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# MAKE ADJUSTMENTS TO FIND MARKETS

## E&S experts share their knowledge

We asked excess-and-surplus lines market experts to discuss various aspects of the marketplace: how it has evolved, and how the current trends will affect it. They also offered their tips on what professional insurance agents need to know about this market to make writing policies easier, and more.

***EDITOR'S NOTE: PIA Northeast conducted this interview prior to the COVID-19 outbreak.***

These experts include: **Robert Aheart, ARM**, senior vice president, RT Specialty; **Mark Angelucci, CPCU, ARM,** senior vice president, specialty casualty business segment, Founders Insurance, a member company of the Utica National Insurance Group; **Robert Vito Del Rosso,** president, Genatt Specialty Insurance; **Michael Hayes,** practice leader, staffing programs, Jimcor Agency Inc.; **Steve Levin,** vice president, Northeast region, Risk Placement Services; **Michael Maher,** vice president, business development, EverGuard Insurance Services; and **Barbara Simpson, CPCU, ARM, ARe, CRIS,** vice president property & casualty, Russell Bond & Co. Inc.

When asked what they most enjoyed about working in the E&S marketplace, the central theme was that they like the market because they are able to write unique risks. They also enjoy the creativity of the market. It is more than just checking boxes on a form. In the E&S world—because it is not in the admitted marketplace—they have the ability to work with underwriters to create their own policies. It is about building relationships with the underwriters. Most of the carriers will work with them to help a client find a policy. Here is what else they had to share with *PIA magazine's* readership.

## Tell us about your company's expertise in this market.

**Aheart:** My unit, Binding Authority, specializes in placing risks that fit within the authority that a carrier has delegated to our underwriters. The lines of business include, but are not limited to, property, casualty, umbrella/excess, inland marine, flood, personal lines, workers' compensation, and more. In general, these risks are smaller, while our counterparts in RT's brokerage units handle the larger and more complex risks. However, we work seamlessly with those brokers to simplify the quote acquisition process for our customers.

**Angelucci:** Founded in 1901, Founders Insurance always has focused on unique risks, and started providing organizations with liquor legal liability coverage in 1959. Founders joined the Utica National Insurance Group in 2010. We actively write in 22 states—including New York, Connecticut and New Hampshire. Our focus is on bars, taverns and high-liquor-sales restaurants. We have capacity for all types of risks with a liquor legal liability exposure, including special events coverage. Our long-term commitment to this line of business allows us to react to changes in hospitality/recreational exposures with a focus on being a consistent, reliable market. Our claims staff is seasoned in handling the unique claims generated by this line.

**Del Rosso:** Arguably, our more than 60 years of experience in the industry; three generations of the Genatt family ownership; the best in the business personnel, and the hands-on, white-glove customer service unconditionally qualifies us as tried-and-tested insurance professionals. Many of our clients are decades-old customers. We've experienced many hard (seller's markets) and soft (buyer's markets) market cycles, and despite them we have managed to retain our clients, and provide them with unparalleled service and products during these interesting times. Our relationship with, and the access to, the global and domestic marketplaces, including our property binding facility with Lloyds of London (which writes almost 25% of the E&S risks in the world), enables and empowers our office to meet and exceed our customer's expectations.

**Hayes:** I have specialized in writing workers' compensation for the temporary staffing industry for more than 22 years. Over this period, I have written and managed a book of business in excess of $100 million in premium. Jimcor's program is written on a nationwide basis and offers guarantee cost programs as well as deductibles. I am able to use my experience to guide agents through the complex submission process and work with our carriers that specialize in this industry. Workers' compensation in the temporary staffing industry is a unique product with a lot of moving parts, making the underwriting process complex; we guide our agents through this process.

