RT ENVIRONMENTAL & CONSTRUCTION PROFESSIONAL

Market Update

2022

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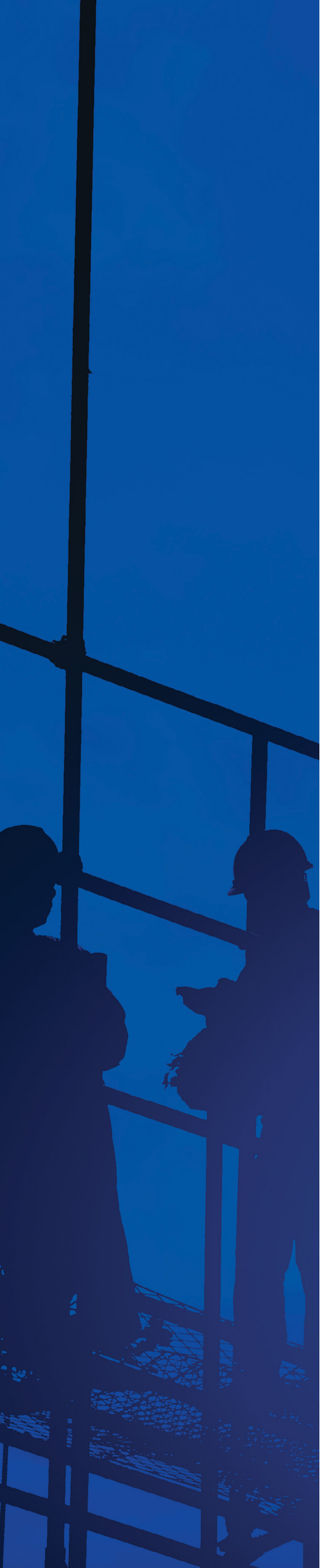

2022 MARKET UPDATE

RT ENVIRONMENTAL & CONSTRUCTION PROFESSIONAL

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2022 MARKET UPDATE

INTRODUCTION

The RT Specialty Environmental and Construction Professional (RT ECP) team has dedicated the past 16 years to helping agents, brokers and their clients identify effective risk management solutions available within today's complex commercial insurance marketplace.

The 2022 Market Update represents RT ECP's view of the environmental and construction-related professional liability insurance trends currently confronting this specialty niche. It also contains the collective knowledge of our RT ECP specialists, who were surveyed along with the representatives of many of the nation's leading carriers to provide what we believe is an insightful look into the "state-of the-marketplace" and the conditions we feel are likely to impact this highly specialized field. Our goal throughout this annual recap is to provide information we hope will help the marketplace. The 2022 Market Update reviews strategies designed to overcome industry challenges and strategically protect against the risks that can potentially impair a business' bottom line.

Through this effort, RT ECP anticipates an increase in claims activity during 2022 across all of our coverage platforms due to the ongoing impact of the coronavirus (COVID-19) pandemic and a continued increase in social inflation. As a result, we continue to closely monitor the marketplace and the potential availability of new coverage forms; changes to policy terms, conditions, and exclusions; and the increased scrutiny placed on specific claims areas by carriers.

As an example, here are some of the insights and trends highlighted within the 2022 Market Update:

- **Contractor's Pollution Liability (CPL)** – Despite the impact of COVID-19, CPL continued to have a strong 2021 as demonstrated by its growth within every U.S. region. Correspondingly, several additional markets emerged with increased capacity. Rates even turned the corner and stabilized after being soft for the past 10 to 15 years. However, COVID-19 did force some CPL markets to restrict their position on communicable disease exposures.

- **Pollution Legal Liability (PLL)** – During 2021, the PLL marketplace showed resiliency after a stagnant 2020 as a result of the COVID-19 pandemic. The U.S. economy has shown signs of modest growth during 2021 as evidenced by an increase in development projects; mergers and acquisitions; and private equity transactions. With the pending passage of a potential $1 trillion hard infrastructure package in Congress, we expect to see a significant increase in the need for environmental insurance including PLL in 2022. Claims in this space continued their upward trajectory due to the increase in microbial matter, disinfection expenses (likely due to COVID-19), and soil and groundwater contamination. As a result, many carriers responded with more restrictive coverage terms and underwriting scrutiny relative to these mold and redevelopment exposures.

