State of the Market
Construction Industry

Now three years removed from the start of the global pandemic, the construction industry continues to demonstrate resiliency. Despite meaningful headwinds in the form of rising inflation and supply chain disruption, the majority of our construction clients enjoyed strong results in 2022. That's particularly true for customers who specialize in hotter segments of the market such as multifamily, life sciences, education, healthcare, data centers, government, and energy.

As interest rates have continued to climb through the early portion of 2023 causing project starts to slip, a bit of uncertainty naturally creeps in. Perhaps it is scarring from the Great Recession, but our contractor clients seem to be paying closer attention to their backlogs than in years past.

Over the last several years, the hardening of the insurance market is partly responsible for the growth in project costs. Fortunately, we see some room for optimism moving forward. While certain segments of the insurance market remain highly volatile, the recent influx of capacity into the insurance industry has undoubtedly started to create much-needed stability.

Over the following pages, we will provide an overview of the current market dynamics across numerous types of construction insurance. As dynamics continue to change in the ever-evolving insurance market, we will continue to provide our clients with real-time insight to guide them through their risk management decisions.

Property & Excess Casualty

	Rates	Retentions	Coverage	Capacity
Worker's Comp	→	→	→	↑
Contractors General Liability	↑	→	↓	→
Auto	↑	↑	→	→
Excess Liability	↑	→	→	↑

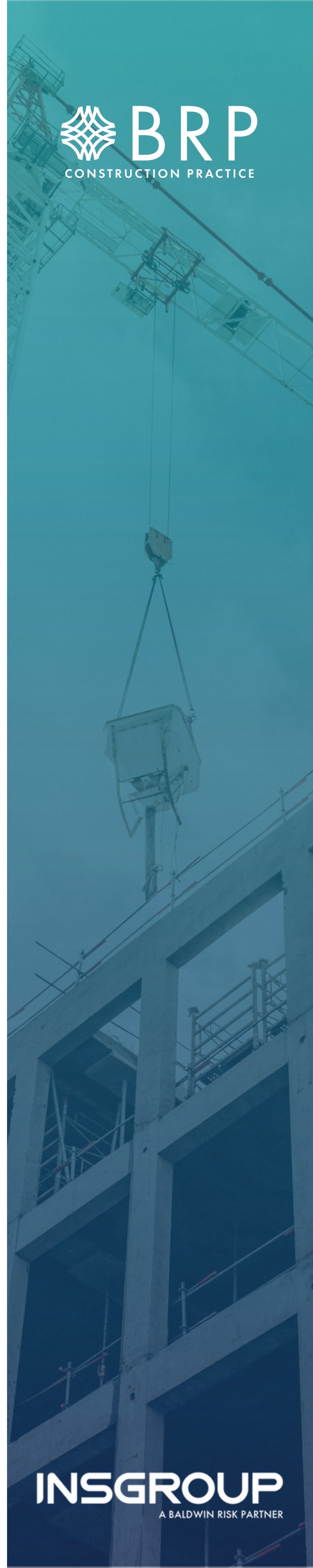
Green = Showing Improvement **Yellow** = Neutral **Red** = Deteriorating Trend

Workers' Compensation (WC)

The Workers' Compensation market remains stable despite continued medical inflation and the challenges that come with an aging workforce. Investment and innovation in loss prevention and an increased focus in claim mitigation strategies continue to drive operating profit across the workers' compensation industry. The results in the WC market have become so consistent in the last 10 years that markets that have historically been liability-only markets are now reevaluating the merits of entering the Workers' Compensation space despite the regulatory challenges.

Construction classifications in particular have performed exceptionally well with many states reducing expected loss rates in the last few years. The downside to declining expected loss rates is that it creates upward pressure on Experience Modification Rates (EMRs) moving forward. EMRs (or your WC mod) is a numerical rating that is often viewed by project owners as a measure of how safe your business is compared with other peers in your industry. Inflation in a contractor's EMR can create a competitive disadvantage despite there being other, more comprehensive metrics that may be more representative of a contractor's ability to manage a safe project site.

It is also worth noting that the COVID-19 pandemic has made very little impact to the Workers' Compensation system. Overall, we anticipate another year of market stability with most clients expected to see only a low single-digit change in rate.