**Levin:** Risk Placement Services is a wholesaler that works with 24,000 retail agents. It writes all segments of business (e.g., personal lines, professional liability, construction and workers' compensation). While we have a large standard-line admitted business, we can write almost anything in the E&S marketplace. In our Northeast offices, we have 15 people who work specifically on small, medium and large accounts. We write a big part of our business in the Northeast in construction (40%). Construction has its own challenges—specifically in New York because of the state's labor laws. However, the market remains competitive and premiums continue to be significant. It does not appear that this will change any time soon.

**Maher:** EverGuard Insurance Services is one of only a handful of program administrators or MGAs that specialize in the restaurant, bar, tavern market niche. For decades, EverGuard exclusively has written RBTs as our only business and our program has only been offered on a nonadmitted basis. The longevity and size of our program with the same carrier speaks to the stability, reliability and expertise of our program.

**Simpson:** Russell Bond's is a wholesale broker that has worked with licensed insurance producers to provide solutions to their client's unique, specialty and E&S insurance needs since 1950. Our specialized groups offer a broad range of products (e.g., professional, property/casualty, personal lines, transportation and financial institutions). As a wholesale broker, it is essential to follow emerging trends, and develop creative solutions for our brokers that the traditional standard market are not providing. Our reputation in the traditional E&S markets precedes us, so for this article, I'll focus on a growing specialized hard-to-place product—the cannabis business; it's a smoking topic.

## What are some trends that you are seeing in this particular market?

**Aheart:** Generally speaking, the two main things I have seen are capacity decreases and rate increases. Recently, I read that Marsh's Global Insurance Market Index showed property rates up 13.1%; casualty up 2.9%; and financial and professional liability up 17.8% in the fourth quarter of 2019. I have not seen such large increases in New England yet, which generally is not considered catastrophe-exposed, but I believe that we will start to feel the effects trickling over in 2020. We have seen some property and umbrella/excess markets looking to reduce their capacity per risk in small business already.

**Angelucci:** The strong economy is providing bars and taverns with a steady and increasing stream of customers, which is vital to the financial stability of this class of business, which in turn, is sensitive to the economy. The market is active for us. New carriers enter, and then, exit the market quickly, which can create disruption for agents and their wholesalers.

**Del Rosso:** The overall direction of the universal marketplace is one of: premium increases (due to industry losses exceeding premium collected over the past several years and the reluctance to price accordingly to retain accounts); capacity compression (limits available for purchase); industry mandates that insureds participate to a greater degree in self insured retentions/deductibles (more skin in the game); and as a result of the aforementioned, the perennial, stringent re-underwriting of accounts traditionally "rubber stamped" by underwriters in the past.

Bottom line is, customers' insurance expenses will be greater this calendar year and into next than they were last renewal. In many cases, they will have to negotiate coverage, deductibles and limits purchased to help offset the certain premium increases.

**Hayes:** Continued growth in the workers' compensation market is expected to be a trend in 2020; the temporary staffing industry has grown continuously over the last decade. Emerging risks continue to grow as recruiting expands through nontraditional channels brining new exposures. Technology continues to be a growing trend with sites such as LinkedIn, Facebook and Instagram presenting new challenges. Another trend in the marketplace is the shortage of talent and high competition.

**Levin:** Specific to New York construction, the marketplace continues to be firm. It's an exciting and challenging segment of the market, because you never know what's going to be thrown your way.

**Maher:** With the catastrophe losses of 2017-19, the RBT business owner is being confronted with coverage changes and premium increases. The standard markets absent the ability to adjust their filings quickly enough are withdrawing from the RBT market while the nonadmitted E&S programs have the ability to move with the increased rate needs in order to continue their program offerings without interruption. What's most important to our independent RBT owner is that his insurance carrier can cover the risks and assets of the business appropriately. For example, standard market underwriters may decline risks for quoting because of potential assault & battery exposures and a subsequent loss is likely. They won't risk writing the policy for that single reason because they are bound by filed forms. That same risk could be considered in a surplus program in which that essential A&B coverage can be offered, albeit on a sub-limited coverage basis.

