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2018 Market Update

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2018 Market Update

The 2018 Market Update was designed to review the strategies needed to overcome challenges and protect against the risks that can potentially financially cripple businesses.

CONTENTS

Introduction 3

Architects and Engineers Professional Liability (A&E PL) 4

Contractor's Professional Liability (CPrL) 6

Owner's Protective Professional Indemnity (OPPI) 8

Pollution Legal Liability (PLL) 10

Contractor's Pollution Liability (CPL) 12

General Liability/Pollution Legal Liability (GL/PLL) 14

General Liability/Contractor's Pollution Liability/Professional Liability (GL/CPL/PL) 16

Contact
RT SPECIALTY | RT NEW DAY
2465 Kuser Road
Suite 202
Hamilton, NJ 08690
P: (609) 298-3516
F: (609) 298-6254
E: newday@rtspecialty.com

NEWDAY.RTSPECIALTY.COM

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Each year, RT New Day combines the industry knowledge of its expert staff to define the "state-of-the-marketplace," identify optimal risk management solutions, and offer insights into this highly-specialized field.

Introduction

RT New Day has pooled the collective knowledge of its expert personnel to develop the 2018 Market Update — an annual recap of the environmental and construction-related professional liability insurance industry with predicted trends for this specialty niche marketplace.

RT New Day is dedicated to helping agents, brokers, and their clients navigate the complex commercial insurance marketplace to identify optimal risk management solutions. This includes providing the information necessary to make informed purchasing decisions on the numerous forms of environmental and construction-related professional liability coverages available in today's marketplace.

RT New Day annually surveys its expert staff to define the "state-of-the-marketplace" and offer insights into this highly-specialized field. In addition to identifying specific market trends, the 2018 Market Update reviews the strategies needed to overcome challenges and protect against the risks that can potentially financially cripple businesses.

The 2018 Market Update explores specific trends and details for environmental and construction-related professional liability coverages in the areas of Architects & Engineers (A&E) Professional Liability, Contractor's Professional Liability (CPrL), Owners Protective Professional Indemnity (OPPI), Pollution Legal Liability (PLL), Contractor's Pollution Liability (CPL), General Liability/Pollution Legal Liability (GL/PLL) and General Liability/ Contractor's Pollution Liability/Professional Liability (GL/CPL/PL).

Highlighted within each section are marketplace updates including rate, capacity and claims information; buying motivators; and underwriting and coverage updates.

Going into 2018, RT New Day sees a generally stable, but competitive marketplace with many carriers including new entries vying for increased market share. For instance, the underwriting trend of new PLL business continues to evolve with markets monitoring their offerings for various risk types. As a result, PLL activity during the last half of 2017 remained robust due to the advent of new markets including mergers & acquisitions (M&A), real estate portfolios, and one-off transactions.

In addition, look for 2018 to bring continued CPrL coverage expansions and competitive rates, provided the insured remains static. Although the frequency of CPrL claims are expected to rise in the coming year, this should not be a surprise since the number of buyers has also risen. However, the greater concern is the severity of the claims in the areas of civil, healthcare, commercial building, and habitational projects, where it is not uncommon to see eight-figure demands.

These same trends hold true for the CPL marketplace with offerings remaining abundant with expanding terms. The coming year will likely see stable premiums among small to mid-market businesses and softer rates for larger enterprises. The leading motivator will be the continued inclusion of pollution insurance requirements with higher limits among contract specifications.

OPPI is an undersold and under-purchased product that is increasingly becoming a preferred method for managing against catastrophic loss. Demand in 2018 is expected to expand as owners and developers recognize the need for protection and the product becomes more widely understood.

Of particular interest is also the gradual change in buying habits by design firms, who are increasingly turning to A&E policies to protects themselves from errors and omissions as well as the economic damages resulting from design mistakes and project delays. Firms specializing in structural or geotechnical engineering as well as organizations working on multiunit residential or condominium projects can expect stiffer renewal terms and conditions due to the increased number of exposures. Some carriers are even experiencing an uptick in claims connected to roadway and intersection designs. Overall, however, these firms are likely to find alternate renewal options due to the sheer number of carriers participating in the A&E PL market.

Architects & Engineers Professional Liability

PRODUCT OVERVIEW: **Architects and Engineers Professional Liability (A&E PL) Insurance insures design professionals against the errors and omissions committed during the rendering of professional services as well as the economic damages that can result from design mistakes and project delays. A variety of industry segments facing these liability exposures include architectural design firms, engineers, construction management firms, interior designers, space planners, and surveyors.**