- **General Liability / Pollution Legal Liability (GL / PLL)** – GL / PLL is under heavy scrutiny. We anticipate price increases to accompany the capping of limits based more on the types of risk than on an account's individual experience. We also expect an increase in exclusionary language for emerging contaminants.

- **General Liability / Contractor's Pollution Liability / Professional Liability (GL / CPL / PL)** - Despite the many choices from carriers and heavy competition for larger accounts, the accompanying lines, namely auto and workers compensation, have driven many insureds to the larger markets, which have not relented on rate increases. Other concerns seem to be lower tolerance for losses among carriers and expanded exclusionary language included in policies. We anticipate this trend to continue in 2022.

- **Architects and Engineer's Professional Liability (A&E PL)** - The A&E PL space is beginning to show signs of tightening after nearly a decade of soft market conditions. While a wide variety of insurers continue to compete for business, we expect a greater number of carriers to seek rate increases on a broader range of disciplines and project types.

- **Contractor's Professional Liability (CPrL)** - While competition remains heavy among the 30-plus CPrL carriers, we anticipate a 2% to 5% rate increase throughout the market. Design / build and engineering / procurement / construction are the project delivery methods most likely to experience increases, along with the potential for agency construction management liability issues.

- **Owner's Protective Professional Indemnity (OPPI)** - OPPI rates are decreasing due to continued demand and profitable underwriting results. Placements have increased in the past several years and we expect them to remain strong through the remainder of 2021 and throughout 2022.

- **Real Estate Developers (RED) Professional Liability** - This coverage continues to grow. Four carriers now offer RED coverage. We expect 2022 to grow slowly, but steadily in accordance with the national construction marketplace.

2022 MARKET UPDATE

CONTRACTOR'S POLLUTION LIABILITY (CPL)

OVERVIEW

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

Even with the impacts of COVID-19, CPL appeared to have a strong year showing growth across all regions of the United States. Correspondingly, additional markets emerged providing increased capacity. Rates also turned the corner and seemed to stabilize after being a soft market over the past 10 to 15 years, although some CPL markets may have restricted their position on communicable disease exposures due to COVID-19.

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

As in 2020, claims activity appeared to increase in 2021. Mold, bacteria, and the emergency response of sudden & accidental pollution conditions both at jobsites and at owned locations seemed to be the loss leader for CPL claims. We routinely saw damages in the six to seven-figures.

Capacity in the CPL marketplace remained strong with several individual carriers providing up to $50 million in per claim / aggregate limits. Likewise, procurement of excess coverage is generally, in our experience, not a concern. Rates appeared to stabilize in 2021 when compared to recent history.

Annual practice policies – often paired with the Contractor's Professional Liability - appeared to be the preferred product for most insureds. Markets continue to offer two- and three-year policy options for monoline pollution products, equating to notable premium savings.

Project-specific programs continue to be a popular alternative solution, especially for large projects that require substantial limit of liability or a prolonged completed operations time period. Such programs can be structured to include an owner-controlled insurance program (OCIP) or contractor-controlled insurance program (CCIP) endorsement, which typically provide expanded coverage to all contractors at all tiers. Such project policy durations can span 15 to 17 years once the project term and completed operation time period is included.

Occurrence CPL coverage continued to be readily available, with restrictions on mold / bacteria coverage for some classes of risk. 2021 saw the increased use of communicable disease exclusions, although some carriers elected not to change the breadth of coverage provided.

2022 OUTLOOK

We expect 2022 to include:

- Expanded capacities with new CPL carriers entering the market
- Stable rates for insureds with flat exposures and clean loss reports
- The greater proliferation of insurance specifications that include broader pollution requirements, increased per claim / aggregate project limits, and completed operations. We expect this to be magnified upon passage of the pending $1T Infrastructure Bill before Congress.
- The continued coverage form's steady progression from a monoline CPL insurance program to combined CPL / Professional programs
- Carrier introduction of a solution for infrastructure projects vs. standalone CPL and Pollution Legal Liability coverages for contractors / owners / developers or other stakeholders with equity interest.