**Simpson:** Marijuana dispensaries are fastest-growing sectors in the U.S., and it is expected to hit $80 billion in sales in 2022. The insurance market is volatile and it requires brokers to partner with E&S wholesalers that specialize in this product, and also can educate them. There are a limited number of carriers writing this business, and forms and coverage options vary greatly—often leaving gaps in coverage. It is essential that brokers understand what they are selling to their clients.

## How has this market evolved over the years?

**Aheart:** Carriers ask me for premium volume each year, but large recent, industrywide catastrophe losses and low interest rates have shifted their priority to increasing the profitability of their books of business. At different times in my career, I have seen companies pick their moments to strike on various lines of business that they believe they can grow healthier than their competitors have. However, today I feel like there are not as many outliers.

**Angelucci:** First, society has become more aware of the dangers of drinking and driving, which has improved the operating environment. Easier access to taxis and ride-sharing services can reduce the need for people to drive while impaired. Second, in a number of states, the legalization of cannabis has increased the chance for people to be impaired from another source, and it creates some new potential loss circumstances. And third, in their efforts to attract customers, bars have some creative recreational diversions (e.g., axe throwing and crash rooms), which create some additional exposures for this line.

**Del Rosso:** We think the evolutional need of the E&S marketplace continues to grow. Years ago, the E&S market was considered a residual, poorly securitized last-means-of-resort resolution. However, over time underwriting product, financial strength and underwriting expertise has become quite sophisticated, and could even be referred to as a niche industry. Other notable reasons for the gradual and deliberate emergence of the surplus-lines market are the new and increased exposures to loss not contemplated previously. Beginning in the 1980s, this space became necessary because admitted markets nonrenewed exposures on a wholesale basis that produced poor loss ratios; the frequency and severity of unprecedented weather-related claims (e.g., wind, storm surge, floods, prolonged rain events, and wildfires); and the legal and regulatory issues that can complicate positive results. It seems apparent that whenever the admitted market decides to either exclude certain coverages or limit their distribution, the E&S carriers spring into action with a product.

**Hayes:** There is explosive growth within medical staffing and this growth is expected to continue. The insurance market is more competitive with more carriers in the space—compared to 20 years ago. Those that are writing staffing, continue to tighten underwriting guidelines, and they are making fewer exceptions.

**Simpson:** Early American colonists grew hemp to make ropes and textiles. Cannabis and hemp are not new; rather understanding the medical benefits of cannabis is a new concept. However, some people believe that cannabis usage is morally unacceptable. Further, the government and public need to be convinced that cannabis is not a gateway drug.

There has been a huge step in progress with the recent passage of 2018 Farm Bill, which removed hemp (CBD) from the list of Schedule 1 substances. And, the USDA announced a pilot program for hemp producers in 21 states (including Maine and New York) in 2020. Additionally, the banking and insurance industries are making progress with some of the Secure and Fair Enforcement Banking Act and the Clarifying Law Around Insurance of Marijuana Act.

Still, much work needs to be done until all states legalize cannabis, and it becomes legal at the federal level. Until then, this product will continued to be dominate in the E&S marketplace, and will not go mainstream in the near future.

## What is it about this market that makes it a challenge?

**Aheart:** For years, it was easy to find competitive pricing and coverage when competing for new business, and we were able to quote renewal pricing flat with no changes in coverage. Now—since the hardening market and social inflation have created rate inadequacies for carriers—there is a new reality that wholesalers have to explain to retail customers, who then have to explain to their end consumers. Like many of my customer contacts, I have only read about a hard market, so I can sympathize with the surprise and challenge that this message of firming poses.

**Del Rosso:** It's a challenge to construct policy terms and conditions that customers can understand and afford—and that will respond to, and pay their claims. Frequently, we say that the most expensive policy purchased is one that does not pay your claims. Our office has never proposed policies from carriers that are not at least "A" rated by A.M. Best.

**Hayes:** From a wholesale perspective, there are fewer carriers willing to write workers' compensation business. The ones with a program are becoming restrictive, and they are looking for staffing firms that are the best in class. Fewer exceptions are being made on marginal accounts. Gathering all of the underwriting information is one of the biggest challenges, as carriers require more information than if they were underwriting other common risks.