INDUSTRY OVERVIEW

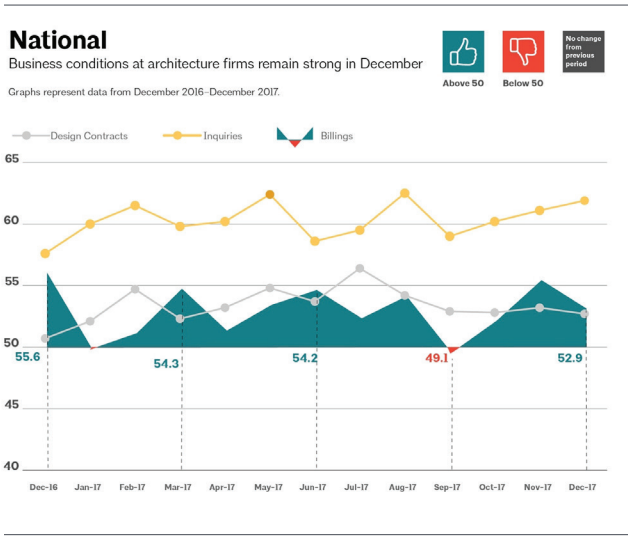
In December 2017, the American Institute of Architects (AIA) released their Architecture Billing Index (ABI). Serving as a leading economic indicator of U.S. construction activity, the ABI surveyed month-to-month, design firm billing trends. For the most part, the previous year's predictions were actualized in 2017. To the left is a graphs taken directly from the AIA December 2017 ABI.
Key takeaways include:

1. **Regional Activity** - Southern states reported the greatest growth with states in the West and Midwest reporting more modest gains. States in the Northeastern corner of the nation actually reported a slight decrease in billings.[1]

2. **Growth by Sector** - All specializations (residential, commercial, institutional) showed growth; however, design firms with a focus on institutional projects showed the least growth.[1]

3. **Positive Outlook** - Design firms continued to see increased demand for design services in 2017, evidenced by overall growth in the number of design contracts and inquiries for design services.[1]

4. **Obstacles** - Of the design firms surveyed, the three most common concerns heading into 2018 were increased firm profitability, identification of qualified staff, and the negotiation of project fees.[1]



Courtesy of the American Institute of Architects

MARKET OVERVIEW

The market for Architects and Engineers Professional Liability (A&E PL) insurance continues to be competitive with nearly 60 carriers offering A&E products. Most major players report limit capacities of $5,000,000 to $10,000,000 on admitted paper. Increased competition among carriers in this soft market has led to several favorable outcomes for design professional firms purchasing A&E PL. They include:

- Standardized policy language among most carriers for core A&E coverages
- Stable pricing despite industry wide increases in overall billings (exception: structural engineers and geotechnical engineers)
- Availability of multi-year policies with fewer underwriting restrictions
- Broadening of coverage with some carriers offering a level of defense " outside the limits" options as well as Cyber/Privacy liability coverage at little to no extra cost
- Risk management offerings including complimentary contract review services and webinars

Firms specializing in structural or geotechnical engineering as well as organizations offering services on multi-unit residential or condominium projects can continue to expect stiffer renewal terms and

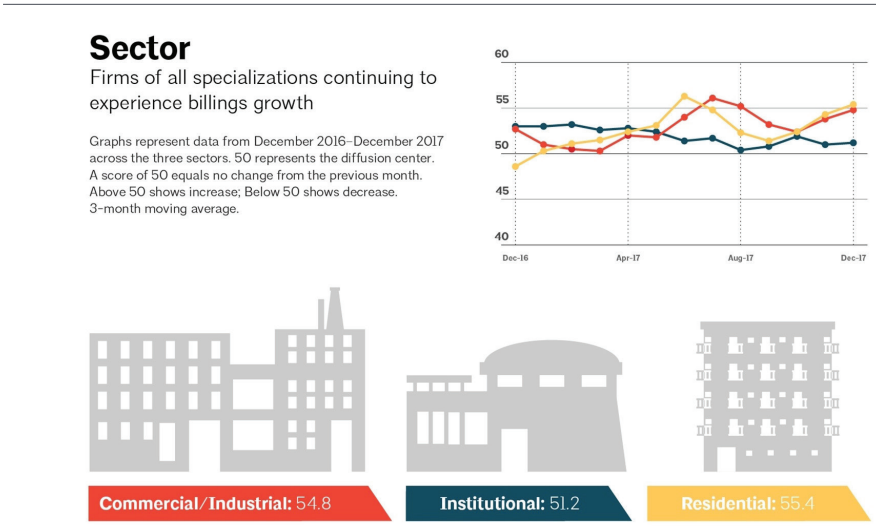
[1] *Source: AIA December 2017 ABI*

Architects & Engineers Professional Liability

Continued from page 4.

conditions due to typically heightened professional liability exposures associated with these services or project types. It is interesting to note that some carriers are also experiencing an uptick in professional liability claims connected to roadway and intersection design as automobile loss activity increases nationwide. Overall, however, these firms are likely to find competitive alternate renewal options due to the sheer number of carriers participating in the A&E PL market, unless loss history is truly poor.

It also remains to be seen if the shortage of qualified design professionals available for hire will negatively impact claim trends, especially when combined with increased project workloads industry wide.



Courtesy of the American Institute of Architects

The marketplace interest and availability for project-specific A&E policies affording dedicated PL limits to the A&E for a given project remain scarce on small projects (those generating less than $100,000,000+ in construction values).

The need for diligent policy review and coverage assessments remains as strong as ever with many carriers resorting to various "throw-in" coverages such as cyber, directors & officers, and employment practices liability insurance as a way to attract and retain buyers. While design professionals may appreciate these provisions, it is important for insurance professionals to closely review these coverages for quality and consider carrier claims expertise before touting the benefits of such extensions.

