INSURANCE
MARKET UPDATE

TLO Risk Services

An update on the insurance market, claims and rates - February 2024

Whilst the insurance industry has continued to see further rate growth across 2023 and into 2024, the Professional Indemnity ("PI") market was more advanced in the corrective cycle – and therefore the broad-brush pressure to increase rates has subsided.

That general market picture is of course also influenced by the individual claims performance of the Bar in respect of the Excess Indemnity (Top up) scheme. Prior to 2017, the scheme had paid two claims, one in 2001/2 policy year and another in 2003/4 – after which a benign claims period followed; and in turn premiums continually reduced year on year, falling by around 60% over the course of the 2010's.

Since 2017 the Top up claims picture has considerably worsened. The largest loss in the top-up scheme's history was paid out attaching to the 2017/18 policy year, and a further substantial settlement in a claim lodged in the 18/19 policy year has also recently been paid. As well as a number of lesser reported matters, a very large reserve remains in relation to a claim with a quantum which would see it become the largest loss in the scheme's history.

These paid and reserved claims have exhausted the top-up premiums collected in the 17/18 and 18/19 policy years along with a substantial proportion of the premium collected in the other, claims free, policy years and have, in effect, wiped out many years' worth of premium.

The challenge is therefore to ensure sufficient premium is generated so that the top-up scheme remains available and viable. At present over 70% of the Bar do not purchase any top-up insurance, therefore in order for the cover to be sustainable in the long term, the 'pool' of premium generated to pay losses needs to be sufficient to cater for the trend of increasing claim frequency and severity. If the Bar as a profession can't raise enough premium to cover the claims they generate, then insurers will in all probability withdraw from the scheme, risking it's collapse and a very significant hike in premiums charged as Barristers get rated on a par with other legal practices.

We have continued to seek to negotiate renewal premiums with the participating insurers which achieve a reasonable balance between affordability and the essential need to raise sufficient premium across the pool to meet future losses. This has been particularly challenging this year, and with much regret we have had to part ways with our long-term lead insurer AIG. AIG have participated in the scheme since 2001 and have been involved in all the losses paid. Their position this renewal required a 40% increase to return to profitability – and although we negotiated this down to 16% and a similar figure next year, ultimately we felt that this did not meet the right balance of affordability. As such – we are pleased to have agreed with Chubb, another long term insurer on the scheme, to assume the lead underwriter role.

We have been able to agree a more sustainable view on premiums with Chubb, and as a result, the premiums for 2024/25 have increased by between 6.4% and 10% depending on the limit purchased.

At the same time, renewal is also a good opportunity to review the overall limits of indemnity being purchased. Insurers frequently remind us that claims inflation has increased significantly over the past few years, and it doesn't take long for the compound effect of this inflation to make a limit that has remained static for a few years become potentially inadequate, particularly if a claim can take several years to resolve.

The premiums are of course a tax deductible business expense, and remain very significantly below premiums available in the open market for comparable professionals.

If you have any questions in relation to this paper, please do not hesitate to contact me.

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