**Levin:** The challenge for a wholesaler is making sure our customers (i.e., retailers) know as far in advance what's happening regarding rate increases, etc., so they can prepare their clients for the changes. If a client has a $50,000 premium that is going to jump to a $100,000 renewal in a few days, he or she is not going to be happy. It's important that we set expectations with our customers.

**Maher:** The greatest challenge to the RBT market always will remain the loss development of the program. The nature of the exposures, when alcohol related, unfortunately will develop serious shock losses that will test the liability defense temperature of the most experienced claims professionals. The severity of a loss when alcohol is an alleged contributor has driven both settlements and jury awards higher without regard to possible liability defenses that may have been present.

**Simpson:** First, the disconnect between state and federal laws regarding legality makes it a challenge. Additionally, we are getting conflicting market knowledge, as other carriers change their underwriting guidelines or appetites on this class. The two top claims for this industry involve theft and product liability. Recently, vape devices were under scrutiny due to recent vaping pneumonia illnesses. Second, another challenge has been reinsurance. Since cannabis is not legal (federally), most reinsurers are unwilling to provide coverage. Another challenge is that the product is so new that companies are estimating whether rates, forms, and exclusions will hold up in the event of unforeseen losses.

## Is there something that most people don't know about this market?

**Aheart:** The most common misconception I have seen during this transition is the idea that every wholesaler's Lloyds access is the same. We often receive requests to take over another MGA's Lloyds policy, but it is not quite that simple because every MGA has negotiated their own "version of Lloyds" with different rates, coverages, and authority. In fact, many MGAs have multiple versions that have different attributes. So, just because you have a policy written with Lloyds that is changing at renewal, not every wholesaler's policies will necessarily be changing in the same way.

**Del Rosso:** Some clients may know less than others, but it's clearly apparent to most that the E&S marketplace is alive, well, flourishing, and continues to be a vital space for the success of the admitted market and consumers alike. We dare say few know how dependent we are upon the London marketplace in the U.S. In 2018, A.M. Best reported that the world-renowned Lloyds of London Market (c. 1686) accounted for an estimated $11-12 billion excess-and-surplus lines direct written premiums in the U.S. This figure represented approximately 24% of the total reported E&S lines premiums written that year—its global writings that year were more than $35.5 billion. It's a staggering percentage of dependency! If Lloyds ever decided to reduce its involvement—either domestically or globally—that would greatly affect our markets in the U.S.

**Hayes:** Staffing firms make placements in almost every industry sector from blue-collar to highly skilled and high-paid individuals (e.g., medical staffing and nuclear technicians). The majority of people think that temporary placements are on a short-term basis, but some placements can last for years.

**Levin:** Not really. In all aspects of the E&S markets, rates and premiums are going up across the board. Carriers are losing money in certain segments, which is why it's important to communicate with clients about rate changes.

**Maher:** The E&S market has been the go-to market in the RBT niche for years, and producers who are experienced in this segment have long been familiar with the market and its benefits.

**Simpson:** Something that most people don't know about this market is that when hemp was removed from the list of Schedule 1 substances it didn't make all products legal to sell. Hemp products are regulated by the FDA, and they must meet all the FDA requirements and standards—one of which is that hemp CBD cannot be added to food product or dietary supplements that is sold in interstate commerce.

## Where do you see this market headed in the future?

**Aheart:** Service will be a major differentiator again. RT is moving in the direction of agent-facing technology for the small-business market to allow our retailers to have more control during the quoting process. In 2019, we began rolling out technology that allows agents to go online and quote/bind/issue their transactional business themselves within minutes. If it does not fit the appetite of the carriers that are part of this system, pre-filled ACORD applications kick out directly to the RT underwriter they have selected, and the risk will be quoted traditionally.

**Angelucci:** I see the market continuing to leverage its creativity and understanding of the risks to adjust to new and evolving exposures presented by these businesses.