General Liability

We expect the General Liability market for contractors to continue on its current trend of only moderate rate changes in 2023. While insurers remain concerned with a deterioration of their results as the court system continues to recover from the logjam caused by the pandemic, we expect the abundance of market competition to prevent major market volatility. With capital being continuously infused into the market, underwriters are hungry for new business while remaining focused on retaining well-performing accounts. In general, contractors with desirable risk characteristics can expect 0-10% rate change increase in 2023 with minimal impact on coverages, terms, and conditions. However, there some key segments of the construction market that are more vulnerable to market volatility.

Contractors who insure **Residential** projects through their corporate insurance programs can expect higher-than-average rate impact in 2023 due to a deterioration in this segment of the insurance market. With courts continuing to work through their backlog of case-delays, underwriters remain concerned about large construction defect verdicts being issued in the near term.

In addition, insurers continue to expand the definition of "residential construction" in states with challenging construction defect is particularly problematic. These expanded definitions often include rental apartments and not just for-sale condominium exposure. Presently, many insurers are limiting the amount of capacity they deploy on apartment projects and projects with wood frame, podium, or mass timber structural components in addition to the more standard owner-occupied structures. Additionally, some standard carriers have even gone as far as categorizing hotels, student housing, and assisted living facilities as residential despite the shorter nature of the tenancy. Subcontractors in particular may struggle to find adequate coverage for these risks in the standard market which in turn creates risk transfer challenges for the project owner and general contractor, as their subcontractors' liability policies may include coverage exclusions for the very type of construction project they are hired on.

Mass Timber construction in particular has become increasingly scrutinized by underwriters due to a lack of historical data and project team experience.

Contractors with significant **Wildfire Risk** can expect to see coverage limitations or exclusions in the standard market. What began in the West Coast has now migrated across the country and become more prevalent for both civil and building contractors. Those projects with increased exposure should expect increased Wildfire Prevention Plans.

Unfortunately, the landscape for contractors operating in **New York** shows no meaningful improvement. The market continues to be very limited which often forces contractors to accept abnormally high deductibles or substandard coverage terms and conditions, in addition to exorbitant pricing. More than ever, we see project owners and general contractors preferring project-specific solutions such as OCIPs, CCIPs, and Owner-GC programs as a way to control their own costs and insulate the heightened risk in New York from the remainder of their portfolio.

Per-and-Poly Fluoroalkyl Substances (PFAS) is an emerging contaminant that has a potential impact to both general liability and environmental liability policies. PFAS are a broad class of manmade chemicals that provide both grease-repelling and water-repelling properties. They are often used in industrial products commonly found in construction materials including paints, stains, roofing and flooring materials, and weatherproofing membranes. The widespread use of these chemicals has raised questions about environmental impact as well as negative health effects for those exposed.

While these chemicals are facing significant scrutiny from environmental regulators, casualty underwriters are proactively applying PFAS exclusions in an effort to push the exposure over to environmental policies with other hazardous substances.

Heavy Civil contractors can expect slightly more challenging rate conditions in 2023 due to a more limited insurance marketplace as compared to building contractors. In particular, civil contractors with street/highway exposure are increasingly looking at creative program structure designs in order to offset upward pressure on premium rates.

Automobile Liability

While commercial auto liability continues to be a loss-leader in the construction industry, we are expecting rates to slowly stabilize. After many years of rate increase well into the double-digits, we are projecting rate 5-15% rate increases for clients with strong experience and low/moderate sized fleets. This slight deceleration in the market trend is driven by a sharp decline in auto claim frequency during the pandemic. While severity has increased, many insurers have reported a meaningful reduction in claim frequency with less vehicles on the road each day.

While the rate environment has improved, clients should be prepared for a more rigorous underwriting process moving forward. Contractors with large fleets must balance proper risk management practices with the need to find drivers to support their business. While underwriters understand the realities of the labor market, they are more focused than ever in ensuring that their clients follow a disciplined process of qualifying, monitoring, and managing their drivers' performance. It is not uncommon for carriers to attach Driver Exclusions to commercial auto policies that apply to high-risk drivers.

