GOVERNMENT RELATIONS

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OPEN COMMENTARY

Welcome to the November Government Relations bulletin!

The elections are just around the corner – November 5, 2024! On the **FBL Advocacy Center Voter Resources** page, you can find everything you need to ensure you are prepared to take to the polls in November as a well-informed voter. Voting isn't just our right as Americans — it's a responsibility. Voting in the 2024 elections is the best way to help shape our country and help secure a stronger, more successful future for our communities, our businesses, our industry, and the policyholders we serve.

So, who's on the Ballot in 2024? Outside the obvious race for the White House, 435 U.S. House seats, 34 U.S. Senate seats, 11 Governorships, 5 State Insurance Commissioners, more that 5,800 State Legislators, and 82 State Supreme Court seats are on the ballot.

The information on the Voter Resources page includes election basics, as well as information about where to register to vote, how to find your polling place, critical election deadlines, and the candidates running for office in your state.

Preparation for the 2025 legislative season is well underway and legislative priorities are being set. We collaborate with our industry partners and trade associations to help establish these priorities to make sure our voice is heard. Recently, I was back in Washington, D.C. with the National Association of Mutual Insurance Companies (NAMIC) state and federation affairs team actively participating with industry experts on setting the stage for 2025. We also heard from Mike Shields, founder of Convergence Media and current CNN commentator, on the much anticipated presidential election and his rationale of why the race is too close to call. Interesting to say the least!

Please feel free to reach out at any time with your comments and suggestions.

Brett Clausen, Government Relations & Process Improvement Vice President

STATE LEGISLATIVE MATTERS

Arizona

Regulatory Activity

Workers Compensation

Dated October 25, 2024. The Department of Insurance and Financial Institutions (DIFI) has announced a significant 9.1 percent reduction in workers' compensation rates, set to take effect on January 1, 2025. This marks the 11th rate decrease in the past decade, underscoring Arizona's ongoing commitment to fostering safe work environments and the resultant positive effects on insurance costs.

Additionally, there has been a notable decline in lost-time claims relative to premiums from 2021 to 2023. The rate reduction was recommended by the National Council on Compensation Insurance (NCCI), which undertakes the collection and analysis of data pertaining to industry trends, including claims volume and workforce changes.

Colorado

Regulatory Activity

Colorado DOI Adopts Bulletin on Life Insurance Quantitative Testing Reporting Requirements

The Colorado Division of Insurance adopted Bulletin B-10.004 without changes from the draft version. The bulletin responds to life insurers' concerns regarding the reporting requirement outlined in Section 5.A.10. of Colorado Insurance Regulation 10-1-1, which requires life insurers that use external consumer data to include a description of the quantitative testing conducted to detect unfair discrimination in their annual reports, which are due by December 1, 2024.

Since the Division has not established formal rules for this testing, the bulletin waives the reporting requirement for the current reporting period. Therefore, the annual report due on December 1, 2024, does not need to include a description of the quantitative testing in Section 5.A.10.

However, this waiver applies only to the 2024 report; future reports must include a description of the testing conducted. All other requirements outlined in Regulation 10-1-1 remain in effect.

The bulletin became effective on October 18, 2024.

Minnesota

Regulatory Activity

Minnesota Issues Draft Data Call Letter and Spreadsheet

The Department has issued, for public comment, draft versions of the cover letter and Excel spreadsheet for a voluntary data call for insurers writing homeowners coverage in Minnesota.

Minnesota Statutes, **Section 65A.298**, requires insurers writing homeowners coverage in Minnesota to offer premium discounts or rate reductions to policyholders who have built or retrofitted their homes to the Insurance Institute for Business and Home Safety (IBHS) Fortified program standards. The voluntary data call is to assist the Department in determining appropriate, actuarially justified, discounts and reductions. The Department is looking for feedback on the specific data elements they would like to collect. The goal for the Department is to hopefully refine the process and identify areas of potential hiccups before sending it out.

Regulatory Activity Common benefits and expenses chart

Dated October 1, 2024. The Department of Labor and Industry publishes common Minnesota workers' compensation benefit adjustments, updating the following tables: “RBRVS conversion factors,” “Independent medical examination (IME) fees Minnesota Rules Part 5219.0500,” and “Independent medical examination (IME) fees Minnesota Rules Part 5219.0500.”