2022 MARKET UPDATE

POLLUTION LEGAL LIABILITY

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 apply to virtually every industry that owns, leases, acquires or divests real estate. In 2020, this claims-made coverage, in our experience, consistently managed the on- and off-site clean- up / remediation expenses; third-party bodily injury, property damage; and defense expenses associated with industries including Commercial / Habitational Real Estate; Manufacturing; Healthcare; and Education to name a few.

Overall PLL demand has increased dramatically as the U.S. Economy continues to emerge from the COVID-19 pandemic. So far in 2021, global mergers and acquisitions have totaled a record $2.4 trillion, up 158% from the same period last year, according to a Refinitiv Deals Intelligence report from June 2021. That marks the highest year-to-date total going back to 1980 when Refinitiv's records began (the first quarter was also a banner few months for M&A).[1]

Though deals in May totaled slightly less than those in April, they still topped $500 billion globally (at nearly $533 billion) for the third consecutive month (graphic below),and notched the highest ever May total. Deals involving at least one U.S. company (worth some $274.2 billion for May) slumped 3% from the month prior.[1]

Coverage terms have likely been impacted in recent years by the types of risk and a combination of high-profile mold exposures, rising legionella claims, natural disasters, contaminated 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 were analyzed from 2015 to 2020. 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 claims with the most frequency are as follows:

- 36% were related to Microbial Matter
- 24% were from spills / leaks
- 19% resulted in soil / groundwater contamination

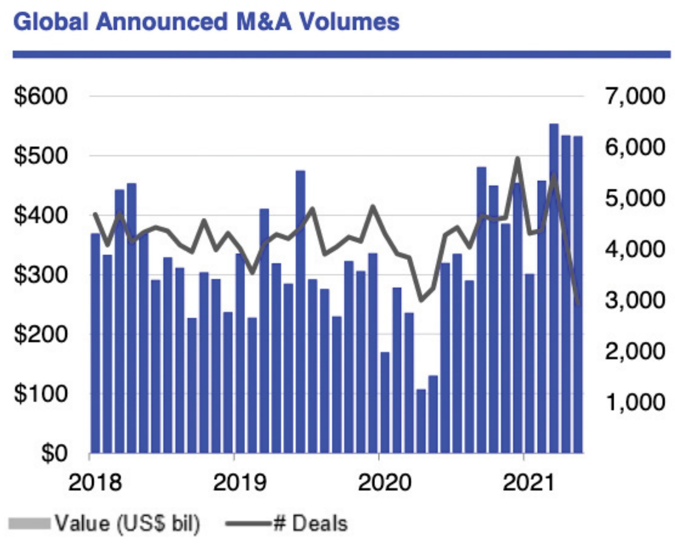
In our experience, coverage enhancements such as contingent business interruption, defense outside the limits, and first-party diminution of value continue to be readily available for inert real estate portfolios. Indemnity triggers are sometimes used in hopes that these triggers will address the known pollution conditions identified in contaminated property transfers.

2022 OUTLOOK

RT ECP expects the demand for PLL to grow as we continue to emerge from the COVID-19 pandemic and the number of site development and mergers & acquisitions / private equity deals continue to rebound. We also see environmental insurance requirements on the horizon as a result of the pending $1T Infrastructure Bill due for passage in Congress during Q4 2021. Although we anticipate the increased frequency of various pollution losses to continue to plague the marketplace, we expect the competition will also remain robust due to the advent of new markets.

We expect policy terms to remain consistent throughout 2022 with a maximum term of 10 years. We also anticipate that prospective and ongoing coverage forms will remain in the one- to three-year range with the occasional five-year term.

We expect a continued increase in underwriting scrutiny for industrial, hospitality, habitational, healthcare, energy sector, and development / redevelopment risks as well as markets with certain exposures/classes of business.