In addition, all contractors are now being urged by underwriters to closely manage their hired and non-owned auto risk. Ideally, all employees who use their personal vehicle for work-purposes should be subject to annual MVR reviews and provide evidence of Personal Auto coverage each year. Underwriters are also becoming more diligent about requiring that insureds closely track their vehicle rental expenses in order to more accurately evaluate the hired auto exposure.

Excess Liability

Excess liability, otherwise known as umbrella liability insurance, is the additional liability limit that "sits above" or in excess to your primary liability insurance. This coverage increases the limits available to your corporation or project. Following several years of extraordinarily challenging umbrella and excess liability market conditions, we are anticipating a more flexible underwriting environment moving forward. With each passing month of 2022, the market became more favorable for clients with desirable risk profiles.

This improvement in the market has been driven by new capacity entering the space with more than a dozen new markets entertaining construction risks on an excess basis. Foreign markets in London and Bermuda are now more competitive than domestic carriers which only makes the market more buyer friendly. This influx of capacity has made the sharpest impact in the excess market above of a $10M attachment on most risks where we saw rates stabilize, and in some cases decline, in the fourth quarter of 2022. While some of the larger markets are now more willing to offer larger chunks of capacity on a single risk, limits of $10M-$15M remain the standard on most placements unless adequately ventilated. Looking ahead in 2023, we anticipate that these trends will continue with rates renewing within 5-10% of the expiring rate.

With rate acceleration has undoubtedly slowed, the lead umbrella market has been slower to stabilize due to a lack of capacity for unsupported lead placements. While a few carriers have broadened their appetite for unsupported leads, the market remains very slim compared to just a few years ago – even more so for heavy civil construction risks than general building. The majority of our clients have now aligned their primary liability policies with lead excess capacity from the same carrier in order to obtain optimal pricing and terms.

It is not uncommon for renewal negotiations and binding decisions to be driven as much or more by the lead excess layer than the primary lines of coverage. For the last several years, primary casualty carriers who cannot offer competitive lead excess terms are at a significant competitive disadvantage and we do not anticipate this dynamic changing in the near term.

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Looking further down the line, we do anticipate that this new excess market capacity with eventually have a positive impact on the umbrella market. Once these new market entrants build up adequate scale and surplus, we expect some to begin showing interest in taking risk in lead positions on favorable accounts. Until that happens, most clients can expect lead umbrella rate increases of 0-10% on their next renewal.

There are exceptions to these encouraging market trends and the outliers largely align with the primary market. Clients with residential, wildfire, and PFAS exposures as well as those that operate in New York and other challenging jurisdictions are not expected to benefit as much from the newfound market capacity. Underwriters will focus even more on safeguard technologies, processes, and procedures in place to mitigate risks. Lastly, property owners and managers will need to pay close attention to coverage exclusions and policy warranties that may pertain to their assets' specific risk.

Wrap Ups

The market for Owner-Controlled (OCIP) and Contractor-Controlled (CCIP) Insurance Programs remains very strong with an abundance of capacity throughout various segments of the construction industry. Non-residential projects in particular trigger heavy competition within a highly saturated market for both WC/GL wrap ups as well as GL-only programs. Contractors who have demonstrated the ability to successfully manage a non-residential CCIP can expect to benefit from a buyers-market with highly stable rates, retentions, and terms.

The excess market for wrap-up projects has benefited greatly from the infusion of new capacity. While underwriters remain hesitant to offer true open programs and instead prefer to see a reasonably firm project pipeline, rates have stabilized, and we are seeing carriers offering larger chunks of capacity on desirable risks. It is not uncommon for excess markets to offer $25M in capacity on larger projects/programs once the working layers are placed.

While overall market conditions have improved significantly in the last year, there are still challenging dynamics to navigate. The residential sector, particularly in challenging jurisdictions such as Florida and California, has a highly volatile marketplace. Rates continue to rise as there are only a handful of carriers who are firmly committed to writing residential risks. The wood frame market in particular is highly influenced by jurisdiction and the design of the building. For example, wood frame projects greater than 5 stories in height have roughly half the market for primary coverage than that of a building designed to be 5 stories or less. Going forward, we expect wood frame construction to be among the most challenging and costly types of projects to insure.

