Q4 2022 Umbrella and Excess Market Update

Inconsistency Is Consistent

Adam J. Mazan, CRIS
Vice President, Pacific Region

Russ Stein
Area Executive Vice President

As 2022 came to a close, one thing remained consistent in the Umbrella and Excess Casualty insurance marketplace: inconsistency. Very simply, the Casualty market is being driven by a supply-and-demand shift in the excess casualty capacity.

The continuing lack of supply in the lead layer and for hazardous businesses has pushed up rates in this sector by 7.5% or so. There's more supply than demand excess of $10 million however, which has driven competition that's led to program restructuring and rate stabilization or, in some cases, reductions. On a macro level, the excess market appears relatively consistent, but on a micro level it can be challenging to predetermine accounts that will be oversubscribed versus undersubscribed on capacity.

Before getting into some of the aspects driving the above, let's do a quick recap 2022 and discuss some initial thoughts from carriers on 2023.

2022 EXCESS CASUALTY INSURANCE RECAP

- Average rate increases for the first 11 months of the year were in the 5% to 7.5% range, with a slight uptick in rate in December.
- Lead capacity remained relatively low compared to pre-2020, but certain standard carriers have been finding ways to increase lead lines, creating cost relief.
- There is an abundance of capacity excess of $10 million, as we have probably close to double the carriers trying to deploy less capacity than the market had in 2019, which has led to competition and year-over-year rate reductions in some cases.
- Losses continue to come in, with carriers and reinsurers being vigilant on reserve amounts of prior years.
- Auto insurance loss costs have increased around 9%.
- Settlements on catastrophic claims continue to increase.

INITIAL EXCESS CASUALTY EXPECTATIONS FOR 2023

- Carriers are targeting rate increases of 8% or so on their books, with most of the increase needing to come in the lead layer.
- There is slight uncertainty of treaty renewals (most excess casualty renewals happen between March and July).
- Claim inflation, medical inflation and legal inflation will all continue.
- A significant amount of competition excess of $10 million will continue.

REINSURANCE IMPACTS ON THE MARKET

Since September, there's been a lot of talk about the challenges that Property reinsurance renewals will have, but there hasn't been nearly as much conversation on the Casualty reinsurance side. While the Casualty side isn't expected to be nearly as bad as the Property side, a few different carriers have told us that they expect their treaty costs to go up in 2023.

There's likely to be more scrutiny on underwriting diligence and less support for those who are still trying to enter the Umbrella and Excess marketplace. We've seen a few of the new market entrants pull back on writing new business or regrouping on their business plans. While this trend isn't entirely tied to reinsurance, reinsurance is most likely a component, as reinsurers deploy their finite amount of capacity and look to balance underperforming sectors of their overall book.

CARRIERS ARE GETTING CREATIVE TO OFFER ADDITIONAL CAPACITY

During Q3 and Q4 of 2022, we witnessed a handful of carriers actually increase their participation in lead layers. This increase happened on lead $5 million placements that stretched to $10 million, lead $10 million that went to $15 million and most surprising was seeing lead $2 million on Auto-driven exposure go to lead $5 million.

In doing some investigative work on these increases, we found that a few of these carriers were securing facultative reinsurance for the additional capacity they were offering. They undercut the market by eliminating their ceding commission and taking the capacity net/net. While this approach could be a good short-term business decision, we question if it's sustainable for the long haul and if the insureds that benefitted from these changes in 2022 will see higher-than-average increases in 2023.

On a similar note, carriers that were mitigating overall increases across their book had used the strategy of sometimes buying less treaty reinsurance and deploying more net capacity, therefore not passing as much of a cost increase onto customers. However, as losses continue to roll in, more reinsurance is being purchased with premiums likely to continue to rise — albeit not at the pace seen in recent years.

LARGE SETTLEMENTS ARE DRIVING UP COSTS FOR EVERYONE

One of the biggest challenges the brokering community has had over the last three years is conveying to buyers why their pricing is going up and why they are being "penalized" when they have never had a large claim.

While the challenge of the conversation isn't going away, we think it's important to openly discuss the causes of increasing costs on a macro level. Today's plaintiff's attorneys are using two strategies that lead to higher payouts than previous similar claims:

- Time-limit demand, in which the plaintiff's attorneys state that a carrier is acting in bad faith if it doesn't respond within a specific timeframe (often very short)
- Stowers Doctrine, which is an extra-contractual duty on insurers to act in good faith when deciding whether to reject a pretrial settlement offer that's within their policy limits. If the insurer rejects the pretrial offer and loses the trial, and the verdict is above the limits of liability the insurer offers, that insurer may be liable to pay the entire judgement, even the value above their limit. This creates a frenzy with carriers and insureds, not enabling them to take time for discovery, digesting all the facts of the claim and creating a counterargument.

In 2022, we had a handful of insureds that incurred high settlements, and in each instance, the insured never had a significant excess loss and the settlement was higher than the previous high settlement for a similar claim in a similar jurisdiction.

The increase in claim settlements will continue to have an impact on market pricing, as it drives up loss costs, requiring carriers to increase rates to remain in business.

A LOOK AHEAD

There are a lot of positives in the current Umbrella and Excess marketplace, which we think will lead to much more stable excess liability renewals for 2023 on a macro level. It's important to keep all of the above as well as many of the other nuances of the market in mind when setting expectations with the insured.

Results will probably remain somewhat inconsistent on an individual account basis, and a small percentage of buyers won't benefit from the same results as their peers. This abnormality can be driven by a small factor that has little to do with the individual insured or a change in their risk profile.

As noted in our previous updates, the most important thing agents and brokers can do for their client is secure accurate and comprehensive renewal specifications and exposures to present to carriers, communicate effectively, involve all incumbent underwriters to get a better understanding of what they anticipate, and leave plenty of time before the effective date as the majority of the underwriting community doesn't have the full authority they had in years past to make difficult decisions.