Nebraska

Regulatory Activity

Regulatory Activity 2024-04

Dated October 04, 2024. The Nebraska Judicial Branch issued a bulletin to address implementing an interest rate on delayed death claims for life insurers. This guideline mandates that life insurers, who fail to pay death claims within 30 days of receiving proof of loss, are required by Neb. Rev. Stat. section 44-3,143 to pay interest on the amount due.

The bulletin highlights a significant update to the judgment interest rate, initially set at 7.323 percent on July 19, 2024, and adjusted to 6.367 percent on October 17, 2024.

New Mexico

Regulatory Activity

Regulatory Activity Bulletin 2024-018

Dated October 1, 2024. The New Mexico Office of Superintendent of Insurance (aka “Department of Insurance” or “DOI”) is issuing this Bulletin 2024-018, which rescinds and replaces previous bulletins (Bulletin 2022-001 and Bulletin 2022-003) regarding the confidentiality determination process for materials or forms filed with the Life & Health Division.

Bulletin 2024-018, expiring two years from its issuance unless earlier rescinded or revoked, outlines the procedure for authorized insurers in New Mexico to request that certain filings be deemed confidential and protected from public disclosure. It specifies that insurers are responsible for any fees incurred in defending the handling of confidential material and that the DOI will not be held liable for any unintentional release of such material.

The DOI clarifies the legal framework under which certain records can be classified as confidential, including trade secrets as defined under the Uniform Trade Secrets Act and health insurance or health care plan rates information under specific sections of the Insurance Code.

Insurers are required to file electronic copies of all forms for approval and may request confidentiality for specific information that, if disclosed, could harm competition, or result in a loss of economic value. The DOI will review confidentiality requests and advise the requestor within 30 days whether the material is deemed confidential or subject to public inspection under the Inspection of Public Records Act. Insurers must e-mail their request to a specified DOI e-mail address and upload the request and supporting documentation to the SERFF filing system, using a confidentiality request form provided on the DOI website. Detailed explanations for why the material should be treated as confidential are required, and frivolous requests will be denied.

If a confidentiality request is approved, insurers are responsible for uploading redacted versions of the confidential material to SERFF, marked appropriately as confidential. If a request is rejected, insurers must remove any confidentiality markings and upload the material as publicly accessible on SERFF.

The DOI emphasizes its commitment to transparency and public access to government records, stating that frivolous confidentiality requests will be denied and that the DOI's confidentiality determinations do not necessarily bind the courts. Insurers are advised to rely on their own assessment of New Mexico confidentiality laws when submitting information to the DOI.

This bulletin represents a significant update to the process for handling confidentiality requests by insurers in New Mexico, ensuring clarity and compliance with legal requirements while balancing the need for public access to information and the protection of sensitive insurer data.

Regulatory Activity Bulletin 2024-019

Dated October 1, 2024. The Office of Superintendent of Insurance in New Mexico (aka "DOI") is issuing Bulletin 2024-019, to update adjuster licensing guidance within the New Mexico Administrative Code (NMAC) 13.4.8, effective from April 1, 2025. This update, which will be enforced for license renewals expiring in April 2026 and thereafter, specifically address individual nonresident adjusters.

The DOI requires that nonresident adjusters must possess a resident license from their home state or select an acceptable Designated Home State (DHS) jurisdiction if their home state does not license adjusters. The chosen home state must require a passed examination and have a Continuing Education (CE) requirement. For adjusters from states without a CE requirement, the bulletin allows for CE completion through an approved New Mexico provider or a state approved as a DHS option, listing AL, AR, FL, ID, IN, KY (only for IA), LA, MN, MT, NH, NC, NV, OK, TX, UT, WA, WV, and WY as acceptable jurisdictions. States not accepted as a DHS include AZ, CT, HI, ME, MI, NY, SC, and VT due to the absence of a CE requirement.

The DOI also addresses currently licensed adjusters from states lacking a CE requirement, stating that they may fulfill their CE obligations through a New Mexico approved provider or in an approved jurisdiction, provided these CEs are equivalent or substantially equivalent to New Mexico's standards. The DOI requires CE transcripts to be reported to the NIPR Attachment Warehouse or emailed directly to the state's general e-mail box by the CE Provider before the submission of a Renewal Application. Noncompliance with CE requirements may lead to the rejection of the renewal application, with the license remaining in an expired status for up to one year. During this period, if the licensee becomes CE compliant, they may submit a late renewal application. Failure to renew within this timeframe will result in the license becoming "Inactive."