**Del Rosso:** The need for the E&S lines industry will continue to proliferate exponentially. The demand always will exist for legacy risks and those new ones emerging daily. Perfect examples are: the 9/11 attacks and the creation of terrorism insurance; e-commerce incidents, and the design of cyber security insurance; and random shootings/killings, and the advent of active assailant insurance. The E&S industry will continue to react quickly to the need for the new, the complex, and the unwanted risks of the admitted markets.

**Hayes:** I think the temporary staffing industry will continue to grow, and I see technology playing a vital role. Market capacity could be a problem as carriers frequently come and go. There is the possibility of a carrier developing an online quoting program for a few select industries.

**Levin:** There is still a lot of construction taking place across the Northeast, especially in New York. It's fair to say that rates and premiums are not going to decrease any time soon. In fact, I suspect that they will remain consistent, if not increase in the future.

**Maher:** Growing in importance to the RBT owners who operate their businesses with exposures that standard markets have no appetite to cover.

**Simpson:** In the near future, the cannabis market will explode, and be one of, if not the largest segments of the industry. The carriers and producers who currently are shying away from the business will be forced to join the marketplace. Also, we envision a federal status at some point—when that happens the standard markets will take all of this business.

## What do agents need to know about this market?

**Aheart:** Proactive messaging will be important for retaining renewal business, so that insureds will be less likely to shop around (to try to keep their policies at expiring terms and conditions that may not exist anymore). If a conversation is had far enough in advance to explain the industry-wide changes, and that multiple agents are not necessarily needed to shop around in the E&S world, insureds can budget or plan for the change and some of that anxiety might be reduced. I think services and proprietary value-adds will be important for agents to differentiate themselves.

**Angelucci:** The coverage forms in E&S are *not standardized*. The coverage issued may be different from what you requested. Retail agents need to check the coverages, limits and deductibles carefully, and point out any changes to their customers. This needs to be done even on renewals, as coverage and premium notification requirements that apply to admitted carrier business do not necessarily apply to E&S business. As an insurance agents' E&O carrier (Utica National Insurance Group member companies), we frequently see claims when this step was not completed.

**Del Rosso:** Brokers must understand their client's need is directly associated to the exposure they choose to insure. They need to be realistic in their expectations (whether a risk belongs in the admitted or the E&S market). They need to realized that any risk that does not qualify for an admitted placement will likely be subject to nonstandard/limited coverage forms, larger deductibles and higher than customarily accepted pricing. They have to understand that extensive and mandatory filings must be made for each risk placed with E&S carriers. Also, they need to know that state taxes and fees (normally included in admitted premiums), are levied in addition to premiums quoted. If brokers adhere to these basic tenets of E&S placements the process will flow effortlessly.

**Hayes:** Agents need to make sure their insureds are aware of how important it is to utilize their best risk-management practices continually. This includes everything from on-site inspections, client selection, accident investigation and early return to work.

**Levin:** Agents need to tell their clients that rate increases are here—with as much advance notice as possible. That way their clients can prepare for the increases. No one likes surprises.

**Maher:** They should choose tested quality program administrators with A.M. Best rated carriers that have superior service, experienced underwriters and long-standing relationships with the same carrier. Terminated programs putting out nonrenewal notices every year or two impacts negatively on the producers and their agency more than the program itself.

**Simpson:** My advice to agents is for them to do their own R&D of the cannabis landscape—work with a reputable and knowledgeable specialized wholesaler that focuses on this space and obtain specimen policies. Learn and understand all phases of the chain from "seed to sale," including but not limited to, grow operations, cultivation, processing, manufacturing and dispensaries; and some of the ancillary operations (e.g., testing, tracking, delivery, and security activities). All this needs to be covered and be in compliance with the various state laws, and the insurance companies requirements on such items as safe and vault requirements, training and background checks on the bud tenders, proper labeling of products and tracking the from seed to sale.

*Czupryna is* PIA magazine's *editor-in-chief.*