GOW-GATES INSURNCE BROKERS

MARKET UPDATE

JULY 2024

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Message From Our Executive Director

Welcome to our July 2024 Market Update, which provides an overview of the insurance industry and explores the emerging trends as we progress into the second half of the calendar year.

After experiencing a 'hard market cycle' characterised by restricted capacity and rising premium rates, we are now seeing signs of easing in some sections of the market.

The hard market cycle was driven by a long period of declining capacity and weak returns for Australian General Insurers, including an overall investment loss in FY22 of over $2 billion. In contrast, FY23 saw a significant turnaround, and overall, insurer profitability in Australia and their returns on investment are back within their target range. As such, their appetite for business has generally increased, and new capacity is entering the market.

While inflationary pressures have meant that premiums are not decreasing overall, for many in the Australian General Insurance market, we should see moderate rate increases to align more closely with the Consumer Price Index (CPI) and, for others, market conditions have softened to the extent that competition between insurers may result in rate reductions.

This trend is not universal and there are still some areas of business that are being approached by insurers with caution. For clients in these areas where risk appetite remains low or insurance is unattainable, we will look to explore alternative structures and options when reviewing coverage.

Additionally, major changes to workers' compensation insurance were introduced from 1 July 2024 in New South Wales, Western Australia, and Victoria. This will have a significant impact on premiums and program structures. It is crucial for employers in these states to understand the implications of these changes and how they affect their obligations.

TOM GOW-GATES

Executive Director

The Gow-Gates team are here to discuss any aspect of your business' risk mitigation and insurance strategy. We look forward to working with you and helping your organisation manage these risks for the time ahead.

Tom Gow-Gates

Executive Director

Executive and Professional Risks

Simon Carter | Division Manager,
Executive and Professional Risks

Market update: New capacity and increased competition

Over recent months we've seen a continuation in the trend towards a softer market. Capacity has increased and competition continues to grow across many financial lines policy classes. With new insurers entering the local market, we are seeing insurers becoming more willing to review pricing and coverage.

However, pressure has remained for certain industries such as those in construction and legal, as well as businesses dealing in mortgage funds, second-tier lenders, and property development, who continue to see limited competition amongst insurers in the market.

Hot topic: Are all cyber policies created equally?

Cyber remains a key topic across the world. A recent cyber event caused global outage from a software update (What actually happened inside the CrowdStrike update to cause a worldwide IT breakdown? - ABC News). This event highlights the reliance that all businesses now have on IT.

As to the general market, whilst it has taken some time, the cyber insurance market has now stabilised after some difficult years, and there is now healthy competition between insurers.

The cyber premium pool for FY24 was forecasted to reach $1b in Australia, and insurance rates declined by 2% in Q1 2024.

While premium price is always important, a number of specialist cyber insurers are expanding their offerings to include additional proactive services to help reduce the risk of a serious cyber breach. This proactive approach by certain insurers seeks to disrupt the loss trends and drive improvement in the cyber risk profile of Australian businesses. For example, some insurers are offering monitoring services that will notify their policyholders of patches or upgrades specific to their system, or security breaches that need to be dealt with – and then also deal with them. This is a far different proposition to interacting with insurance only at renewal or post a loss event, and this continual, proactive support can make a significant difference to a business.

On the horizon: D&O claims could have a trickle-down effect

In the larger corporate sector, while insurers are concerned about shareholder class actions and other D&O claim trends (Class action risk 2024 (allens.com.au)), increased competition is driving down premium costs, with financial lines rates decreasing overall by 10% in the first quarter, and where a risk is attractive to the market, much greater reductions.

This situation is likely to lead to insurers incurring significant losses and accordingly swift pricing correction may follow. While not an immediate concern, such corrections may also start impacting management liability and private company D&O insurance too.

Area to watch: How the right to disconnect plays out

We're expecting to see an uptick in employment practices liability claims over the coming year, in response to the Federal Government's Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024.

The Act contains a host of amendments, including the right to disconnect, which comes into force on 26 August 2024. This means that employees have the right to "refuse to read, monitor or respond to contact or attempted contact" from their employer or a third-party, such as a client, unless their refusal is 'unreasonable' outside of working hours.

It is not, however, a right to be free from all communication outside of working hours, nor does it prevent an employer from contacting an employee outside of working hours.

It is important for businesses to have new policies in place to address this, including communication to all staff regarding what this means practically, in order to reduce the risk of any disputes that may emerge.