The bulletin directs further inquiries to the Producer Licensing via e-mail or phone, aiming to ensure that nonresident adjusters meet New Mexico's licensing requirements and uphold professional standards in the insurance industry.

Annual Appointment Renewal 2025

Dated October 2, 2024. The New Mexico Office of the Superintendent of Insurance (aka "Department of Insurance" or "DOI") has introduced an electronic process for annual appointment renewals of insurance agents for the year 2025, facilitated through the National Insurance Producer Registry (NIPR).

This new system is applicable to both resident and nonresident agents in New Mexico. The renewal process is scheduled to begin on January 3, 2025, when appointment billings will be available, and payment submissions can commence.

A key deadline for the submission of agent terminations has been established as December 27, 2024, at 11:59 p.m. CST. All agents will appear on the renewal list unless the agent was terminated by such time.

It is important to note that agents who are added on or after December 29, 2024, will be given a renewal date for the following year, 2026, and will not be included in the 2025 invoice.

A failure to complete payment for the renewal invoice by April 30, 2025, will lead to the termination of all agent appointments, requiring reappointment and the payment of initial appointment fees for reactivation.

The DOI has set the NIPR transaction processing fees at 1 percent of the total state fee, subject to a minimum of $5 and a maximum of $1,000. For example, a scenario involving 400 appointments with a state fee of $20 per appointment would result in a total state appointment renewal fee of $8,000, with the NIPR transaction fee calculated to be $80.

From January 3, 2025, onward, companies will have the ability to access www.nipr.com for printing and paying their invoices, viewing and printing detailed appointment renewal reports, and downloading these reports in both txt and XML formats. NIPR is also providing help screens and customer support to facilitate the renewal process.

2nd Emergency Order to Protect Access to Insurance

Dated October 1, 2024. The New Mexico Superintendent of Insurance is issuing the Second Amended Emergency Order in response to the Salt Fire and South Fork Fire emergencies, aiming to ensure access to insurance and maintain market stability in Lincoln County and the Mescalero Apache Reservation. This order Second Amended Emergency Order, stemming from the governor's Executive Order on June 18, 2024, grants the DOI the authority to implement various measures for affected residents. These measures include extending grace periods for insurance premium payments, waiving deductibles and cost-sharing, postponing cancellations and non-renewals, and adjusting claims reporting requirements across health, property or homeowners, and automobile policies. Health insurers must offer a six-month payment plan, waive early-refill limits for prescriptions, allow replacements for lost or damaged medical items, and waive additional fees and prior authorization requirements. Property or homeowners policy insurers are required to provide a grace period for premium payments, waive deductibles, offer additional living expenses for up to 12 months or until a new residence is established, issue an advanced payment of $5,000 for additional living expenses if covered, and suspend late payment or other fees. Similarly, automobile policy insurers must offer grace periods, waive deductibles, postpone cancellations and non-renewals, and suspend late payment or other fees. Insurers are also directed to assist policyholders by informing them of these provisions and documenting outreach efforts. This order takes effect immediately for the specified areas and will remain in effect until the governor's executive order is renewed, modified, or rescinded. The DOI will distribute copies of this order and upload it on the DOI newsletter for communication to all licensed insurers in New Mexico.

Regulatory Activity Line of Authority Announcement

Dated October 21, 2024. The DOI announces it will implement updates to the licensing types and lines of authority for Insurance Producers, Insurance Consultants, and Adjusters, beginning November 14, 2024. This includes the introduction of separate examinations for handling Escrow and Title, without changing the Continuing Education requirements for any license types.

Insurance Producers with a Title Line of Authority (LOA) will see no changes, and those currently licensed can add Escrow at renewal or switch their license from Title to only Escrow. A Consultant License in New Mexico is now defined as someone who provides advice or information about insurance policies or contracts for a fee, and they must use specific titles that reflect their advisory role.

Adjuster licenses will continue to offer "Independent Adjuster," "Staff Adjuster," and "Public Adjuster" licenses, with new lines of authority for Property and Casualty, Workers’ Compensation, and Public Entity for Independent and Staff Adjusters. Public Adjuster licenses will remain unchanged. Adjusters will need a Property and Casualty (P/C) LOA, and those handling Workers Compensation or Public Entity Adjuster roles must submit a signed statement form, which is available on the OSI website and should be emailed to the specified address. At renewal, adjusters must select the LOA they qualify for and complete additional forms if selecting Public Entity or Workers Compensation, which can be uploaded during the renewal process or emailed.

