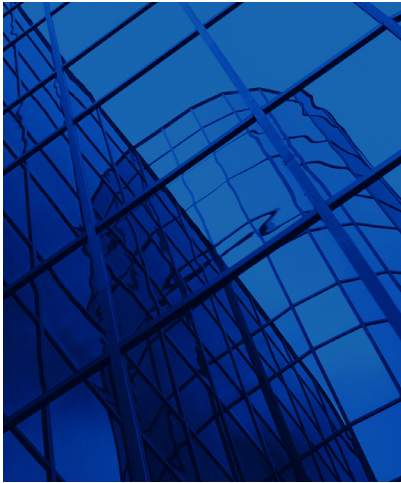




2020 Market Update



The 2020 Market Update was developed to help the insurance industry at-large overcome environmental and construction-related professional liability challenges with best-in-class, strategic risk management solutions.

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2020 Market Update

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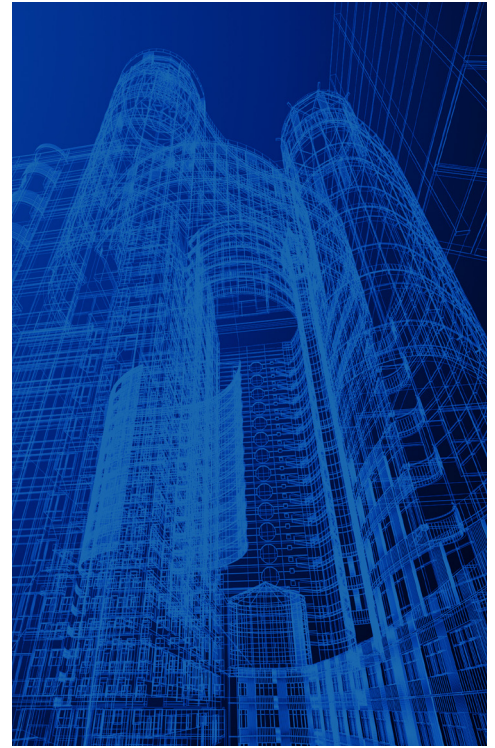
Introduction

RT Specialty's Environmental and Construction Professional (RT ECP) Practice is dedicated to helping agents, brokers, and their clients navigate the complex commercial insurance marketplace by identifying 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.

Our 2020 Market Update — an annual recap of the environmental and construction-related professional liability insurance industry with predicted trends for this specialty niche — represents the collective knowledge of our RT ECP specialists. This includes an annual survey of our staff to define the “state-of-the-marketplace,” while offering insights into this highly-specialized field. In addition to uncovering specific market trends, the 2020 Market Update reviews the strategies needed to overcome challenges and protect against the risks that can potentially financially cripple businesses.

RT ECP anticipates an increase in claims activity in 2020 across all of our coverage platforms resulting from the COVID-19 (coronavirus) pandemic. We are closely monitoring the environmental insurance marketplace and the potential availability of coverage depending on policy wording and the specific circumstances of each claim.

Throughout this report, the 2020 Market Update offers insights and trends information into the following environmental and construction-related professional liability coverages.