[1] https://fortune.com/2021/06/02/mergers-acquisitions-2021-m-and-a-record-year-spacs/

2022 MARKET UPDATE

GENERAL LIABILITY / POLLUTION LEGAL LIABILITY (GL / PLL)

OVERVIEW

The combined Pollution Legal Liability (claims-made) and General Liability (occurrence) policy forms are designed to provide coverage to chemical manufacturers, distributors, waste management facilities, and any other manufacturers 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 to include a wider range of high-hazard product appetites. Additional coverage is also, in our experience, readily available for specific professional liability services such as waste brokering.

The GL / PLL landscape changed dramatically over the past year. The tightened marketplace was likely exacerbated by the growing emergence of contaminants, rising litigation of claims, costly effects of natural disasters and of course, COVID-19's overall impact on the economy. RT ECP expects GL / PLL to be adversely impacted albeit on an indirect basis from other lines of coverage, specifically property and automobile liability.

Despite the impact of these challenges, several industries, including those within the chemical field, appeared to prosper due to the increased need for disinfectants and / or services and products needed throughout the pandemic.

Starting in 2021 and proceeding into 2022, we expect insurers to both protect and increase their books of business with more exclusionary endorsements. In the coming year, we anticipate contaminant exclusions such as per- and polyfluoroalkyl substances (PFAS) and / or limitations added to products pollution coverages. We also expect the appetites for these policies to become continually restrictive, especially among the environmental accounts with oil and gas exposures. Without the proper due diligence, we anticipate many carriers may also pull back from their site coverages, which may make it more difficult to move accounts from incumbents with broad PLL coverage terms.

We expect that concerns over broader coverage forms, social inflation judgments and, more recently, climate change concerns will continue to invade this combined policy space. Nuclear verdicts / settlements (excess of $10 million) may also fuel the market's need for rate.

High-hazard products exposures, potable water, products and services, and construction-related products seem to have the potential to turn into mass tort class action claims, which may continue to encourage carriers to tighten their underwriting standards.

Finally, we expect that the hardening property market, which was dramatically impacted by the rise of severe storms, wildfires and other catastrophes in recent years will also see significant price increases and larger deductibles. If this occurs, many insureds may be forced to choose how their insurance dollars are spent, which may push environmental, often considered a discretionary purchase, out of favor.

Despite the disruptions in the marketplace, we expect the capacities for this policy form to remain strong although we suspect concerns do exist for the ways these capacities and coverage restrictions will be enforced by carriers. This is expected to be particularly true for long-time site pollution exposures and the management of loss ratios.

The market expansion and capacity on a primary layer appear to have abated. The key drivers appear to mirror the traditional space. For instance, we expect that auto and its impact through the tower will likely remain indistinguishable, while bearing the same pressures.

Carriers continued to pull back limits when affording excess cover over these programs and not affording any pricing relief for lesser limits. Drivers for lowering limits aside from auto liability exposures also include all of the various environmental program parts that would potentially provide catastrophic coverage exposures on their own (i.e., business interruption, non-owned disposal sites, products exposures including emerging contaminants and specific site constituents). In our experience, all have been more heavily scrutinized and many times underwritten with higher deductibles.

2022 OUTLOOK

During 2022, RT ECP anticipates that the appetites and excess capacity will continue to be impacted as carriers tighten their underwriting to overcome increasing loss ratios. We expect this will lead to more exclusionary and protective language such as the restrictions on broad site coverages that do not accompany the proper due diligence.

GENERAL LIABILITY / CONTRACTOR'S POLLUTION LIABILITY / PROFESSIONAL LIABILITY (GL / CPL / PL)

OVERVIEW

The combined Environmental Casualty Program (GL / CPL / PL) generally provides general liability (GL), contractor's 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 some combination thereof. Only a few environmental casualty markets offer complementary coverage such as Workers' Compensation, Automobile Liability and Excess Liability.