RT NEW DAY ASSESSMENT

Looking forward, RT New Day has a stable outlook for the A&E PL market with some reservations. We expect the soft market to extend into 2018 and beyond as carriers continue to compete for sustainable portions of market share. This competition is likely to be welcomed by design firms engaging in lower exposure disciplines and project types, which are expected to welcome the soft market with aggressively-priced renewal pricing.

Although no looming claim trends appear on the horizon, it is worth noting that A&E PL claim activities typically follow the construction industry; the number of A&E PL claims per construction dollar spent should remain steady but the overall amount of litigation should increase in step with the economy. This, combined with stagnant rates, could spell hardship for some carriers. In fact, the second half of 2017 saw the departure of a significant A&E PL provider from the marketplace. Fortunately, the market has not responded with substantial rating changes or underwriting restrictions. Coverage continues to be available from a variety of sources.



Contractor's Professional Liability

PRODUCT OVERVIEW: **Contractor's Professional Liability (CPrL) provides coverage for the damages arising from the professional service acts, errors, and omissions performed by or on behalf of any construction firm. Some CPrL programs offer first-party coverage, such as "protective" coverage or rectification coverage (otherwise known as mitigation). Protective coverage indemnifies the named insured for the costs it incurs (in excess of the design professional's (DP's) professional liability insurance) and is legally entitled to recover as a result of the negligent acts, errors, and omissions committed by design professionals under contract with the named insured. Whereas contractor's protective coverage supplements the DP's professional liability insurance, rectification coverage essentially replaces the DP's insurance solely in respect to the costs incurred by the named insured to remedy the design errors discovered during the course of construction and would have otherwise resulted in professional liability claims.**

INDUSTRY OVERVIEW

1. Slight decline, but forthcoming optimism in "non-building" construction – public works and utility projects increased 43% in December but dropped 2% for the year although optimism remains with President Trump's alleged $1 trillion infrastructure program.[2]

2. Substantial growth in "nonresidential" construction – institutional and educational projects climbed 14% and 5% respectively, while transportation terminal construction rose 121% over 2016 due to major airport developments. Commercial construction decreased 3% while manufacturing increased 21% over 2016.[3]

3. Moderate growth in residential construction – residential construction spending increased 2% over 2016, which saw a 9% increase over the previous year. However, residential construction increased outside of major metropolitan areas with the majority of these regions showing a decline, except for increases seen in San Francisco and Atlanta. Optimism remains with major tech and retail corporations planning developments near major metropolitan areas, which should commence in 2018.[3]

Growth in these horizontal and vertical construction industries lends itself to optimism in the construction-related insurance marketplace for continued growth in premiums.

MARKET OVERVIEW

The market continues to be competitive with approximately 25 domestic carriers offering CPrL products and one or two new entrants entering the field every year. Most major players report an on-average, limit capacity of $25,000,000 with ease of structuring follow-form excess layers offered via other carriers. Increased competition among carriers in this market has led to favorable outcomes for many firms purchasing CPrL:

- Expanding first-party coverages with carriers loosening restrictions on: protective and rectification policies; definitions covering professional services emulating A&E professional liability forms; and defense outside the limit terms, among other benefits

- Competitive pricing despite growth in revenues. Carriers have remained aggressively priced with rate reductions offered to firms showing revenue increases pending the absence of adverse claims and static service offerings

- Increased project-specific coverages for smaller-sized projects (those with construction values under $100,000,000) with more markets willing to provide dedicated limits with more reasonable pricing. The market remains relatively stable on pricing and coverage outlook on larger projects. While there

[2] *Source: Construction Dive January 2018;* [3] *Source: Dodge Data & Analytics, January 2018*

Contractor's Professional Liability

Continued from page 6.

are competitive options available on larger projects, some carriers remain hesitant to deploy dedicated heightened limits for a set term on sizable projects.

Firms specializing in single-family home construction as well as multi-unit residential or condominium projects can expect to see limited market interest and coverage restrictions due to heightened professional liability exposure in these project areas.

RT NEW DAY ASSESSMENT

With a stable to expanding market, look for 2018 to bring continual expansions in coverage and competitive rates, provided the insured remains static (no large revenue swings, change in services, claims, etc.) With the expansion of the rectification and mitigation of damages coverage, attention should also be given to the quality of claims personnel employed by carriers. Education on key issues (exposures, claims, coverage, program structure, contract specifications, etc.) will continue to play an important role in the development of this insurance line.

The need for diligent policy review and coverage assessments remains very important with new carriers continually entering the industry and existing players looking to emulate competitors with the addition of first-party coverages into their policy forms. While this expansion benefits buyers, it's equally important for carriers to clearly understand exactly what they are providing and how to handle claims under these first-party coverage parts as there's a relatively limited claims staff in the marketplace that have actually handled and adjusted first-party claims.

The frequency of CPrL claims are expected to rise in the coming year since the number of CPrL buyers has also risen and quite simply, the coverage is much broader than a year ago.



In addition, the frequency of CPrL claims are expected to rise in the coming year. This should not be a surprise since the number of CPrL buyers has also risen; first-party coverages (rectification/mitigation type claims have a shorter payout period) are regularly producing new claims; and quite simply, the coverage is broader than a year ago.