Economic inflation and supply chain challenges have increased project insurable values and extended project schedules across the industry. In addition, many of our clients have experienced delays in turning projects over due to a logjam within municipal building inspection services. As a result, customers should be prepared to have difficult conversations with their underwriters around program parameters such as escalation clauses, policy extensions, and enrollment and completion periods for rolling programs.

Property & Builder's Risk

	Rates	Retentions	Coverage	Capacity
Builders Risk	↑	↑	↓	↓
Property	↑	↑	↓	↓

Green = Showing Improvement Yellow = Neutral Red = Deteriorating Trend

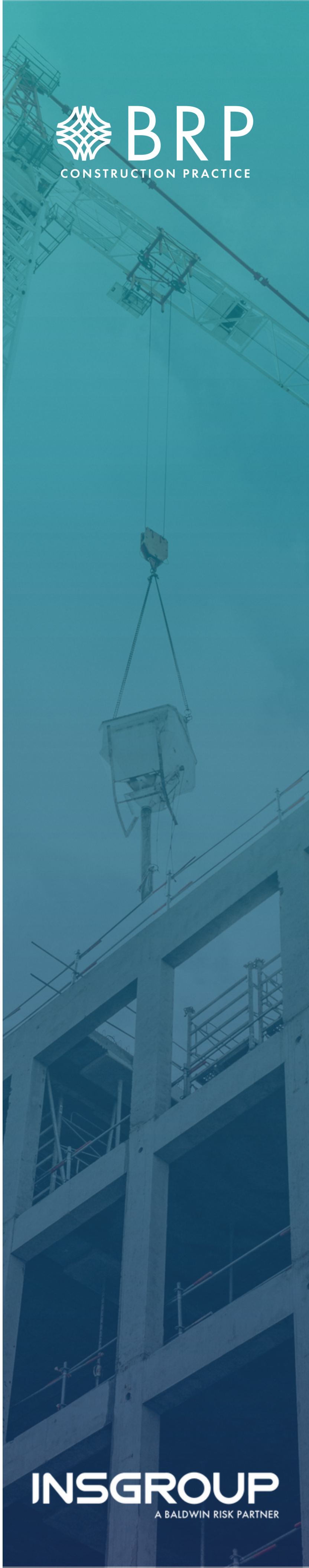
Property & Contractors Equipment

A convergence of severe weather events, supply chain disruption, inflation, and soaring interest rates have created the most volatile property reinsurance market in decades. No single event was more impactful than Hurricane Ian which is currently estimated to have caused between $50-$60B in insured losses, making in the second costliest natural catastrophe in U.S. history. As a result, all insureds (but particularly those with CAT-exposed property) can expect their cost of coverage to increase significantly in 2023. Portfolios, assets, or projects located in geographic areas that are more likely to experience a severe weather event or natural disaster are categorized as catastrophic or CAT risk – including but not limited to Florida, California, and Texas.

These areas are expanding as weather events are happening nationwide – from floods, windstorms, hurricanes, tornadoes, and hailstorms.

In terms of rate expectations, we anticipate a rather large divergence between how underwriters approach property renewals on CAT-exposed properties versus properties with a more favorable risk profile. Properties exposed to named windstorm, earthquake, tornado, flood, and wildfire risks will be the most impacted by the deterioration of the reinsurance market. Those accounts, and others with poor loss experience or less desirable occupancies, should prepared for rate escalation of at least 25% in 2023. On the other hand, clients with assets that are not exposed to high-hazard CAT perils can expect a more modest rate increase.

Similar to Builder's Risk, we anticipate commercial property valuations to be a critical talking point throughout the renewal process. Global supply chain issues persist which continues to fuel material cost increases. Combined with wage inflation, the cost of construction continues to rise. Said plainly, assets are costing more to construct ground-up or post-loss on a cost-per-square-foot basis than ever before. Therefore, insurers and insureds alike should closely evaluate the replacement cost of their portfolios to ensure that property risks are adequately funded.



Insureds who have not accounted for these inflationary factors in their valuation may find themselves underinsured in the event of a loss. Similarly, insurers must feel confident in these valuations that they can price and structure policies in accordance with their actuarial forecasts. If insureds are not prepared to increase limits where warranted, we expect insurers to look to impose policy restrictions to reduce their monetary obligations in the event of a claim, examples include margin clauses or scheduled limits.