Similar to the GL / PLL, RT ECP expects the GL / CPL / PL to be adversely impacted on an indirect basis from other lines of coverage, specifically automobile liability. In 2020, many skilled and qualified environmental contractors capitalized on the market, and augmented sales and / or grew their client bases through the offer of COVID-19 cleaning / disinfection services. This growth, in many instances, accompanied the willingness of a select group of carriers to insure these companies.

However, the economies of scale for this coverage form will likely be challenged in 2022 as we expect carriers to continue to shy away from flat programs. This could coincide with the reluctance of most carriers to relent on price. We expect it will also likely result in the reduction of savings that were once available for shared limits.

In 2022, we anticipate carriers in this space will increasingly look to protect their loss ratios, while maintaining a limited tolerance for the frequency of claims or large losses.

Mergers and acquisitions remained constant as a result of many smaller insureds selling to larger, more resilient firms that were better able to adapt to the COVID-19 environment and capitalizing of availability of income.

In our experience, many carriers also pushed back on the standard endorsements for coverages. Carriers who in the recent past did not charge for additional insureds, waivers of subrogation, and primary and non-contributory terms and conditions are now looking to charge and / or not cover additional insureds in some situations. We expect to see more force majeure type exclusions for wildfires, climate change and even controlled substances on excess.

Furthermore, we anticipate that carriers in the coming year are likely to pay more attention to the insured's professional liability exposures including their increased design liabilities or the exposures that extend beyond the market appetite for environmental coverage forms. We base this prediction on the more disciplined approach of carriers, who are now, in our experience, consciously working to stay within their appetites, while choosing not to broaden the standard professional liability coverage grants afforded under these policies.

We have seen markets also continue to re-underwrite New York-based risks with several carriers exiting the marketplace entirely due to the severity of action-over claims.

In addition, we have noticed many carriers have adopted a conservative underwriting approach with several mature markets looking to refine their appetites and protect loss ratios. We expect the typical coverage form to remain conservative with many carriers carefully deploying limits and rewriting forms. We expect this will include a greater scrutiny on the underwriting of professional liability lines covering non-environmental exposures.

2022 OUTLOOK

We expect the increase in rate to protect top line growth will be a 2022 priority.

We anticipate that carriers will not relent on scrutinizing auto, while continuing to narrowly underwrite and focus on the insured's potential for large losses and the professional liability of construction products, which include long-tail, completed-operation exposures.

We expect increases of 5% to 25% depending on the degree of exposure and line of coverage.

2022 MARKET UPDATE

ARCHITECTS & ENGINEERS PROFESSIONAL LIABILITY (A&E PL)

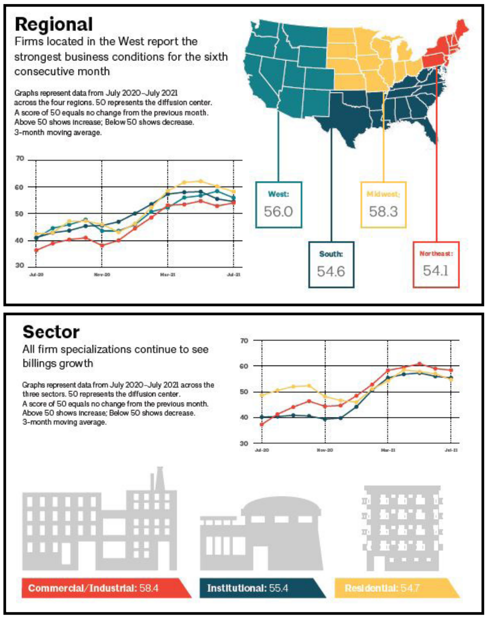
OVERVIEW

Architects and Engineers Professional Liability (A&E PL) is designed to insure design professionals against damages resulting from the acts, errors and omissions committed while rendering professional services, including the damages resulting from design mistakes and project delays. Most admitted carriers offer coverage for pollution incidents arising from professional services defined within the base policy form. This includes the growing number of markets that are now incorporating some degree of coverage for the technology services offered alongside the insured's professional services. Some of the industry segments facing A&E PL exposures include architectural design firms, engineers, construction management agency firms, interior designers, space planners and surveyors.

