food & Agribusiness

EXECUTIVE LINES

- » Limits: \$15 million+
- » Large private company D&O
- » Publicly traded D&O
- » Sexual abuse and molestation
- » Industries negatively impacted by COVID-19

UMBRELLA EXCESS

- » Large limits: \$25 million+ capacity has diminished, and pricing has dramatically increased because of mega-verdicts
- » Any underlying exposure with a large fleet
- » Any underlying exposure with a moderate hazard general liability exposure—especially construction and habitational/apartments

Conclusion

It is unknown what the full magnitude of the COVID-19 pandemic's economic impact will be overall, or what effect it will have on the insurance industry. **However, the underlying fundamentals we see with the environment today are likely to continue into the foreseeable future. There's nothing that indicates the momentum will slow. If anything, the market's hardening in 2019 and 2020 will continue.**

Because of the highly nuanced nature of this market, it is imperative that you are working with an insurance broker who specializes in your particular industry or line of coverage. Gallagher has a vast network of specialists that understand your industry and business, along with the best solutions in the marketplace for your specific challenges.

About the Contributors



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For up-to-date information regarding COVID-19, please visit ajg.com/pandemic



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