From November 14, 2024, current adjuster licenses in the Producer Database (PDB) will list P/C as the LOA, with the option to renew 90 days before expiration. Adjusters who do not need the P/C LOA can surrender it and amend their license to add Workers’ Compensation or the Public Entity LOA using an online form. Adjusters handling workers' compensation must hold the required LOA and maintain at least one LOA throughout the life of the license.

The estimated date for the Workers’ Compensation Adjuster Exam is November 14, 2024, for New Mexico residents or those with NM DHS licenses. This exam is aimed at individuals who investigate, negotiate, settle, or adjust workers' compensation insurance claims. Additionally, obtaining a new license type or adding a license line of authority will now require fingerprinting for a national criminal background check with the Federal Bureau of Investigations and the Department of Public Safety. The procedures and locations for fingerprinting are detailed on the OSI website, and fingerprints are valid for 90 days, after which they must be redone if a license has not been applied for or obtained.

New Mexico Superintendent of Insurance Issues Emergency Order – 2024-155

Pursuant to Governor Lujan Grisham's Executive Order 2024-155, issued October 21, 2024 in response to the devastating severe flooding impacting Chavez County, the New Mexico Office of Superintendent of Insurance (OSI) issued an Emergency Order to protect access to insurance and the stability of insurance markets during the emergencies declared in the Governors executive order.

The Order requires health insurers to provide grace periods for premium payments, refill prescriptions early, cover out-of-network services, waive patient cost-sharing and prior authorizations, and cover replacements of essential medical supplies and equipment that were left behind due to evacuations. These emergency protections are intended to remove financial burdens and administrative hurdles to medically necessary services.

The Order also requires property insurers, including those offering homeowners and automobile policies, to provide grace periods for premium payment and claims submission, waive deductibles, postpone cancellations and non-renewals, and suspend late payment fees.

Regulatory Activity Emergency 2024-157

Dated October 24, 2024. The Governor of New Mexico declares a state of emergency to exist in Chaves County due to severe flooding that began on October 19, 2024. This Order supersedes any conflicting previous orders, proclamations, or directives. The order is effective immediately and until the allocated funds are expended or no longer necessary for emergency assistance.

Regulatory Activity Patient Compensation Fund Surcharge 2025

Dated October 25, 2024. The Superintendent of Insurance, as the Custodian of the Patient's Compensation Fund (Custodian), has received the Patient's Compensation Fund (PCF) Advisory Board's Proposed Findings, Conclusions, and Recommendations after conducting public hearings on PFC surcharge rates and deficit reduction assessments. The Custodian adopted the findings of fact as their own and adopted the PCF Advisory Board's conclusions and recommendations unless otherwise modified. Specifies that the changes take effect January 1, 2025.

The order is for an increase in PCF surcharges for independent providers by 8.6 percent, with no deficit reduction amount assessed against them this year. The Custodian allocates the $35.9 million infusion from the Legislature 100 percent to the deficit attributable to independent physicians and surgeons, eliminating the $18.4 million deficit as of December 31, 2023. Any remaining funds appropriated by the Legislature are to be held as surplus for the benefit of the independent physicians and surgeons.

The PCF surcharges for hospitals will be increased at an expected level of 19.7 percent. This increase is the net sum of a recommended decrease in the surcharge of 5.7 percent and an increase in the deficit surcharge of 26.8 percent. The net 19.7 percent surcharge increase does not include any provision for batch claims based on a statistical confidence level that the PCF would not be subject to batch claims found reasonable by the PCF Advisory Board.

PCF surcharges for provider-owned entities will be assessed at 10 percent of the cumulative individual QHP surcharges for all individual QHPs practicing within the entity. The PCF will continue to compile data on a per procedure basis for provider-owned entities to determine the most appropriate method for future surcharges.

NM Bulletins 2024-022 and 2024-023

On October 29, 2024, the New Mexico Office of Superintendent of Insurance issued Bulletin 2024-023 to advise residential property insurers to notify impacted policyholders by January 27, 2025 about a change in the Public Protection Classification (PPC) in the fire service protection areas (FSPA) of Fort Bayard and Santa Rita. Residential property insurers issuing the PPC notice should use the notice of change language in Bulletins 2024-022 or 2024-023. Bulletin 2024-023 will expire on October 29, 2026 unless it is rescinded or revoked earlier.