2. Coverage extensions for cyber and / or privacy liability are becoming increasingly harder to obtain due to the increase in claims. Expect many A&E PL markets to push these coverages onto their dedicated policy forms.
3. Rates for firms specializing in geotechnical, structural and/or civil engineering will remain firm due to the continuation of historic claims trends.
4. The carrier appetite for firms with residential project profiles, including condominiums, townhomes and apartments, will remain limited for both annually renewable policies and project specific policies. A&E PL appetite for firms specializing in larger scale street, road and infrastructure projects is also subject to contraction.

In July of 2021, the American Institute of Architects (AIA) released their Architecture Billing Index (ABI) for the prior 12 months. 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:

1. Regional Activity – Compared to the preceding 12 months, all four regions (Northeast, South, Midwest and West) experienced an expansion in Architectural Billings.
2. Sector Activity - All specializations (residential, commercial, institutional) demonstrated growth in billings. The design firms that focused on commercial and industrial projects gained the most ground.
3. Positive Outlook – The design firms surveyed were reportedly optimistic heading into 2022 due to the industry's increase in inquiries.



Courtesy of the American Institute of Architects

A&E firms that do not fall within the above can expect a smooth renewal process with rates coming in flat or slightly higher than expiring. We also expect some of the major carriers in this space to update their policy language and incorporate coverage enhancements that were previously added via endorsement.

One example is the Rectification Expense enhancement – a first party coverage that allows the insured to collect against their professional liability limits on a first party basis for the expenses incurred to correct an error in professional services that would otherwise have led to a typical third party claim against the insured. As a result, we have witnessed an increasing number of carriers offering this feature, which we expect to influence future renewal cycles.

After years of rate reductions, the A&E PL market witnessed a gentle hardening that accompanied pronounced rate increases in select segments. Fortunately, in our experience, the overall marketplace remains well populated with a variety of carriers keeping their increases to a minimum and coverage terms broad for the average buyer. We witnessed the most tightening in the following areas:

1. While Project Specific Professional Liability terms remain generally available for projects over $50 million in construction values, the appetite for this coverage has contracted with fewer carriers looking to offer project-specific professional coverage, with large infrastructure projects seeing significant contraction.

2022 OUTLOOK

Despite the stated challenges, our 2022 outlook for the A&E PL marketplace remains stable, especially in comparison to the casualty marketplace at large. While many carriers will seek rate increases, competition between carriers will likely keep these efforts in check, with a greater number of design firms turning to the Excess & Surplus marketplace to obtain alternate renewal options. During the year, we will also continue to watch construction industry claims trends, which may result in carriers correcting the soft market conditions that persisted over the past few years.

CONTRACTOR'S PROFESSIONAL LIABILITY (CPRL)

OVERVIEW

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

The construction industry is not alone as it continues to navigate the unchartered waters of the global pandemic. The way people use their homes, offices and hotels is evolving. With all the changes experienced in 2020-2021, total 2021 U.S. construction starts were projected to increase by 4%.[2]

While difficult to predict, commercial and multifamily construction starts were up 10% nationally in the first half of 2021 as compared to 2020. This category consists of office buildings, stores, hotels, warehouses, commercial garages, and multifamily housing. As a sign of the times and growing development of e-commerce platforms, the warehouse sector has shown great strength while office, retail and hotel activity has not.[3]

There are approximately 30 carriers in the CPrL marketplace with the majority being domestic. In our experience, each has a different appetite depending on the size, scope and complexity of the insured. We have seen most carriers offer $10 million per claim / aggregate. A few now provide $25 million per claim/ aggregate or higher on a primary basis depending on the appetite and size of the insured. While competition remains, we have seen a 2% to 5% rate increase for the first time in over 10 years. The design / build and engineering / procurement / construction delivery methods together with the discipline of agency construction management represent the areas we believe are most likely to experience increases.