- **Contractor's Pollution Liability (CPL)** – In the CPL marketplace, lines of coverage remained soft and stable compared to other lines. Claims have increased during 2019. Coverage continues to be robust with several markets introducing two and three year terms, which include premium credits.
- **Pollution Legal Liability (PLL)** - The PLL marketplace has continued to grow for various reasons including increased contractual and lender requirements. Claims are on the increase mostly due to microbial matter exposures. As a result, the marketplace has responded with more restrictive coverage terms and underwriting scrutiny relative to mold and redevelopment exposures. Expect the demand for PLL to remain strong through 2020.
- **General Liability / Pollution Legal Liability (GL / PLL)** – The capacity for GL / PLL continues to remain strong but carriers are watching the marketplace closely and evaluating their product due to the increased scrutiny of regulators on emerging contaminants. During 2020, we anticipate carriers to continue tightening their underwriting to overcome increasing loss ratios.
- **General Liability / Contractor's Pollution Liability / Professional Liability (GL / CPL / PL)** - Auto premiums have continued to increase while excess premiums have started to rise as well. Carriers are paying closer attention to accounts with design liability and specifically working to stay within their appetites. Expect continued increases in premiums in 2020 and for carriers to continue to restrict limits and coverages.
- **Architects and Engineer's Professional Liability (A&E PL)** - This coverage saw overall growth during 2019 in all sectors, especially commercial and industrial projects. Expect this coverage to remain stable through 2020. Although carriers may seek higher premiums, they likely will not be successful due to the level of competition in the marketplace.
- **Contractor's Professional Liability (CPrL)** - With over 25 markets offering CPrL, this marketplace remains extremely competitive, helping to keep premiums fairly stable. As a result of this competitive market, we expect 2020 to offer opportunities for flexibility and enhancements over previously placed policies.
- **Owner's Protective Professional Indemnity (OPPI)** - OPPI rates are decreasing with continued demand and profitable underwriting results. Placements have increased in the past several years and we expect them to remain strong through 2020.
- **Real Estate Developers (RED) Professional Liability** - This coverage continues to grow and has expanded to four carriers with RED offerings. We expect 2020 to exhibit slow but steady growth similar to the national construction marketplace.

Contractor's Pollution Liability (CPL)

PRODUCT OVERVIEW

Contractors Pollution Liability (CPL) covers pollution conditions resulting from the covered contracting operations performed by or on behalf of the named insured. Coverage is available for all contractors at all tiers, usually on an occurrence basis.

INDUSTRY OVERVIEW

2019 continued to be a strong, but relatively quiet year for CPL. The lines of coverage remained soft and stable compared to other lines like Excess and Automobile Liability, which experienced sizable rate increases.

Insurance specifications, asset protection, and the awareness of pollution claims remain the strongest buying motivators for this coverage.

Claims activity increased in 2019 including the payout of six- and seven-figure damage amounts associated with mold / bacteria and emergency response conditions. According to an RT ECP analysis of 1,200 contractors purchasing CPL coverage, approximately 1 in 16 contractors experienced a CPL claim during 2019, a 30% increase over the previous year – a trend that is likely to continue since the breadth of coverage provided by the market has never been broader.

MARKET OVERVIEW

Capacity within the CPL marketplace remained strong within the coverages offered by several individual carriers providing up to \$50 million in per claim / aggregate limits. Likewise, the procurement of excess coverage is generally not a concern. The rates within this market are also expected to remain aggressive for this low frequency, high severity line of coverage. Correspondingly, claims exceeding six and seven-figure damage amounts are more common than ever before. As a result, insureds that have experienced claims should expect higher renewal rates.

Carriers remained aggressive for the larger practice / project business (\$100 million+) largely due to carrier competition.

Annual practice policies also continued as the preferred CPL product. However, an increasing number of markets are now considering two- and three-year policy options with 20 percent to 30 percent discounts when compared to the premiums of other annual programs that tend to span 10- to 15-years with extended reporting periods for completed operations.

In addition, occurrence CPL coverages are common and readily available throughout the market. Carriers continued to broaden their products in 2019 with common forms covering bacteria, legionella (a form of bacteria) microbial matter, silt / sedimentation, silica, petroleum hydrocarbons, illicit abandonment, medical / infectious / pathological wastes, and electromagnetic fields.

Supplemental defense expenses are available from most carriers with some insureds providing defense expenses that exist entirely outside the limit of liability.



2020 OUTLOOK

The 2020 calendar year is expected to include:

- The entry of two to three new CPL carriers in a market accompanied by potential acquisitions and consolidations
- Soft-stable rates for insureds with flat exposures and clean loss reports
- One area where expansion could be seen is large civil and infrastructure projects where a combined CPL/PLL program or a newly formed Project Environmental policy may be the optimal solution.
- Insurance specifications with increased per claim / aggregate project limits
- Mono-line CPL insurance programs combined with CPL / Contractors Professional coverage approaches

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Pollution Legal Liability (PLL)

PRODUCT OVERVIEW

Pollution Legal Liability (PLL) is a risk management tool commonly used to facilitate contaminated property transactions and buoy the balance sheets of large real estate assets. Typical PLL coverage benefits are applicable to virtually every industry that owns, leases, acquires or divests real estate. In 2019, this claims-made coverage consistently managed the on- and off-site clean-up / remediation expenses; third-party bodily injury, property damage; and defense expenses associated with the following industries including Commercial / Habitational Real Estate; Manufacturing; Healthcare; and Education industries to name a few.