Builder's Risk

As previously discussed in the Property section, Hurricane Ian and the poor underwriting results of 2022 are expected to have significant impact on the insurance market in 2023. This extends most directly to Commercial Property and Builder's Risk (property insurance during the course of construction) policies.

With capacity being managed carefully and reinsurance costs on the rise, we anticipate that even the cleanest, most desirable projects will be subjected to a more thorough underwriting process than in years prior.

Clients should be prepared to address several key underwriting drivers including:

- **Escalation Clauses** should be an important talking point when designing or extending Builder's Risk coverage. The combination of economic inflation, supply chain disruption, and the increased cost of skilled labor has created uncertainty as to the adequacy of Builder's Risk policy limits. Given the economic environment, underwriters are hesitant to offer more than a nominal escalation clause on policies so clients and brokers should work in tandem to regularly reevaluate the appropriate replacement cost on projects.
- **Water Damage** continues to be a loss leader across the industry with sublimits becoming more prevalent. Underwriters are increasingly looking to partner with clients who invest in water sensory technology with some carriers even offering premium and or deductible discounts. Projects with tougher underwriting profiles can expect higher water damage deductibles ($250k+) with several carriers introducing tiered deductible structures that increase the client’s retention with each loss.
- **LEG III Faulty Workmanship/Faulty Design Coverage** has gained popularity since its emergence a decade ago. The availability of this first-party coverage has proven to be tremendously valuable in the event of a claim. However, as losses have accumulated, underwriters are becoming more selective on when/where to deploy their LEG III capacity. Going forward, expect underwriters to charge a higher premium for this coverage and to deploy sublimits or higher retentions where appropriate.
- **Site Protection Plans,** particularly for project located in high-crime areas, should be implemented, including motion sensory technology to alert the project team (or more preferably, a centralized monitoring station) in the event of an intruder during non-working hours.

Florida

While we anticipate the impact of Hurricane Ian to be felt broadly across the Builder's Risk market, projects with CAT exposure will undoubtedly be most affected. Projects in Florida in particular can expect a significant increase in the cost of capacity along with a more stringent underwriting process. The combination of high hazard Named Windstorm and Flood exposures along with the continued shortage of high-quality trade labor have pushed many of even the most reputable and tenured Builder's Risk markets to greatly scale back their Florida capacity. As a result, the cost of capacity has increased significantly, and we anticipate rates on most projects to increase by 25% or more in 2023. In addition, underwriters will hold firm on reevaluating pricing terms and conditions every 14-30 days.

Mass Timber

As Cross Laminated Timber (CLT) and other types of Mass Timber construction gains popularity throughout the U.S., the demand for Builder's Risk coverage at times seems to be outpacing the market. Underwriters by their very nature lean on historical data in order to evaluate risks. With such limited data on CLT in the U.S. (particularly the Eastern part of the country), we see a wide range of underwriting philosophies. Some approach CLT and Mass Timber products as wood frame despite statistical fire rating data that suggests otherwise. Others are more flexible and thoughtful in their approach but we've yet to see pricing and terms fully align with projects made of fire resistive materials. Most commonly, the terms of coverage resemble a hybrid between Fire Resistive and Wood Frame construction.

Customers who are preparing to put a CLT project to market are encouraged to educate their underwriters. Specifically, be prepared to demonstrate your strong project controls and your project team's experience and qualifications in designing, installing, and monitoring projects with elements of CLT. In addition, understand that supply chain disruption is a critical concern of underwriters to be proactive in outlining your plans for securing, transporting, storing, and protecting materials before, during, and after installation. To the extent possible, have a plan in place to take proactive action in the event that materials become damaged. Addressing these key considerations during the underwriting process will alleviate some, but certainly not all, of the "fear of the unknown" that underwriters have relative to Mass Timber / CLT.

Wood Frame

Multifamily construction has been one of the most consistent, fastest-growing sectors of the construction industry over the last 3 years – with no signs of slowing. In fact, the National Multifamily Housing Council announced a historic high of 841,000 units under construction nationwide in June 2022. Despite material price and wage inflation throughout the year, the U.S. Department of Housing and Urban Development cites double digit year-over-year growth in several metrics including housing starts and permits pulled. Unfortunately, while demand for insurance coverage has skyrocketed, the supply is extremely limited. The wood frame Builder's Risk market continues to be amongst the most challenging segments in the industry. As catastrophic losses have accumulated over the last several years, capacity has thinned – particularly in the lead layer – causing rates to soar. What's more is that loss activity at this asset class continues to fuel the carrier's concerns.