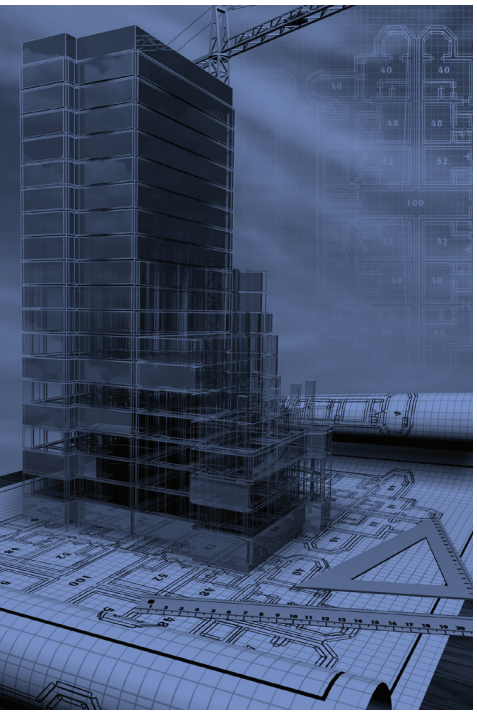
However, the greater concern is claims severity. Significant claims showed an uptick in the areas of civil, healthcare, commercial building, and habitational projects. It is not uncommon to see an eight-figure demand on CPrL claims. As more buyers enter the marketplace, first-party coverages will become more prevalent.

Furthermore, expect to see an increase in 2018 claims activities as the CPrL market matures. To see examples of lawsuits, settlements, claims and incidents, please visit **RT New Day's blog**.

The late reporting of claims by insureds will also continue to be a trend that isn't likely to disappear. Contributing factors include CPrL buyers who:

- Do not understand that the coverage is in place to insure against incidents and claims
- Do not understand the importance of formally reporting incidents and errors
- Apply the "we screwed up, we should fix it" mentality, while failing to report the claim after the fact

Regardless of the reason, insurance buyers should understand and comply with the claims reporting provisions outlined by their policies to avoid unnecessary coverage denials. Furthermore, it is critical to not assume liability since this assumption could violate CPrL policy provisions.



Owner's Protective Professional Indemnity

PRODUCT OVERVIEW: **Owners Protective Professional Indemnity (OPPI) provides project owners and developers with dedicated protection against the damages incurred from the negligent acts, errors, and/or omissions of the design professionals they hire. Relying on the practice policies of the design team leaves uncertainty to quality and availability of coverage. OPPI is intended to fill the potential gap. Three insuring agreements are available and include first-party indemnity, third-party defense, and optional excess Contractors Pollution Liability coverage. First-party indemnity, referred to as Protective, indemnifies the named insured of costs in excess of available design professional insurance. This coverage part drops down in the event a design professional's practice policy limit has been eroded. Third-party defense protects owners from the actions arising from the vicarious liability assumed through the contracting of design professionals. Optional excess CPL is available under most programs.**

INDUSTRY OVERVIEW

The popularity of OPPI policies continue to grow. There are currently nine carriers writing the first excess layer with several others only offering excess coverage for the initial layer. Demand is expected to expand as owners and developers recognize the need for protection and the product becomes more widely understood. Expect at least one new market in 2018.

Rates/Pricing -- As the demand for OPPI increases and competition remains strong with underwriting results remaining profitable, rates are expected to decrease on par with 2016 and 2017. As excess insurance, OPPI pricing is often 50% of the cost of primary project professional liability.

Capacity - Most markets can offer $10-$15 million for the first layer, while a select few can write a full $25 million. Total market capacity is between $150 million and $200 million with more limited capacity for large complex projects.

Buying Motivators -- Design professionals often carry low limits of professional liability insurance that are shared among other work performed on an annual basis. Owners and developers that recognize these limitations are looking to further protect assets and are finding OPPI an effective and economical alternative to financing catastrophic professional liability claims. Project-Specific Professional Liability (PSPL) was the historical insurance method, but the cost and limitations of PSPL as a primary coverage has often made OPPI the better cost-effective policy form.

Claims -- The frequency of claims is expected to remain minimal. As an excess insurance designed as a catastrophic backstop, OPPI will not trigger until the available underlying insurance is exhausted. However, future activity may increase as residential projects become larger portions of the OPPI marketplace.

MARKET OVERVIEW

The market for OPPI policy forms is expected to stay consistent with minor nuances between coverage forms.

Ongoing concerns include the requirement for all available underlying insurance to be exhausted before triggering OPPI coverages. Markets have confronted this issue by adding claim resolution wording in some instances.

As an excess insurance, retention obligations under the OPPI are often met by participation of the underlying insurance. If the underlying program has been eroded or unavailable then a self-insured retention (SIR) would apply. Most markets have now removed the SIR obligation under the Protective coverage part. SIR typically only applies to third-party defense coverage.

Owner's Protective Professional Indemnity

Continued from page 8.

The definition of professional services under OPPI continues to expand and track closely with architects & engineers (A&E) as an excess of these policy forms.

Professional services definitions are also expanding with terms found under more modern A&E forms such as scientist, technical consultant, construction, and project management.

OPPI often contains exclusions not found in the policies they are in excess of. Recognizing and negotiating their removal is often performed on a case-by-case basis.