INDUSTRY OVERVIEW

Despite the continued hardening of the property and casualty marketplace during 2019, the demands for PLL have continued to grow due to rising contractual and lender requirements; insureds in several risk classes seeking robust mold coverage; as well as a risk management hedge for redevelopment deals. Additionally, the commensurate uptick in pollution claims over the past several years has continued to drive PLL coverage.

MARKET OVERVIEW

Coverage terms have been impacted in recent years by the types of risk and a combination of high-profile mold exposures, rising legionella claims, natural disasters, site development claims and the growing focus on emerging contaminants such as per- and polyfluoroalkyl substances (PFAS).

The PLL claims on RT ECP's book of roughly 1,000 insureds with this type of policy were analyzed from 2014 to 2019. This included the type and percentage of claims that impacted the Commercial and Habitational Real Estate, Hospitality, Healthcare, Education, Manufacturing, and Transactional industries. The analysis found that:

- 36% were related to Microbial Matter
- 24% were from spills / leaks
- 19% resulted in soil / groundwater contamination
- The remaining claims included Legionella, asbestos / lead based paint, vapor intrusion, transportation and underground storage tanks.

The frequency of PLL claims continued to increase in 2019 mostly due to the microbial matter exposures afflicting the habitational, hospitality, healthcare and education industries. Over 80% of these claims in the RT ECP book involved clean-up, business interruption, and restoration costs.

As a result of the increased frequency and severity of these claims, the marketplace responded with more restrictive coverage terms and underwriting scrutiny. However, new PLL entrants have pushed the marketplace to provide coverages with enhanced terms and conditions, while keeping rates fairly consistent.

Coverage enhancements such as contingent business interruption, defense outside the limits, and first-party diminution of value are readily available for inert real estate portfolios. Indemnity triggers are also continually being utilized to address the known pollution conditions identified in contaminated property transfers.



2020 OUTLOOK

RT ECP expects the demand for PLL to remain strong based on the continued global and domestic investment in U.S. real estate throughout 2020. Although the increased frequency of various pollution losses continues to plague the marketplace, competition remains robust due to the advent of new markets. Policy terms are expected to remain consistent throughout 2020 with a maximum term of 10 years. Prospective and ongoing coverage forms are also anticipated to remain in the one- to three- year range. PLL activity during the last half of 2019 was robust in all market segments including mergers and acquisitions (M&A), real estate portfolios, and one-off transactions. Expect a continued increase in underwriting scrutiny for industrial, hospitality, habitational, healthcare, energy sector, and development / redevelopment risks.

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General Liability / Pollution Legal Liability (GL / PLL)

PRODUCT OVERVIEW

The Combined Pollution Legal Liability (claims-made) and General Liability (occurrence) forms generally 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 that includes some broadening of the appetites for high hazard products. Additional coverage is also readily available for specific professional liability services such as waste brokering and other miscellaneous professional activities.

OVERVIEW

While the capacity for the GL / PLL marketplace remained strong during 2019, carriers are re-evaluating the marketplace and their products based on the increased scrutiny of regulators on emerging contaminants, rising litigation of claims, costly effects of natural disasters nationwide and the hardening of the property and auto markets. As a result, the changing and re-underwriting of forms, narrowing of individual carriers and the bandwidth and sensitivity of limits have become prevalent throughout the marketplace.

In addition, the continued attention to the excess line profitability of GL / PLL products in 2019 will likely continue during 2020 due to deteriorating underlying profitability of automobile liability (auto) policies. The acquisition of a few environmental carriers by traditional markets is also expected to impact all lines capabilities as a way to balance pricing within the struggling and shrinking mono-line auto market. Concerns over broader coverage forms and social inflation judgments have also invaded the combined policy space that includes Automobile coverage. Consequently, the carriers of these combined GL / PLL and auto policies have also increased their pricing for heavier fleets due to the high financial responsibility associated with the extensive travel and use of these vehicles.