While losses are not seen as the primary drivers, we anticipate this maturing space will continue to be impacted by reinsurance dynamics and the overall landscape of loss across all lines. In addition, some additional considerations we expect to influence this space include:

- Offered in varying degrees by four to five markets, Faulty Workmanship coverage remains a growing area for placement opportunities. Appetite, in our experience, remains consistent, but is likely to change as the frequency of loss becomes higher.
- We have seen several leading insurers now modifying their mitigation or rectification wording to apply solely to the prime design / build agreements held between insureds and project owners. This is opposed to the coverages that formerly did not distinguish between the various delivery methods.
- We expect firms engaged in heavy civil construction design / build contracts may also see coverage limitations (particularly with respect to mitigation / rectification).
- We anticipate COVID-19 related (i.e., communicable disease) exclusions may become increasingly prominent. However, we expect many markets will underwrite these conditions with the caveat that the insured's COVID-19 losses must result directly from the contractor's professional services, construction firm's negligence and / or the entities for which they are liable. This will likely be accompanied by a stringent review of the insured's COVID-19 response protocols as well as the related financial impact information.

2022 OUTLOOK

We anticipate carriers, as well as all construction project participants, will continue to navigate their way through the lingering pandemic. We expect premiums to rise given today's uncertain economic climate. As claims increase, we expect the contractual wording and language of policies will likely become increasingly important. We expect increased scrutiny may be given to contracts that require lower-tiered contractors to add liability or design / build contractors as insureds to their policies. This can, in our experience, greatly limit the policy's coverage when needed (e.g., insured v. insured exclusions negating coverage presumed available or rendering protective indemnity coverage useless).

Further, we anticipate many CPrL markets will continue to only offer project-specific limits to current clients / insureds, which will narrow the availability of such coverage across the marketplace. While $100 million plus is still, in our experience, available to some clients, we have seen many carriers only offer $10 million or $15 million as opposed to the previously available $25 million or $50 million maximum levels. But it's important to remember that CPrL is still an evolving policy form that is worth watching throughout 2022.

[2] https://www.construction.com/news/dodge-data-analytics-expects-construction-starts-recover-2021
[3] https://www.construction.com/news/Commercial-and-Multifamily-Starts-Advance-During-First-Half-of-2021

OWNER'S PROTECTIVE PROFESSIONAL INDEMNITY (OPPI)

OVERVIEW

Damages caused by errors or omissions in professional services can have a significant impact on the outcome of a project. Project owners and developers should consider protecting against the exposures of not only architects and engineers, but also the exposures of design / builders, construction managers, subcontractors and other firms providing professional services.

Historically, these exposures were insured by the annual professional liability policies of architects, engineers and contractors (AEC). Additionally, larger or more complicated projects utilized Project Specific Professional Liability (PSPL) policies, which can be purchased for all AEC exposures; however, the cost continues to be very expensive.

Furthermore, the tightening of the architects and engineers (A&E) professional liability market and dwindling capacity for PSPL policies further drives the cost up for both. As a result, Owner's Protective Professional Indemnity (OPPI) has gained popularity in 2021, in our experience, as a less expensive alternative for insuring catastrophic errors in the performance of design and other professional services. First and foremost, as an excess coverage, it is attractive as it is a much less expensive alternative to the PSPL policy.

In its simplest concept – it is an excess coverage with indemnity coverage for actual damages incurred by the owner / insured and a defense coverage part for third-party claims made against the insured. It does not extend coverage to the AEC rather sits excess of the professional liability limits of those entities making it easier to secure on top of everything.

Other benefits include:

- Provide difference in conditions coverage in the event there are deficiencies in the AEC professional liability policies.
- Policy terms inclusive of extended reporting periods of up to 15 years.
- Can be written on a rolling or blanket basis for those owners or developers with a schedule of multiple projects over a specified period of time.
- Further enhancements are also offered through optional Contractor's Pollution Liability (CPL) and Pollution Legal Liability (PLL) policies, which are designed to protect the owner / insured from most environmental hazards.
- OPPI can be written to provide primary coverage for the project owner's self-performed development services.
- Provide defense in addition to the limit for third-party claims.