Habitational risks continue to pose challenges due to Home Owner's Association concerns and other errors of repetition. Coverage for defense of a third-party claim becomes the most exposed portion of OPPI coverage in such situations. This is because markets may remove this coverage part, sublimit or attach a higher SIR to habitational projects.

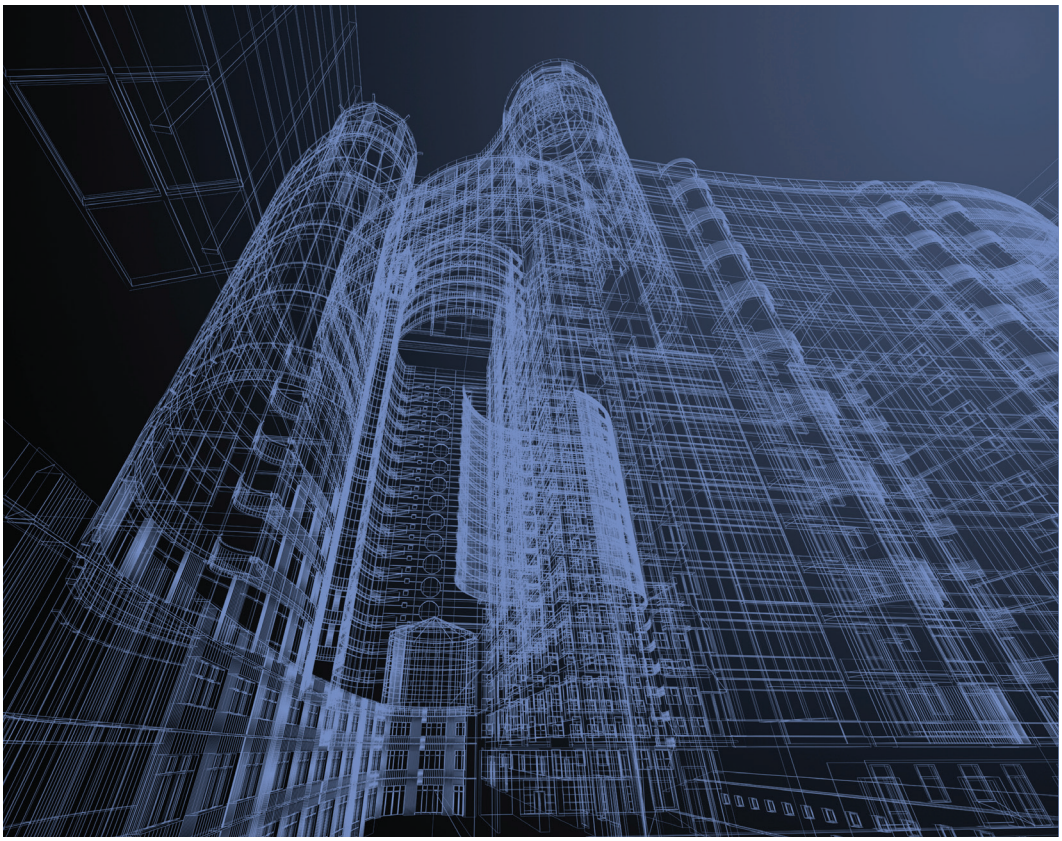
Although OPPI is often written on a per-project basis, a "rolling" annual renewal is available for owners scheduling multiple ongoing projects.

RT NEW DAY ASSESSMENT

An undersold and under-purchased product, OPPI's economic outlook remains strong among owners looking to protect assets.

Education and the understanding of OPPI benefits when compared to primary project- specific professional policies will increasingly make this approach a preferred method for managing against catastrophic loss. Expect a few new carriers to enter this market segment in 2018.

Demand is expected to expand as owners and developers recognize the need for protection and the product becomes more widely understood.





Pollution Legal Liability

PRODUCT OVERVIEW: Pollution Legal Liability (PLL) continues to be a key risk management tool to facilitate transactions of contaminated properties as well as to buoy balance sheets for large real estate assets. This claims-made coverage remained consistent during 2017 including on- and off-site clean-up/remediation expense; third-party bodily injury, property damage; and defense expense.

Coverage enhancements such as contingent business interruption and first-party diminution of value, as well as several others are readily available for inert real estate portfolios; while indemnity triggers can be utilized to address known pollution conditions identified in contaminated property transfers.

Coverage terms have been impacted over the past year, depending on the type of risk, by a combination of high profile mold claims and natural disasters ranging from Hurricanes Harvey and Irma to the wildfires in California. As a result, the marketplace has responded through restrictive coverage terms and increased underwriting scrutiny.

INDUSTRY OVERVIEW

Private Equity

2017 Deal Activity -$538.2B (represents a 9% decline from 2016)

2017 was a period of relatively flat deal volumes and declining deal value with growth in the middle market offset by fewer mega deals. The lack of growth has been driven by a sustained period of high valuations and a relative lack of quality assets.