High-hazard, construction-related and mass tort products are expected to remain firm as carriers tighten their underwriting standards.

Despite disruptions in the marketplace, capacities will remain strong although concerns exist for how these capacities and coverage restrictions are enforced by carriers, particularly as they relate to long-time site pollution exposures and the management of loss ratios.

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

Market expansion and capacity on primary layers have not abated. The key drivers impacting the environmental marketplace mirror the traditional space. Auto and its impact through the tower is indistinguishable among markets and bear the same pressures.

All of the various environmental program parts, which without auto would provide catastrophic coverage exposures on their own (i.e., business interruption, non-owned disposal sites, products exposures including emerging contaminants and specific site constituents), are all being more heavily scrutinized, while experiencing higher deductibles and greater underwriting sensitivity.



2020 OUTLOOK

During 2020, RT ECP anticipates that the appetites and excess capacity of carriers will continue to be impacted as carriers tighten their underwriting to overcome increasing loss ratios. Underwriting behavior in this space projects that carriers will continue their retreat from excess exposures for larger or heavier fleets (typically anything over 50 units). It is also anticipated that continued scrutiny of previously underwritten site pollution risks will continue. RT ECP also expects that carriers will attempt to employ higher deductibles on core coverages including hostile fire and PLL, which will impact pollution terms and coverages.

Carriers are re-evaluating the marketplace and their products based on the increased scrutiny of regulators on emerging contaminants, rising litigation of claims, costly effects of natural disasters nationwide and the hardening of the property and auto markets.

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

PRODUCT OVERVIEW

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

OVERVIEW

In 2019, we saw continued premium increases on auto as well as the start of increases on excess. Larger carriers with all-line capabilities have narrowed their bandwidth to focus on the types of contractors they will insure. This includes re-underwriting appetites and restricting auto heavy accounts or limits. In general, there is currently limited tolerance for frequency or large losses.

Particular attention is being paid to the professional liability of accounts exhibiting more design liability or exposures that extend beyond the market appetite for environmental coverage forms. As a result, carriers are being more disciplined and consciously working to stay within their appetites.

Markets are also continuing to re-underwrite New York-based risks with several carriers stepping from the marketplace entirely due to the severity of action-over claims.

Industry mergers have led to the re-underwriting of capacities and higher base premiums.

Throughout the year, many accounts are expected to emphasize combined programs offering economies of scale, auto capabilities and broader terms and conditions as opposed to split lines of coverage. They will also continue to stretch the environmental space to maintain market share, while increasing their competitiveness. This includes motivating the purchase of combined GL / CPL / PL policies with flat and non-auditable coverage forms and additional cost controls as these environmental coverages become increasingly popular among contractors.

In addition, the markets have adopted a conservative underwriting approach with mature markets looking to refine their appetites and protect loss ratios especially when auto exposures are the driver. The typical coverage form itself is expected to remain conservative with many carriers carefully deploying limits and rewriting forms. This includes:

- Scrutiny of all types of fleet exposures
- Impact of auto exposures to excess policies
- Careful underwriting of professional liability lines to cover non-environmental exposures



2020 OUTLOOK

The increase in pricing to protect top line growth will be the priority during 2020. In addition, expect carriers to continue to push back on limits and coverages to counter increased claims activity especially with respect to auto. Carriers are already pushing back on heavy fleets with a \$2 million requested attachment point for larger fleets. Acquisitions with additional fleet exposures will be difficult to transact. The continued construction growth remains a favorable trend, but premiums and limit requirements will keep pace.

Carriers will scrutinize auto, while continuing to narrowly underwrite and being attentive to the potential for large losses and professional liability of construction products, which include long-tail, completed-operation exposures. Expect increases of 5 percent to 25 percent depending on the degree of exposure.

Particular attention is being paid to the professional liability of accounts exhibiting more design liability or exposures that extend beyond the market appetite for environmental coverage forms.

Architects and Engineers Professional Liability (A&E PL)

PRODUCT OVERVIEW

Architects and Engineers Professional Liability (A&E PL) insures design professionals against damages resulting from their acts, errors and omissions. Expect most admitted carriers to offer coverage for pollution incidents arising out of professional services within the base policy form, with a growing number of markets also incorporating some degree of coverage for technology services and cyber liability.