Workplace Solutions

Trevor Creech | Director, Workplace Solutions

Major Workers Compensation Changes from 1 July 2024

Scheme profitability has been increasing in recent years, and the FY23 ROE was within the target range for the first time in five years – while FY24 ROE is expected to be above target profitability.

Workers' Compensation continues to undergo significant change. It is evolving in all states, with particular changes coming in New South Wales, Victoria and Western Australia. Some of these changes are in response to significant increases in mental health claims in recent years.

8%

Premiums are set to rise across most states due to a number of factors. In NSW, an 8% increase has been announced by the insurer, and this will be in effect year on year from 2023-2024, 2024-2025, and 2025-2026.

New South Wales

In NSW, from 1 July 2024, employers who pay a premium of $200,000 per annum will be able to choose their workers' compensation agent, rather than have it allocated by iCare, the state's workers' compensation insurer. Whilst iCare still manages all workers' compensation insurance, more employers can now select their agent through iCare. Previously, that threshold was $500,000, and by reducing it, more businesses now have the opportunity to work with the agent that best suits their organisation's needs.

This is good news for clients – by enabling greater choice, competition between agents increases, with the idea being that this helps improve service and outcomes.

Australian Capital Territory

In the ACT, the Suggested Reasonable Premium rates have reduced by an average of 4.7%. As an underwritten risk-state, individual rates will however depend on each insurer's actuarial analysis of their own portfolios and the actual claims experience and risk profile of the employer. Therefore, poor performing risks can expect premium rate increases to maintain insurer profitability.

ACT have had several significant changes and initiatives aimed at improving workplace safety and streamlining the compensation process. One of the notable updates is the introduction of new codes of practice to address psychosocial hazards in the workplace as this remains a focus for insurers and regulators.

This initiative emphasizes the importance of managing risks related to mental health, stress, and workplace culture, aligning with a broader focus on employee well-being (WorkSafe ACT). The new guidelines are designed to help employers recognize and mitigate these risks, providing a safer and more supportive environment for workers.

Additionally, the ACT government has implemented stricter enforcement measures for compliance with safety regulations. This includes increased inspections and penalties for non-compliance, especially in high-risk industries such as construction. The goal is to reduce workplace incidents and ensure that all employers are adhering to their safety obligations (WorkSafe ACT). WorkSafe ACT has also launched a new campaign to raise awareness about the importance of workers' compensation insurance. This campaign aims to educate both employers and employees about their rights and responsibilities under the current legislation. It also provides guidance on how to make a compensation claim and what to expect during the process, ensuring that injured workers receive timely and adequate support (WorkSafe ACT).

Overall, these changes and considerations reflect a comprehensive approach to enhancing worker safety and well-being in the ACT, ensuring that the regulatory framework keeps pace with the evolving needs of the workforce.

Victoria

In Victoria, changes have been made to the schemes under the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Act 2024. The key changes includes new criteria for mental injury claims that occurred on or after 31 March 2024, as well as exclusions for mental injuries primarily caused by stress or burnout.

This new criteria sees mental injury defined as an injury that causes significant behavioural, cognitive or psychological dysfunction, and is diagnosed by a medical practitioner in accordance with the latest version of the Diagnostic and Statistical Manual of Mental Disorders.

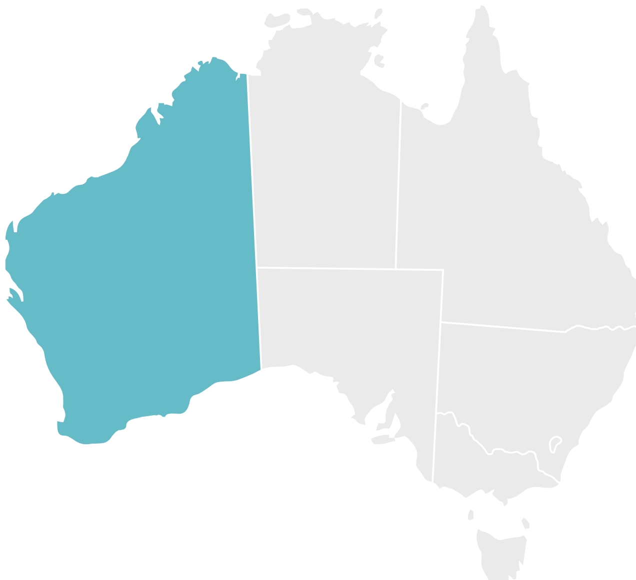
In addition, payments after 130 weeks will be limited to workers who have a whole person impairment of 21% or more, and meet the existing capacity test requirement. This applies to claims that reached 130 weeks on or after 31 March 2024.