We expect a robust deal making environment in 2018, buoyed by demand and a number of disruptive factors which we believe will drive opportunities. Tax reform could be a catalyst for increased deal activity, driven by the use of repatriated foreign cash or other factors. Activist shareholders in the US appear likely to drive an uptick in divestitures as conglomerates are pushed to break up or shed non-core assets. Evolving technology, rising populism, and political uncertainty are other factors that will create both risk and opportunity.[4]

Commercial Real Estate Markets[5]

Momentum during 2017

- Investment - UP 0-5%
- Rents - UP 2%
- Development - UP 37%
- Vacancy Rate - INCREASING
- Leasing - STABLE

MARKET OVERVIEW

New business underwriting trends continue to evolve with markets monitoring their offerings for various risk types including prospective (ongoing) coverage vs. legacy coverage for development/re-development projects/deals. Markets are also reviewing their mold capabilities with several retracting full coverage for hospitality/habitational risks.

Policy terms remained consistent during 2017. For transactional purchases, terms varied between 5 and 10 years. This remained consistent from 2017 with a few carriers offering 10-year policy terms for operational coverage, while others offered 10-year terms for transactions. For prospective coverage, the average term remained three years. The availability of 10-year policy terms for prospective coverage has all but disappeared from the landscape.

[4] *Source: https://www.pwc.com;* [5] *Source: http://www.jll.com/research*

Pollution Legal Liability

Continued from page 10.

With the increase in claim activities, rates for certain business classes have risen 5% to 10% for 10-year terms with a flat 5% increase for 5-year policy terms. Carriers are pushing rates and increasing deductibles related to mold for certain classes of business. Rates and deductibles are increasing rapidly in the energy/oil & gas space as well. Finally, minimum premiums have also increased for site redevelopment deals.

Overall, this represents a market capacity of over $300 million with a few carriers still able to provide $50 million limits; however, maximum limit deployment has been curtailed during 2017.

Buying motivators for PLL continue to fall into four categories: regulatory, contractual, lender requirements, and risk management.

PLL also continues to be the vehicle of choice for companies that must satisfy federal and state regulatory requirements for underground storage tanks and hazardous waste units.

The frequency and severity of claims dramatically increased during 2017 with seven and eight figure microbial matter/mold claims in the hospitality space. Natural disasters have also led to several large clean-up/remediation events in the seven and eight figure range. Claims have also plagued the energy sector involving pipeline risks as well as oil & gas wells.

The frequency and severity of claims dramatically increased during 2017 with seven and eight figure microbial matter/mold claims in the hospitality space. Natural disasters have led to several large clean-up/remediation events in the seven and eight figure range. Claims have also plagued the energy sector involving pipeline risks as well as oil & gas wells.



Underwriting scrutiny remains high for site redevelopment deals; hospitality exposures and the energy space. Significant amounts of underwriting information are being required to provide competitive terms for these risks.

Broad coverage is still available and widely used in the PLL marketplace including the following:

- **Defense Expense** in addition to the Aggregate Limit of Liability for risks seeking a lower limit
- **Contingent Business Interruption** coverage applies to an insured in the event it is impacted by off-site pollution conditions

However, with the recent drastic rise in mold and clean-up claims during site development, several markets are deploying the following coverage restrictions:

- Sublimits and higher deductibles or per "door" deductibles for microbial matter/mold
- Introduction of sudden and accidental mold coverage for habitational and hospitality risks.
- Voluntary Site Investigation and Capital Improvement exclusions for site development/ redevelopment risks

RT NEW DAY ASSESSMENT

Although the increased frequency of various pollution losses continue to plague the marketplace, competition remains robust due to the advent of new markets. Policy terms are expected to remain consistent during 2017 with a maximum term of 10 years. Policy terms for prospective/ongoing coverage are anticipated to remain in the one- to three year range. PLL activity during the last half of 2017 was robust in all market segments including mergers & acquisitions (M&A), real estate portfolios, and one-off transactions. Expect continued increased underwriting scrutiny for industrial and hospitality/ habitational risks as well as in the energy sector.



Contractor's Pollution Liability

PRODUCT OVERVIEW: Contractor's Pollution Liability (CPL) provides coverage for pollution conditions that occur as a result of covered contracting operations performed by or on behalf of the named insured. Available on either an occurrence or claims-made form, coverage can be purchased on a practice or project basis.

The standard CPL form typically contains the following coverages:

- Jobsite contracting operations
- Transportation by or on behalf of the Named Insured and typically all modes of transport
- Non-owned disposal site (NODS)
- Sudden/Accidental Pollution Legal Liability (PLL) for locations owned/leased/ rented by the insured in support of contracting services
- Emergency Response first-party coverage to minimize the impact of a sudden/ accidental pollution condition
- Supplemental defense limits
- Restoration coverage

INDUSTRY OVERVIEW

2017 continued to be a strong year for CPL coverage, comprising approximately 25% of the environmental insurance marketplace, equating to $1.5 billion to $2 billion in premium. Additionally, the Occupational Safety and Health Administration (OSHA) promulgated strict silica standards in September 2017, which drove new buyers in the construction industry to consider CPL coverage as the General Liability (GL) policy commonly excludes coverage for such silica exposures.

Insurance specifications requiring CPL coverage will remain the biggest buying motivator for contractors. This will also expand into the future with the proliferation of pollution insurance requirements in contract specifications. Such specifications continue to require higher pollution limits than the previous year.

As with many middle- to large-sized insurance buyers, asset protection will become the prevalent driver as contractors increase in size. Exposure education, claims, and the scope of coverage terms will also attract buyers looking beyond typical contractual requirements.