INDUSTRY OVERVIEW

In January of 2020, 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 at a national, regional and industry-specific level. Key takeaways include:

- **Regional Activity** – Compared to last year, three of the four regions (South, Midwest and West) experienced architectural billing growth, although those headquartered in the Northeast saw a minor softening.
- **Growth by Sector** - All specializations (residential, commercial, and institutional) demonstrated an expansion; however, design firms with a focus on commercial and industrial projects experienced the greatest rate growth.
- **Positive Outlook** – The design firms surveyed reported optimism heading into 2020 and placed a high degree of importance on existing client referrals and the specialization of their professional services when successfully bidding new jobs.

MARKET OVERVIEW

Market conditions for A&E PL remained soft throughout 2019, and even saw the entry of another market. A continued abundance of market players, and a lack of any serious increase in claims activity has resulted in a high degree of competition amongst carriers and favorable market conditions for purchasers of A&E PL. This includes:

- Standardized policy language among most carriers for core A&E PL coverages
- Stable renewal ratings, despite industry wide increases in overall billings (exception: structural and geotechnical engineers as well as any discipline engaging in multi-unit residential projects)
- Multi-year policies available with fewer underwriting restrictions
- Broadened appetites among some carriers that include supplemental defense expense limits and single-aggregate deductibles for claims-free insureds
- Risk management offerings including complimentary contract review services and webinars

While most firms can expect favorable renewal terms, market conditions are likely to be more stringent for some key specializations. These include structural engineers, geotechnical engineers, staking surveyors and some larger architectural firms engaging in design-build, whether led by the professional or the contractor. In addition, any design firm working on multi-unit apartments, condominiums or residential subdivisions should also expect tighter market conditions due to the increased claims activity in these sectors. As a result, these firms have increasingly turned to the Excess and Surplus (E&S) markets for cost-efficient solutions.



2020 OUTLOOK

RT ECP's outlook towards the A&E PL marketplace in 2020 remains stable and largely in line with prior years. While carriers may desire higher rates, the present competition within the marketplace will likely keep these efforts to a minimum, although exceptions will exist for the higher-risk classes specified above. An eye should also be kept on construction industry claims trends, which are likely to push carriers toward the correction of the soft market conditions that have existed over the past few years.

While most firms can expect favorable renewal terms, market conditions are likely to be more stringent for some key specializations.

Contractor's Professional Liability (CPrL)

PRODUCT OVERVIEW

Contractors Professional Liability (CPrL) provides coverage for covered damages arising from professional service acts, errors, and omissions performed by or on behalf of any construction firm.

INDUSTRY OVERVIEW

With economic growth slowing, it is predicted that total U.S. construction starts in 2020 will decline by 4 percent from 2019. This includes the decline of commercial building starts by 6 percent and the drop of multi-family starts by 13 percent. In contrast, public works construction projects are expected to rise by 4 percent.¹ In fact, the best-performing segments in 2020 are likely to involve the construction of highways, streets and transportation facilities (i.e., airports, transit, ports and railroads) as well as projects within the power and energy sector (i.e., solar and wind, possibly including offshore wind, and pipelines).² This reflects the recession fears that currently exist throughout the marketplace and the overall 1 percent dip in 2019 construction projects.

MARKET OVERVIEW

The marketplace remains competitive with over 25 markets, and while most are still providing capacities at the \$25 million level, a handful of carriers will still offer \$50 million in capacity. Competition has also helped to keep CPrL premiums stable for most firms. Some markets are even beginning to flatten their rates, although some are assessing rate increases or considering the reduction of capacities for construction firms engaged in more complex delivery methods. Additionally:

- Faulty Workmanship coverage availability has grown considerably in the CPrL marketplace as a method for covering against the covered errors and omissions claims arising from the workmanship of the insured's self-performed work or use of defective materials or products during their work. Whereas, previously there was only one market consistently offering this coverage, there are now three carriers offering coverage with others "dabbling" in similar offerings.
- The increased offering of defense costs outside the limits of liability applicable to Professional Liability in addition to pollution coverage parts, is also a noteworthy development in the CPrL marketplace.
- Carriers continue to push rates on design build services, especially the larger civil and infrastructure work, as a result of the negative experience they are seeing on claims.
- Rectification and mitigation coverage may also be an area to watch as carriers are seeing a solid flow of claims coming from various sized contractors, regardless of the project type.