Wood frame Builder's Risk underwriters can most aptly be characterized as highly selective. Often inundated with submissions, underwriters are often deploying their limited capacity to only the most favorable risks. For the foreseeable future, underwriters will focus their efforts on projects sponsored by developers with a healthy pipeline, managed by reputable GCs, and governed by best-in-class controls.

To achieve optimal market results, we work with our customers to develop a thoughtful site protection and risk management plan that addresses several key underwriting drivers, including:

- ✓ **Electronic Site Surveillance with 24/7 Centralized Monitoring**
- ✓ **Fire Protection & Hot Works Permitting System**
- ✓ **Water Mitigation and Detection Plans**
- ✓ **Wildfire Prevention and Protection Plan**
- ✓ **Gated/Secured Points of Ingress/Egress**
- ✓ **Exterior Lighting**
- ✓ **Material Storage/Staging Plan**
- ✓ **Geotechnical Compliance**

Electronic site surveillance in particular has become a barrier of entry into the market. Camera systems that detect activity but do not immediately report to a centralized monitoring station may not always pass the underwriting test, depending on the particular market requirements. We work with our customers to proactively build these investments into their construction budgets ahead of time as the technology can be costly depending on the size and layout of the development plan.

Commercial Construction

While not deteriorating at nearly the same pace as other sectors, the Builder's Risk market for commercial construction is starting to tighten. While rates remain highly competitive, certain coverage features are becoming more of a focal point for underwriters. Water Damage continues to be a loss leader with sub-limits coming into play and deductible levels on the rise. In addition, underwriters are more cautious in offering certain coverage enhancements such as LEG III and Existing Building Coverage on renovation projects. Further, even commercial-grade habitational projects are subject to a slimmer market due to deteriorating underwriting results compared to commercial occupancies.

SUBCONTRACTOR DEFAULT INSURANCE, PROFESSIONAL, ENVIRONMENTAL, AND CYBER

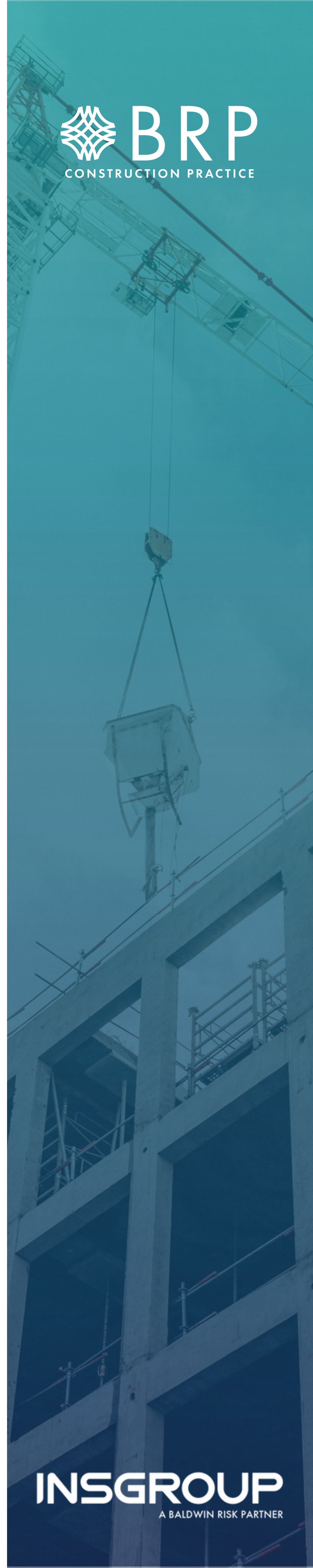
	Rates	Retentions	Coverage	Capacity
SDI	→	→	→	→
Professional Liability	→	→	→	→
Environmental Liability	→	→	→	→
Cyber	↑	→	↓	→

Green = Showing Improvement Yellow = Neutral Red = Deteriorating Trend

Subcontractor Default Insurance (SDI)

The SDI product continues to be the preferred method of managing subcontractor default risk in the private sector from both Construction Managers and Project Owners. There has been relative stability in the market, however we are beginning to see some signs of subcontractor financial strain. Defaults for the past 5+ years have been primarily driven by factors other than financial issues, such as labor shortage or quality issues. The pendulum seems to be coming back towards more financial related challenges. It is our belief that subcontractors delayed the strain of COVID on their businesses by taking PPP loans. However, it appears that the impacts from supply chain issues and cost escalation have begun to have an impact on the financial results of the general subcontractor market.