CPL claims continue to increase with less valued (less than $1,000,000) claims leading the trend. This counters its position as a low frequency/high severity line of coverage. The trend is likely due to the broad coverage terms currently provided by carriers under the microbial matter – mold, fungi, bacteria, and legionella categories of exposure.

CPL claim responsiveness remains a concern. Advantages exist for carriers using in-house claims staff in comparison to third-party claims vendors.

MARKET OVERVIEW

CPL coverage continues to expand with carrier competition. Premiums for both practice and project programs assessed on less than $50 million in construction revenue will remain stable. Conversely, carriers will remain aggressive for the larger practice/project business in excess of $50 million, largely due to the continued carrier competition.

Capacity, both on a primary and excess basis, will not be an issue. Some carriers offer as much as a $50 million limit with the average carrier typically providing between $10 million and $25 million.

Approximately 40 insurance carriers offer CPL coverage – either as a monoline program or as an endorsement to another product. Occurrence CPL coverage is common with a minimal price reduction for a claims-made product. Carriers provide varying coverage for bacteria, mold, microbial matter, legionella, silt/ sedimentation, silica, petroleum hydrocarbons, low-level radioactive waste, illicit

Contractor's Pollution Liability

Continued from page 12.

abandonment, escape of methamphetamines, medical/infec-tious/pathological wastes, and electromagnetic fields.

Coverage for microbial matter/mold/bacteria varies upon the risk, but is commonly offered on a claims-made basis, especially for high hazard projects..

Annual practice policies continue to be the preferred CPL product. However, there are more markets offering two- and three-year policy duration options. Project policies tend to extend to the 10- to 15-year range (project term plus completed operations/extended reporting period). In addition, many insureds are migrating from monoline pollution liability products to combined professional/pollution liability forms. This is due primarily to professional liability insurance inclusions within insurance specifications and the increased professional liability risk of contractors in today's construction marketplace.

Supplemental defense expenses are available from most carriers. Some even provide unlimited defense limits outside the limit of liability, while others automatically offer a $100,000 supplemental limit.

Additional coverage enhancements continue to be available for Emergency Remediation, Crisis Management, Litigation, and Subpoena Expenses. Some carriers are even providing coverage for the "green building" and/or sustainable/energy-efficient materials used in restoration events.

RT NEW DAY ASSESSMENT

Overall, expect CPL availability to remain abundant, while continuing to expand. Expect premiums to remain stable among small to mid-market businesses and softer on larger enterprises. Even with the increased frequency of mold claims, carriers have yet to restrict coverage; look for this to change either through a claims-made trigger, a higher retention applicable to mold or the removal of mold coverage altogether for high risk classes.

As with many middle- to large-sized insurance buyers, asset protection will become the prevalent driver as contractors increase in size. Exposure education, claims, and the scope of coverage terms will also attract buyers looking beyond typical contractual requirements.





General Liability/Pollution Legal Liability

PRODUCT OVERVIEW: **The Combined Pollution Legal Liability (claims-made) and General Liability (occurrence) forms provide coverage to chemical manufacturers, distributors, waste management facilities, and any other manufacturer of "environmental" products, including but not limited to storage tanks, pressure vessels, liners, pumps/valves and pollution control equipment. Significant market expansion has occurred over the past 10 years. Coverages include: General Liability (GL) including Products Pollution, Pollution Legal Liability (PLL); Contractor's Pollution Liability (CPL) (for incidental contracting services); and Professional Liability (for waste brokering and other miscellaneous professional exposures).**

INDUSTRY OVERVIEW

The capacity for General Liability/Pollution Legal Liability (GL/PLL) marketplace is expected to remain strong with re-underwriting persistent among mature carriers and insurers undergoing management changes. However, the market pressures will continue to evolve with some markets developing programs for recyclers and chemical distributors and others continually searching for new ways to compete against the traditional marketplace.

In 2018, continued attention to excess line profitability in support of GL/PLL products will be a key focus due to deteriorating auto underlying performances.

Market pressure continues in this class as new markets push to grow their books. Middle-tier markets are taking advantage of leadership changes and re-underwriting accounts to grow business outside their normal framework. Smaller markets are also lowering premium thresholds to support competitive growth.

In addition, the pricing for high-hazard, construction-related products, mass tort products will continue to remain defensive in this marketplace.

Capacity remains strong despite market disruptions, but of greater concern is how capacities are being deployed as markets seek to protect loss ratios.

The motivators for this policy form will remain consistent. The main driving forces are: (1) regulatory compliance for waste facilities where financial responsibility is needed; (2) asset protection; and (3) products with pollution exposures.

Additional motivators include insureds seeking coverage for unique or unusual exposures such as products pollution, site time elements for non-owned locations, and odor problems that are not readily available in the traditional market¬place Tailoring coverage in this arena remains a viable strategy for showing value and distinguishing products from competitors.

Private equity acquisitions for environmental accounts continue to occur as industries such as recyclers and chemical manufacturers continue to evolve and expand.

MARKET OVERVIEW

Carriers are increasingly scrutinizing the site and pollution portion of risks that had previously been underwritten. As a result, stricter standards have been put in place due to legacy loss and preventive underwriting issues. This includes auto loss severity, which continues to penetrate into excess, impacting how fleets will be classified and the capacities allowed.