2020 OUTLOOK

As other lines tighten across the marketplace, CPrL may undergo similar transitions. While this has not been experienced on a grand scale, the importance of thoroughly evaluating the product offerings and insuring agreements offered by carriers is paramount. The competitive nature of the marketplace continues to offer opportunities for flexibility and enhancements over previously placed policies when the proper questions are asked.



2020 OUTLOOK (CONTINUED)

As additional carriers seek to improve their policies through the offer of more comprehensive coverages, diligent policy reviews and coverage assessments have become increasingly important. Carriers may believe they are providing certain coverages, but without the appropriate, affirmative language clearly demonstrating intent it would be risky for insureds to make coverage assumptions without the proper due diligence. The importance of sophisticated claims approach should also not be underestimated, particularly in light of the increase in CPrL claims and their severity. The timely reporting of claims and potential claims should be emphasized with insureds so that the full protection of the policy is enacted when needed and not negated through reporting mistakes and errors.

Faulty Workmanship coverage availability has grown considerably in the CPrL marketplace as a method for covering against the covered errors and omissions claims arising from the workmanship of the insured's self-performed work or use of defective materials or products during their work.

¹ (<https://www.construction.com/news/Construction-Starts-Slip-back-2020-Dodge-Data-Analytics>)

² Ken Simonson, Associated General Contractors chief economist <https://www.constructionequipmentguide.com/economists-make-2020-construction-predictions/46986>

Owner's Protective Professional Indemnity

PRODUCT OVERVIEW

OPPI continues to gain popularity among owners and developers looking for a cost-effective tool to manage covered catastrophic design risk. OPPI provides insureds with broad excess above design professional insurance (Protective Indemnity), along with a primary defense against third-party claims. Optional Contractors Pollution Liability (CPL) and Pollution Legal Liability (PLL) can be included to protect against additional covered construction and real estate related pollution risks. Generally cost effective, OPPI policies are typically:

- Easily obtained and managed when compared to industry alternatives
- Frequently written with retroactive dates and extended reporting periods that can cover project design / construction professional exposures over a 15-year period
- Designed to provide more certainty when the availability and quality of design professional insurance is difficult to confirm throughout the project's lifecycle
- Often structured with "difference in coverage" terms and conditions in the event the underlying policy is deficient in coverage
- Offered as the primary protection for the named insured against third-party claims alleging the responsibility for design error damages
- Written to cover a single project or span multiple projects through "rolling" programs

MARKET OVERVIEW

There are approximately 12 carriers now providing "primary" OPPI coverage forms with several secondary markets offering coverage in excess of the initial OPPI layer. Most markets can provide \$10 million to \$15 million limits on the primary layer, while several offer up to \$25 million. Total market capacity is between \$100 million and \$150 million with most markets providing 10-year extended reporting periods.

With continued demand and profitable underwriting results, rates are decreasing, although the habitational risks associated with these policies are continually posing challenges. As a result, the third-party defense coverage has become a key insuring agreement on certain habitational projects due to the increased chance of the claims made against owners.

In addition, OPPI policies have witnessed an increasing interest, which has resulted in the heightened purchase of "rolling" programs, enabling the enrollment of additional projects during the policy period. Each enrolled project maintains its own policy and extended reporting period. This concept makes financial sense for certain owners and developers with a pipeline to similar projects.

Interest in OPPI on smaller projects also continues as the product's popularity grows. The market has responded with an improved appetite for projects under \$50 million in construction value.

As the market matures and policy counts increase, the number of significant claims will continue to climb. Many OPPI markets are also continuing to write architects / engineers and contractors professional liability policies, which have expanded the relevant claims handling experience of these markets. As an excess coverage, there may be concerns about triggering the OPPI due to the inability to exhaust underlying policies. However, proactive claims resolution wording is available to promote the closure of litigation.

OPPI policies have witnessed an increasing interest, which has resulted in the heightened purchase of "rolling" programs, enabling the enrollment of additional projects during the policy period.



