Retail Practice Group

H2 2022 Market update for key insurance lines of insurance

Property Damage & Business Interruption

Retail risks continue to be an attractive sector by the property insurance market, who will look to underwrite 100% where capacity allows on mid-market business, and large shares of co-insurance for larger retailers.

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For well managed retail businesses, with good claims experience, we are typically seeing flat – 5% increase in rates at renewal. However, we are now starting to see rate increases of 10-15% to cater for out of date valuations. Insurers are also starting to apply the 'Average' condition, which would have previously been waived. Insurers can and do reduce property claims settlements proportionately if it turns out that the sum insured is less than the actual cost of reinstatement (most notably where a policy wording does not adequately cater for the inflationary pressures, e.g. "Day One Reinstatement" wordings and the presence of "Average" conditions).

Insurers are also interested in companies that have strong business continuity plans, supply chains and contract fulfilment. The impact of the war in Ukraine, coupled with delays from the Suez Canal incident which are still being felt across supply chains, means that insurers are focusing on retailers who understand their Tier 1 supply chain, with alternative suppliers identified, and consideration for adequate indemnity periods.

We are seeing an upturn in the availability of risk management bursaries becoming available for retailers, where the contribution is equally shared. Additionally, insurers are once again considering offering Long Term Agreements.

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General Liability

For retailers, there continues to be a competitive insurance market. The typical market position is at 0-5% rate increase. However, there is significant appetite for retail accounts in the market, which drives cost savings for the right risks, with the right programme structures.

With premiums being largely driven by claims frequency, adopting a self-insurance strategy to avoid pound swapping with insurers, as well as setting the right retention level and aggregate protection, are important. Key to a successful strategy is getting the analytics right and developing efficient claims processes. Many retailers will use a third-party administrator for claims, which gives them greater control over utilising an insurer's claims handling operation.

Both public and employers' liability are areas of concern within the sector. Strong analytics and collateral solutions (parental guarantees, lines of credit (LOCs) etc.) for non-conventional programmes are key.

Although property and liability risks were typically placed on a "combined package" basis in the past 2-3 years, more recently, we are seeing stand-alone programmes. However, where there is more appetite on the property and a desire to package where possible, achieving economies of scale through package placements is becoming more significant, albeit this may be across 2/3 lines rather than a whole package solution.
The cost of increasing limits and eliminating risks from the retailer's balance sheet through excess layer purchase is very competitive and at an economic rate. However, there are relatively low limits still being purchased for some of the big retailers. Retailers should focus on the accumulation of employees and customers to drive the limit, rather than previous loss history.

The Asia/China suppliers' insurance programme continues to be relevant where suppliers cannot purchase adequate Product Liability cover or limits, and where the retailer has no recourse to go back to their suppliers. The suppliers' insurance programme will cover each individual supplier and offer capacity that the supplier pays for with the retailer as an additional insured on that policy.

Directors' & Officers' Liability

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The retail sector was one of the sectors hardest hit by the pandemic, which translated into a significant increase in Directors' & Officers (D&O) premiums and a severe reduction in capacity as the sector became "out of appetite" for many insurers.

As the sector bounces back, many insurers are softening their stance on underwriting retail risks. We are finding that ample capacity is available, although not always at premiums that clients find attractive.

Insolvency exclusions, which were common in 2021 and 2022 for retailers, are generally being removed from terms this year. We have seen some clients increase their D&O limits again in 2022, although not necessarily to pre-covid levels. Others have considered whether the continuing higher premium costs are sustainable when assessed against their D&O risks, consequentially electing to change the structure of the programme e.g. change the balance of ABC vs Side A cover or take higher levels of self-insurance.

A small number of clients have reduced total limits as a result. The key point to note here is that this is being done by choice rather than imposed due to a lack of available capacity.

There are still areas that insurers are assessing in relation to retailers, and the best outcomes are secured by clients who spend time with insurers, providing comfort on the impact of inflation, rent increases, higher wages, supply chain difficulties and the company's approach to ESG, whereby greenwashing is perceived as a higher risk area for fashion retailers for example.