Western Australia

In WA, workers' compensation has been rewritten, and the Workers Compensation and Injury Management Bill 2023 has since come into effect from 1 July 2024.

There are many important changes. However, of many, two key things to be aware of in this bill includes the doubling of the medical and health expenses limit, and the extension of the duration of time before workers' weekly compensation payments reduce, from 13 weeks to 26 weeks.

Further, employers now have an additional two days to submit workers claims to their insurer, which has changed from five to seven days; whereas stress-related claims from "reasonable administrative actions" which includes formal performance reviews, are now excluded.



General Insurance

Chris Keeping | Division Manager,
Health & Aged Care, Corporate and Sport

Australian Property and Casualty Insurance Market Update 2024

For the seventh consecutive year in FY23, insurers have passed on another double-digit increase in response to corporate property claims cost pressures. [optimalite_2023_sec_01.pdf (storyblok.com)]

However, we are now seeing signs of easing and a more positive outlook for clients for the remainder of the year and for FY24. There is an increase in market appetite, capacity, and competition, which is helping achieve more favourable results for policy placements.

International markets continue to play a significant role in the Australian Property and Casualty sectors.

Natural catastrophes and property risks, including buildings constructed with insulated sandwich panels, cladding, and asbestos, continue to attract high rates with reduced market appetite.

For all risks, the best results are achieved when best practice risk management controls are documented and demonstrated to insurers, especially where improvements have been actioned or are planned.

For liability risks, contractor and labour hire exposures continue to be a significant concern especially while we continue to see ongoing increases in the use of labour hire and subcontractors, which brings additional exposure into liability programs. The substantial claim costs associated with this area impact both placement and insurer appetite, as insurers continue to be wary of these exposures.

Overall, the Australian property and casualty insurance markets are navigating a complex landscape marked by rising costs, economic challenges, and the necessity for strategic adjustments to maintain stability and profitability

Health, Aged Care and Non-for-profit Sectors

In health and aged care, Catholic Church Insurance's orderly run off last year continues to have repercussions on the rest of the market. Their withdrawal has had a major impact in this sector as the same levels of cover simply aren't available at the premiums that clients were paying previously.

A major emerging risk for some aged care businesses relates to business structure. This impacts a number of aged care providers who hold their approved provider status in one entity, and employ staff through another entity (for example, a service company or payroll company), and effectively subcontract part of their services.

This may expose avenues for workers' compensation recovery from the approved provider, because the employment entity (who such a workers' compensation claim may be implicated with) may be deemed as a separate entity.

As a result, liability insurers have been subject to an increasing number of claims for the recovery of workers' compensation costs paid. On renewals, some insurers may exclude this, while others may impose significant excesses. However, the insured can attempt to remove this exposure by ensuring that the approved provider and employing entity are the same company.

Another issue to be mindful of in aged care is the Draft Exposure Bill for the New Aged Care Act, which has been pushed back to 1 July 2025. In the Draft Bill, the definition of a 'responsible person' within a registered provider – that is, the person responsible for executive decisions, and having authority or responsibility in (or significant influence over) planning, directing or controlling activities – is broad. This increases the scope of who can be held accountable, or have a claim brought against them.

Until the Draft Bill is finalised, it is difficult to give accurate guidance on how an insurance policy will respond. However, there is potential for amendments to definitions for 'insured persons' and it will be important to ensure that appropriate levels of cover are offered.

Motor and Heavy Vehicle Fleets

For businesses with motor and heavy vehicle fleets, premiums are increasing in line with the increasing costs of vehicles, repair and overall claims costs – including hire costs for third party replacement vehicles. The technology that is in vehicles now, combined with supply chain hold-ups, parts shortages and increased labour costs have resulted in claim costs being heavily impacted.

Electric vehicles (EVs) are becoming more common, albeit not at the rate that many in the market have expected. One issue that is emerging for insurers is that battery damage can often result in a total loss regardless of damage to the rest of the vehicle, and consequently, insurers can't fully understand the true risk of insuring EVs.

Risk management to avoid the claim event where possible is important, as insurers are trying to manage profitability in this changing environment.

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