There are, in our experience, approximately 10 carriers offering "primary" OPPI coverage and about 6 markets offering coverage in excess of the initial OPPI layer. In our experience, most markets can provide $10 million to $15 million limits on the first layer, while several offer up to $25 million. As newer entrants become more comfortable with OPPI, we expect rates to remain competitive and even decrease slightly for some project types. By our estimate, total market capacity is between $150 million and $200 million with most markets providing 10-year extended reporting periods.

For select projects, we have seen a few markets offer potentially lower attachment points. This allows OPPI to apply to a greater variety of projects and even align with smaller projects valuing under $50 million.

We expect the interest for "rolling" programs will continue to grow with owners and developers working on similar projects. This is, in our opinion, due to their ability to provide pre-determined rates, simplify the project enrollment process and ensure each project maintains its own policy and extended reporting periods.

However, certain projects such as condominiums and stick-framed residential will, in our opinion, remain difficult to insure. We expect commercial grade residential to bear more market interest. In addition, we anticipate the options for energy and heavy industrial projects may be limited.

2022 OUTLOOK

Although there have been a steady stream of design related or engineering claims in 2021, our overall forecast for this product remains optimistic as more owners and developers become aware of the product.

We expect rates to remain competitive even as professional liability rates for AEC professional liability insurance is expected to rise.

Expect to see an increase in larger developers taking advantage of the rolling or blanket concept and spreading the cost of OPPI across all projects rather than continuing to buy on a project to project basis.

2022 MARKET UPDATE

REAL ESTATE DEVELOPERS (RED) PROFESSIONAL LIABILITY

OVERVIEW

Real Estate Developers (RED) Professional Liability is designed to protect against the 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 ownership, firms providing services to third-party investors, or sophisticated real estate developers and owners looking for comprehensive risk management programs. The coverage can be structured on a corporate-wide or project-specific basis.

The popularity of RED Professional Liability continues to grow. Since its introduction in 2009, the RED market has, to our knowledge, 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, in our experience, report an average limit capacity of $5 million with ease of structuring follow-form excess layers offered via other carriers. In our experience, many of these carriers are currently:

- Expanding the first-party coverage features commonly found within the contractor's professional liability arena including protective indemnity and rectification terms and conditions.
- Offering more expansive contractors pollution liability coverage for those developers with in-house construction and general contracting operations.
- Customizing their nuanced professional services to accommodate the individual needs of clients.
- Following the lead of construction professional liability insurers by becoming more selective about the residential projects and project delivery methods they cover.

2022 OUTLOOK

Like much of the real estate industry, the RED Professional Liability insurance market is in flux. We are seeing RED markets pulling back on project-specific placements and being more conservative on project types like residential and renewable energy. On the other hand, we are also seeing movement of underwriting talent among new carriers with plans of bringing more capacity to the market in 2022. We expect increased demand in the RED marketplace, as more and more investors and lenders require this coverage to mitigate risk against the onset of greater economic headwinds and the re-balancing of commercial and residential assets.

Going forward, we expect developers to continue to consider the cost / benefit of a more conservative "pay as you go" approach that utilizes project-specific RED and OPPI placements for new projects compared to one that favors a more consistent practice-wide placement for development, property management, and leasing. As such, we anticipate that long-term risk managers will continue to invest in more expansive, practice-wide RED programs rather than protecting themselves against risks on a project basis solely with OPPI policies, service/profit-center options, or specific property management E&O coverage forms. We expect this trend to continue well into 2023.

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 RED carriers in particular, it may be advisable for attention to be given to the sophistication of the carriers' claims response.

We anticipate the need for diligent policy review and coverage assessments to remain important in the coming year given the marked coverage disparities that exist among the various standalone RED and miscellaneous professional liability carriers.

We anticipate claims trends will continue to be severity driven, yet generally favorable across the industry. Given that we have seen historical product performance continually meet the internal expectations of insurers, we expect a modest number of RED carriers to enter the marketplace as a growing number of traditional construction professional liability carriers stretch their focus into the real estate professional liability marketplace and additional capacity enters the miscellaneous E&O space.

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