D&O policies are likely to be triggered to pay costs for insured persons associated with regulatory investigations, so the perception is that there is still the potential for more D&O claims to come in the sector.

Cyber

Underwriters are now focusing on supply chains and business recovery plans, to understand the real potential of a retailer's business interruption exposure.

Given the vast number of personal information and credit card details that retailers process and store, the cyber insurance market had previously perceived the retail industry as mainly exposed to data privacy and payment card industry (PCI) fines and penalties. However, in the last few years, we have seen ransomware as being the biggest cause for claims. As a result, the cyber market has not only mandated minimum security controls (such as MFA, EDR, PAM or solid backups), but also started to really understand businesses and their resiliencies. Underwriters are now focusing on supply chains and business recovery plans, to understand the real potential of a retailer's business interruption exposure if any of the critical vendors were suffering an outage. In addition, the market is paying particular attention to the logistics element of the sector, both the delivery of orders and warehouse management, which are mainly done through specific software. Losing access to this software could mean inability to deliver orders or goods to stores, which in turn has a significant impact on the business from a financial perspective.

One element that is not necessarily tied with the insurance market, but in Lockton's experience is often neglected, is the importance of a clear line of communication between the parties involved in the purchase of cyber insurance. These parties are usually the risk management, IT security (CISO, CIO etc) and financial departments. During the process of purchasing insurance and in the time of crisis (ransomware attack for example), it is hugely important that the involved parties communicate between each other. We have seen a direct correlation between great communication and successful results in the market and claims. For example, during policy negotiation stage, underwriters ask a substantial amount of information, and if risk managers can clearly communicate with their IT personnel, we have seen the latter being more inclined to provide all the necessary context and information. Sharing comprehensive information with the market will inevitably benefit the retail business, as the lack of communication could result in single word answers with no context, which could lead to declines or unfavourable terms.

2021, and the first quarter of 2022, were very difficult times for cyber insurance buyers, as rates have climbed by more than 100% in the best of cases. These rate increases have started to "slow down" in the last two months, with the average rate increases being between 40-60%. The positive news for retailers is that there are more insurers willing to consider primary and lower layers. Whilst last year there were probably less than four options for a primary layer for a retailer with £500m revenues, this year, the number of insurers that could consider such risks has doubled.

Marine Cargo

The marine cargo market is also seeing more competitive rates emerging for stock risk, which can typically have a lower deductible than the main property programme.

Over the past 12 months, we have seen new insurers coming into the marine market for retail risks (predominantly Lloyd's syndicates), increasing market capacity, and helping to stabilise rates and terms and condition.

Premium rating has remained fairly static, and generally, insurers are looking for a technical rating increase of between 5-10% on well managed/profitable business. That said, marketing a new risk can still result in aggressive terms being achieved from some insurers, which have proven to be sustainable at the subsequent renewal where the risk has continued to perform well. Line size capacity remains stable, albeit there are now a handful of insurers who can write a line of around £40m.

The marine cargo market is also seeing more competitive rates emerging for stock risk, which can typically have a lower deductible than the main property programme. In addition, the cover can be wider and more flexible than under the property policy. An example of this is cover in respect of theft, which is not contingent upon forced/violent entry. The basis of valuation for claims settlement can look at the sales value, plus freight costs, insurance costs, duty (if applicable), and percentage uplift, which is typically 10% but can be reviewed.

More recently, we have seen an increase in requests to provide cover under the marine policy for stock held at a retail outlet. However, there are few insurers who can provide this cover, given that stock cover under a marine programme is intended to be whilst at a purpose-built storage location. While there is some flexibility around what constitutes a "purpose-built storage location", a retail outlet is generally accepted to fall outside that definition, and those insurers who may be able to consider such a request, have an extremely limited limit capacity, which does not usually exceed £25,000.

Cyber continues to be a hot topic, both in terms of cover/protection and the increasing cost of the policy. However, Marine policies continue to exclude claims arising from any form of Cyber "attack". In addition, all Marine policies include a Communicable Disease Exclusion, which is borne out of the Covid pandemic and excludes any claims in connection with any Communicable Disease; albeit some insurers will agree to limit the exclusion to the Covid-19 virus and any recognised mutation thereof.

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