The SDI carriers remain committed to supporting existing clients that have performed well and maintain vigilance around pre-qualification and risk management. To this end, we have seen a trend towards the use of third-party pre-qualification tools to supplement the already existing pre-qualification process. In addition, the carriers are looking for opportunities to grow with existing and first time SDI buyers. While each carrier has their own unique appetite, all are interested and aggressive in new business opportunities when the risk aligns with their underwriting philosophy. There continues to be solid underwriting discipline from all carriers with an ongoing focus on subcontractor pre-qualification and quality management. In addition, the carriers are all interested in understanding a customer's approach to managing the global supply chain risk, cost escalation, and labor challenges.



There is also focus by the carriers and their reinsurance partners on aggregation to any one geography or subcontractor. SDI carriers are continued to be very selective in the perceived higher risk markets, such as wood frame construction, for-sale residential as well as certain geographies. We have seen a trend of increased subcontractor default notifications. It is unclear at this point if the trend in notices will lead to an uptick in actual claim activity in the carrier layers. We are paying close attention to this as the expected impact from and uptick in claim payments by the carriers will be a harder SDI market.

Those contractors with good operational practices and focus on the right risk management processes will continue to benefit from the pricing, terms, and conditions of their SDI programs. The carriers now clearly recognize the better performers and are willing to reflect that recognition in the SDI program offering. Those contractors that have had any significant claim activity will struggle finding an SDI partner or market competitive terms, conditions, and pricing. Working proactively with your broker and carrier partners continues to be our advice around a long-term and sustainable SDI program.

Environmental Liability

The environmental lines have provided stability in an otherwise volatile insurance market for the last several years and we anticipate that a continuation of these favorable conditions going forward. While some carriers are yearning for slight rate increases to account for a slight uptick in loss experience, there remains an abundance of quality market capacity for both Pollution Legal Liability (PLL) and Contractor's Pollution Liability (CPL) coverage.

The CPL market in particular is very stable from a rate and retention standpoint with an adequate capacity for both practice programs and project-specific placements. We would generally expect most clients to renew with rates within 5% of expiring. Clients with significant wood frame exposures may expect to see slightly higher rate increases due to an increase in mold-related claims during the wood frame development boom of the last few years.

From a PLL prospective, market capacity is healthy due to an infusion of new capital that arrived in the market in the last 3 years. Carriers have become more selective and disciplined in determining how best to deploy their capacity, but the competitive nature of the market has helped to keep rates and retentions fairly stable. We generally expect slightly higher rate acceleration in the PLL market in 2023 compared to CPL but most accounts can expect to renew within 10% of their expiring terms.

From a coverage perspective, buyers of both CPL and PLL policies should be aware of several trends emerging in the environmental market:

- PFAS/PFOS exclusions are now standard in the PLL market and becoming more common on CPL renewals. PFAS is an emerging contaminant that is difficult for carriers to underwrite due to increased scrutiny from federal and state environmental regulators.
- Broad form exclusions become commonplace throughout 2022 as third-party lawsuits continued to accumulate. While coverage is seldom available for clean-up, buyback coverage may be available for bodily injury or property damage for desirable accounts.
- Carriers are closely monitoring Mold exposure due to an increase in claim frequency and severity. Mold coverage is commonly being limited in the form of higher deductibles, lower limits and shorter terms on some programs.
- Communicable Disease Exclusions continue to be the industry norm with First Party Disinfection Cost coverage being restricted further in the form of higher deductibles or sub-limited coverage.
- The market for habitational / multifamily construction is becoming more limited. Throughout 2022, it become more common for carriers to apply a per-claimant deductible on such risks exposed to class action lawsuits. This has applied not only to traditional multifamily construction projects but to military housing, student, housing, and affordable housing projects as well.
- A shift in appetite for sudden and accidental pollution coverage in casualty markets has created a gap in upstream/midstream energy accounts which typically sit excess and DIC of the general liability and excess policies. Pollution carriers for energy accounts are increasingly offering options to sit lower in the tower or in some cases primary for pollution risk for additional rate.