In addition, GL/PLL are increasingly being scrutinized with capacities limited depending on exposures. There is also little, if any, tolerance for oil and gas related products.

The underwriting of these products tightened significantly in 2017. However, despite heavier underwriting approaches, new markets, programs and middle-tier markets have pushed modest cost increases down.

General Liability/Pollution Legal Liability

Continued from page 14.

Carriers are increasingly scrutinizing the site and pollution portion of risks that had previously been underwritten. As a result, stricter standards have been put in place due to legacy loss and preventive underwriting issues.

Professional liability coverage (added as an additional coverage part or by endorsement to the GL/PLL) is still available for industries related to waste brokering and limited waste operations. Insureds are continuing to expand the scope of the professional service covered in this space. In addition, business interruption (BI) coverage has become more prevalent in the environmental casualty forms in 2017 as a result of increasing uninsured BI losses in the traditional property marketplace.

RT NEW DAY ASSESSMENT

The continued narrowing of appetites by individual carriers can be anticipated as the market expands and pushes competition, resulting in rate increases. Mature markets are also still in a heavy underwriting mode with books challenged by middle-tier carriers, who benefit from the narrowing appetites, market disruption, and pricing push.





General Liability/Contractor's Pollution Liability/Professional Liability

PRODUCT OVERVIEW: **The Combined Environmental Casualty Program (GL/CPL/PL) provides general liability (GL), contractors pollution liability (CPL), and professional liability (PL) to a specific market segment consisting of environmental contractors, waste transporters, environmental consultants or a combination thereof, and oil/gas/energy contractors. Only a few insurers offer complementary coverage such as Workers' Compensation, Auto, and Excess.**

INDUSTRY OVERVIEW

The market is becoming increasingly competitive with new players pushing for more share, while driving down prices. This is especially true for small market carriers, which are pushing the envelope and writing larger accounts with mature carriers underwriting their books.

Leadership changes and acquisitions have also impacted underwriting approaches, while narrowing underwriting appetites. For instance, most environmental carriers have pulled back from offering oil & gas account coverage.

In addition, the decreasing number of carriers in the auto marketplace, along with limited workers compensation, has emboldened all-lines markets to remain firm on their pricing and programs. As a result, middle-tier carriers have also continued to capitalize on the changing market with low-cost options that will help support their growth.

Additionally, the markets continue to re-underwrite New York-based risks with several markets stepping out of New York entirely due to the severity of action-over claims.

Because of the refined carrier appetites, pricing remains inconsistent, especially on new business. That said, carriers are looking for increases related to auto exposures including 5% to 7% on primary and equal amounts on excess. This not only applies to hazardous waste haulers, but also to consultant related fleets. In addition, the market seeks to buffer auto layers in order to consider accounts with heavier fleets.

Although stable, the market will likely expand with selective product offerings. The re-underwriting of capacities impacted or subjected to higher-layer premiums will result from continued mergers. Carriers will also carefully manage capacity with the market depth creating opportunities for new markets to push on capacity.

Throughout the year, many accounts are expected to look for the benefits of a combined program that offers economies of scale and sometimes broader coverage than split lines. These accounts will continue to stretch the environmental space as carriers seek to maintain market share by considering this competitive environment. The contractual requirements of many business partners will also motivate the purchase of combined environmental policies with flat and non-auditable coverage forms providing additional cost controls as GL/CPL/PL becomes increasingly popular among contractors.

This will happen with an increased focus on environmental bodily injury and property damage coverage forms. Although the market will not broaden to include professional exposures, e.g. design. Over the last 18 months, careful re-underwriting actually drove away business with exposures that were less environmental in nature.

MARKET OVERVIEW

The market will continue to apply a conservative underwriting approach with mature markets looking to refine their appetites. Some carriers will also seek to grow their books with a focus on higher layer excesses.

General Liability/Contractor's Pollution Liability/Professional Liability

Continued from page 16.

In addition, small markets and newer markets as well as carriers will offer all-lines approaches, while increasingly offering coverages that are more in line with monoline placements to help sell accounts. This includes expansions such as defense outside the limit coverage or adding pollution products to a contractor form.

The coverage form itself is expected to remain conservative with many carriers carefully deploying limits and rewriting forms. This also includes:

- Fleet exposures of all types being scrutinized
- Impact to excess and excess limits as a result of auto exposures remains a key concern
- Professional liability lines carefully underwritten to cover exposures beyond environmental
- Contractors and consultants who provide both design and product installation services continuing to heavily scrutinize in this increasingly tightening marketplace

Small and newer markets as well as carriers will offer all-lines approaches, while increasingly offering coverages that are more in line with monoline placements to help sell accounts. This includes expansions such as defense outside the limit coverage or adding pollution products to a contractor form.



RT NEW DAY ASSESSMENT

The market remains competitive. Carriers will continue to expand the market, while placing increased pressure on top-line growth. In addition, underwriting will push back on limits and coverages to counter increased claims activity.

The focus on auto-related accounts will also remain high. However, while competition will be rampant, the auto accounts with loss issues will continue to struggle with the accompanying excesses reflecting the changing market.

Furthermore, the second- and third-tier markets will remain strong as they capitalize on evolving markets. Anticipate flat to small increases, except for auto related accounts.