

Turning the Market

The number of professional liability class actions is on a record tear, which should impact rates eventually.

By Alex Wright



When the professional liability underwriters and brokers meet in Atlanta, a possible turn in the market will be on the table.

The professional liability (PL) market became increasingly more competitive recently with record levels of capacity and capital and insurers fighting on price and policy terms to gain share. Among the most competitive areas on coverage and pricing is middle market technology Errors & Omissions (E&O), closely followed by Directors & Officers (D&O) and employment practices liability (EPL). With large data and privacy losses from retail and big technology services claims mounting up on top of already expanding global privacy laws and a lack of primary PL coverage for tech firms, opportunities abound, particularly in cyber. Cyber also drives demand for higher limits in the wake of the recent spate of high-profile cyber hacks and narrow indemnification language in vendor agreements.

With an estimated 500 PL securities class actions expected in 2017, according to industry experts, it's probably only a matter of time before the market turns.

All of these factors will be key talking points among brokers, insurers and risk managers at next month's Professional Liability Underwriting Society (PLUS) 30th International Conference in Atlanta.

"Rates are still coming down," said Brian Wanat, CEO of Aon Risk Solutions' Financial Services Group. "But with many insurance carriers barely breaking even and a low interest rate environment, some may be forced to try to gain rate or move away from writing those classes of business."

A.M. Best's latest special report on PL said that key coverages continue to be impacted by "more than ample capacity and competitive pressure on rates, and terms and conditions."

"Beginning in Q1 2014, the influx of additional competitors in the professional liability market space has slowly but steadily driven rates downward," the report read.

"In addition, the E&O marketplace is still trying to get its arms around the impact of large data and privacy-related losses affecting the retail and health sectors, along with other technology losses that have breached the six-figure threshold."

The ratings agency expects PL markets to remain robust in 2017, with heightened competition in D&O and E&O specifically.

THE GROWTH OF CYBER

Cyber insurance is big business, not just in America but globally, with total premiums reaching \$2.5 billion last year and expected to climb to \$10 billion by



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2020, according to Willis Towers Watson.

The middle market has become extremely competitive with explicit grants of coverage for ransomware and social engineering in stand-alone cyber forms as more first-time buyers enter the market.

Bob Parisi, managing director at Marsh FINPRO, said that the biggest challenge facing the PL market was the changing way companies do business and interact with their customers, vendors and trading partners, as well as how that risk is underwritten.

"After the latest WannaCry and Petya attacks, companies are a lot more wary and have been focused on their cyber security and controls," he said. "Technology has skewed everything and added a layer of risk that wasn't there 20 years ago."

Parisi, moderating the "Business Interrupted: An Alien Concept?" panel at PLUS, added that insurers expanded their coverage in response to the proliferation of cyber attacks.

Matthew Prevost, vice president of Chubb Financial Lines, said cyber impacted all PL lines, highlighted by the recent wave of Petya and NotPetya

SUMMARY

- **Cyber risks** are impacting every professional liability line.
- **PL rate increases** in California waffle between 5 and 15 percent.
- **SEC class actions** are approaching a record volume.

attacks.

“There’s not one line that ‘cyber’ doesn’t touch now, and companies and underwriters need to understand explicitly how it interacts with their business,” he said.

Prevost, moderator for the “Ransomware Attacks! A Survival Guide” panel at PLUS, said that organizations can mitigate against cyber attacks by backing up their data both on and off line and by regularly patching to keep it updated.

“More broadly speaking, a company needs to be aware of both the internet response to an attack and their own risk management strategies,” he said.

“They need to recognize what to do in the event of an attack, whether it’s an individual device or a network-based ransomware attack.”

BOARDROOM RISKS

D&O direct written premiums remained flat at \$6.4 billion for the third straight year in 2016, with AIG maintaining the biggest share of 15 percent, according to Standard & Poor.

While loss ratios improved slightly, the WTW report expects securities class action filings to increase with

around 500 expected this year; almost double the 270 recorded in 2016 and well above the 20-year average of 188.

Pharmaceutical industries were the hardest hit sub-sector, accounting for one quarter of the 125 reported filings so far this year, said WTW.

Geoff Allen, executive vice president, national professional services practice leader at WTW’s FINEX North America, who works predominantly with law firms, said that the biggest challenge facing companies in terms of PL was the rising cost of defending lawsuits.

“As a result we are seeing a number of cases signed off with significantly quicker settlements because of the cost of litigation,” he said.

“Also, from an insurance perspective, ongoing systemic claims are driving big pricing movements, and it’s hard to see where it’s going to end.”

In E&O, Al Fantuzzi, senior vice president, professional liability E&O at Allied World, said that the immediate challenge was maintaining a core portfolio in a constantly expanding marketplace.

“Coverage offerings are being stretched at an unprecedented pace

while more capacity floods the space.

The carriers that commit to it with underwriting integrity will be the most positive contributors, which in turn perpetuate opportunities to operate in these segments,” he said.

WORKPLACE LIABILITIES

EPL rates also remained mostly stable with average primary rate increases of five percent, except in California where increases continue to fluctuate between five and 15 percent, said the WTW report.

The EPL market also remains very competitive with capacity of more than \$800 million in the U.S., Bermuda and Europe combined.

Claudia Costa, a partner at Gordon Rees Scully Mansukhani, said that among the biggest challenges for employers were preventing cyber bullying and policing their employees’ use of the internet and social media.

“There is a definite relationship between what businesses are doing to prevent cyber bullying ... and cyber security,” she said. “If employees are surfing the internet, an organization is effectively opening up their server to attack, and I think that’s only going to

increase.”

Costa, who will be moderating the “Warning — The Internet May Be Hazardous to Employees!” panel at PLUS, said that employers needed to tighten up their policies on internet and social media usage, and to be more proactive in investigating allegations of online bullying or threats of violence made by an employee.

“Companies need to start treating claims of cyber threats and bullying by employees in the same way they would as with a complaint of discrimination,” she said.

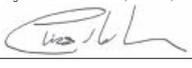
PLUS INTERNATIONAL CONFERENCE 2017

Two-time Super Bowl champion Peyton Manning will take a star turn at this year’s PLUS conference, which will be held at the Marriott Marquis in Atlanta Nov. 1 through Nov. 3.

The former Denver Broncos and Indianapolis Colts quarterback will deliver the opening keynote, sharing strategies for adapting to change. &

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