Professional Liability

The market for Contractors Professional Protective Indemnity (CPPI) remains stable with ample capacity for both corporate programs and project-specific placements. While many carriers dedicate their project-specific capacity only to their core clients, there remains $200M-$250M of capacity available on most non-habitational projects. The capacity for corporate programs is much higher and market competition remains quite strong despite a slight hesitancy for London markets to compete with rates, terms, and conditions often available from the U.S. markets. Overall, we expect only slight rate variations in 2023 with most accounts renewing flat to +10%.

From a coverage standpoint, there are a few emerging issues to be aware of. Bodily injury exclusions are becoming more common for certain classes of contractors – particularly heavy civil contractors and high-risk trade contractors. On a positive note, Faulty Workmanship coverage remains available on a sub-limited basis for targeted trade contractors and self-performing GC/CM’s.

Lastly, we undoubtedly seen an uptick in requests for Project-Specific Professional Liability (PSPL) coverage despite a very limited marketplace. Some of the demand emanates from public entity requirements (MTA, DOT, Port Authority, etc.) where insurance requirements are often ambiguous and can be difficult (or impossible) to satisfy.

In many cases, the owner contract requires the Design Team and General Contractor to be named insureds on the same policy which prohibits the design-build contractor from bringing claims against the prime designer. There is often a trade-off between meeting a contract obligation and buying the product that best protects the key stakeholders of the project. We have seen different clients approach this dilemma in different ways, but it has unquestionably become more common as projects become larger and more complex. For clients in need of PSPL coverage, expect a highly volatile market with only a few qualified and capable insurers.

Cyber Liability

Now nearly three years removed from the start of the COVID-19 pandemic in the U.S., many businesses continue to offer employees a remote or hybrid work option. This reliance on remote connectivity has created a heightened risk of cybercrime and in turn, drastically changed the landscape of the cyber insurance market.

According to the National Association of Insurance Commissioners (NAIC)[1], data breaches in 2021 increased by 68% over the prior year with breaches involving personally identifiable information (PII) increasing by 83%. Over a span of two years, the U.S. cyber insurance market nearly doubled in size growing from $3.356B in Direct Written Premium in 2019 to $6.543B in 2021.

During that time frame, underwriters became much more disciplined in determining how to deploy their capacity with high-hazard perils such as Social Engineering, Funds Transfer Fraud, and Ransomware often being subject to policy sub-limits or higher retentions. This is a trend that we anticipate continuing through 2023.

This dramatic increase in the cost of risk has prompted business leaders to invest more heavily in proper information security controls. In this reshaped market, insureds who fail to invest adequately in protocols such as multifactor authentication (MFA), endpoint detection and response, and behavioral training for employees may not qualify for insurance that would sufficiently protect their bottom line in the event of a breach.

While navigating the cyber insurance market over the last two years has been extremely challenging, there is reason for optimism. A heightened focus and investment in cyber security along with increased regulatory influence has helped to improve underwriting results across the cyber market. After several years of double and triple-digit price increases, we are forecasting a more moderate pace of premium growth in 2023 driven by strong market competition for desirable risks.

Although some insurers are targeting more meaningful rate growth in 2023, we believe that competitive influences and the desire to retain strong accounts will ultimately restrict rate growth to 10-25% for accounts with strong underwriting characteristics.

With Risk Comes Opportunity

The last few years have been some of the most challenging times of our lives. From an insurance and risk management perspective, 2023 will present different obstacles. Nonetheless, owners, developers, and contractors need insurance, and will be faced with navigating the market challenges. BRP + K&S Insurance excels at taking the time to understand your business and provide unmatched advisory and risk solutions to help mitigate exposure. Please reach out to the team to discuss how our specialized expertise and technical advisory helps clients outperform their peers.

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[1] National Association of Insurance Commissioners (NAIC) – Report on the Cyber Insurance Market Memorandum, October 18, 2022