2020 OUTLOOK

OPPI placements have increased over the past several years and should remain strong through 2020 as owners and developers continue to recognize its many benefits. This is recognized by the increasing number of entrants into the market over the past two to three years. Furthermore, look for more carriers to offer companion environmental products such as CPL and PLL to further support OPPI protection levels.

Real Estate Developers (RED) Professional Liability

PRODUCT OVERVIEW

Real Estate Developers (RED) Professional Liability protects against covered losses arising from negligent acts, errors and omissions committed during the performance of real estate development professional services. RED policies generally combine the features of professional liability insurance for design professionals, contractors, real estate professionals and owners into a broader solution that can be customized for the real estate industry. This includes those with modest ownership, firms providing services to third-party investors, or sophisticated real estate developers and owners looking for comprehensive risk management programs.

MARKET OVERVIEW

The popularity of RED Professional Liability continues to grow. Since its introduction in 2009, the RED market has expanded to four insurers offering standalone products as well as numerous other construction and miscellaneous professional liability carriers providing coverage on an ad hoc basis through a variety of professional liability product vehicles.

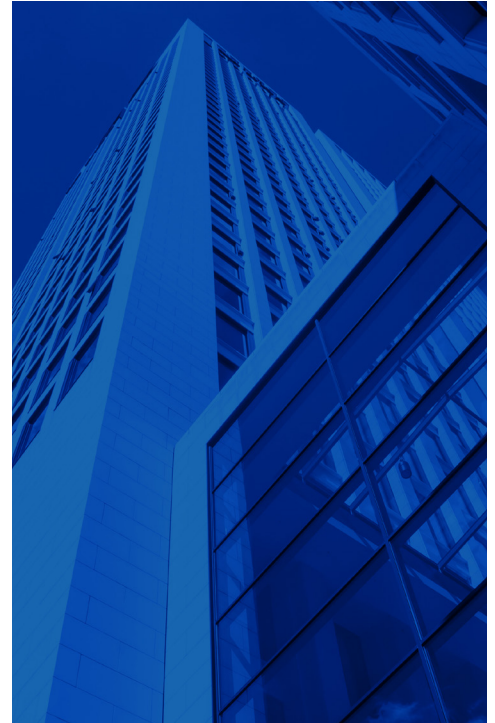
Primary players report an average limit capacity of \$5 million with ease of structuring follow-form excess layers offered via other carriers. RED carriers are, in general:

- Expanding the first-party coverage features more commonly found in the contractors professional liability arena such as protective and rectification terms and conditions. This frequently includes a wider scope of professional service definitions providing the “coupling” of real estate fund Errors and Omissions (E&O) coverage parts and defense outside the limit terms, among other benefits.
- Following the lead of construction professional liability insurers by becoming more selective on the residential projects and project delivery methods they cover.

2020 OUTLOOK

The RED Professional Liability insurance market is expected to mirror the slow but steady growth of the national construction marketplace. This includes the product’s ongoing growth among developers, who are continuing to invest in this expansive, practice-wide RED program rather than protecting against risks on a project basis via an OPPI policy, service/profit-center options, or specific property management E&O coverage forms. In short, some risk managers still prefer to purchase coverage on an as-needed and funded basis as opposed to the “Cadillac” approach offered by RED policies. Look for this trend to continue in 2020.

Education on key issues (exposures, claims, coverage, program structure, transition from more limited coverage offerings, etc.) will continue to play an important role in the development of this insurance line. With ongoing volatility within the insurance market, and with RED carriers in particular, attention should also be given to the sophistication of carriers’ claims response.



2020 OUTLOOK (CONTINUED)

The need for diligent policy review and coverage assessments remains very important with marked coverage disparities existing among standalone RED and miscellaneous professional liability carriers.

Claims trends will continue to be severity driven, yet favorable overall across the industry. Given that the historical product performance of this product has continually met the internal expectations of insureds, more RED carriers can be expected to enter the marketplace as an increasing number of traditional construction professional liability carriers stretch their focus into the real estate professional liability marketplace.

RED carriers are expanding the first-party coverage features more commonly found in the contractors professional liability arena such as protective and rectification terms and conditions.



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