Oklahoma

Regulatory Activity

Oklahoma DOI Reminds Industry About Data Security Law - Bulletin No. 2024-10

The Oklahoma Department of Insurance has issued Bulletin No. 2024-10 to remind the industry to comply with Senate Bill 543, the Insurance Data Security Law, which took effect on July 1, 2024. Unless exempted, the law gives licensees until July 1, 2025 to develop an Information Security Program and July 1, 2026 to select a third-party service provider to protect and secure the licensees' information systems and nonpublic information.

South Dakota

Regulatory Activity

Workers Compensation

Dated October 23, 2024. The South Dakota Department of Labor & Regulation announced a significant update regarding the state's minimum wage rates, set to take effect on January 1, 2025. This update marks an increase in the hourly wage for non-tipped employees from $11.20 to $11.50. This adjustment aligns with the annual review process that considers the cost of living increases as reflected by the Consumer Price Index, adhering to the legislation SDCL 60-11-3.2 enacted on January 1, 2016.

The minimum wage for tipped employees is adjusted to $5.75 per hour, ensuring that their combined wages and tips meet or exceed the non-tipped minimum wage. This wage increase applies broadly across all employers within South Dakota, with some limited exceptions.

CALENDAR OF EVENTS

National Association of Insurance Commissioners

November 16-20, 2024 - Fall National Meeting

November 21-24, 2024 – Annual Meeting

ARTICLES OF INTEREST

2025 Global Insurance Symposium – Plan Now to Attend

Farm Bureau Financial Services is a corporate sponsor of the Global Insurance Symposium being held in Des Moines on April 15-16, 2025.

The Global Insurance Symposium offers an educational and networking opportunity that brings together over 500 insurance and financial services company executives, national and international regulators, state and federal government representatives, entrepreneurs, and startup tech firms. The Global Insurance Symposium is an opportunity for regulators, insurance professionals, and startups to discuss great content delivered by powerhouse speakers.

Registration is open now and costs are reduced for Farm Bureau employees to $495 promo code: **fbgis2025x.**
https://web.cvent.com/event/9fb71d3f-2bd6-42fe-aefe-36f52ef40939/regProcessStep1

ACLI Committee Appointments Selected for 2025

Congratulations to the following individuals who have been selected to serve on ACLI's formal committees:

- **Accounting Committee - Tony Aldridge**
- **CEO Steering Committee on Consumer Issues - Kelli Eddy**
- **Federal Legislative Strategy Group - Brett Clausen**
- **Innovation Committee - Wendy S. Peterson**
- **Life Insurance Committee - Kelli Eddy**
- **Risk Classification Committee - Sonya Ostling**
- **State Legislative Strategy Group - Brett Clausen**

A primary purpose of the ACLI committee system is to assist the Board of Directors in discharging its oversight duties with respect to the development and implementation of the association's strategic plan and in making recommendations to the Board in relation to its policy-setting role. Those chairing, staffing, and serving on ACLI committees should endeavor to foster a cooperative, interactive, and integrated environment where proposed policy recommendations are aired and debated with the goal of driving toward an industry consensus. Member company participation on our committees is crucial as we grow our strategic plan and engage in policy debates around these challenges at the state and federal levels.

The formal committee service term begins on November 1, 2024 and runs through October 31, 2025.

LIMRA U.S. Individual Life Insurance Yearbook

This report delivers a comprehensive overview of the U.S. individual life insurance market. It provides insights behind 2023 sales by product line and distribution group, as well as trends over time. The report also incorporates knowledge drawn from consumer research surrounding sentiment toward life insurance.

Key Findings:

- Although growth was flat, U.S. individual life insurance annualized premium sales remained at a record-high level in 2023, surpassing $15 billion for a third consecutive year. Sales appear to be holding at the higher level established during the pandemic.
- New variable universal life (VUL) premium grew the most, and VUL was the only product line to gain market share (in terms of annualized premium), thanks mainly to very high face policy sales.
- Term was also a leading premium driver and drove overall face amount up, largely due to digital platform expansion and more competitive pricing.
- Whole life (WL) and indexed universal life (IUL) drove an increase in policy sales as the industry reached more of the mid-to lower face amount market.
- WL annualized premium growth was stagnant. In fact, higher interest rates have recently resulted in a shift in dollars from short-pay toward longer-pay WL premium periods and towards other products with the potential for a higher return.
- While IUL premium sales fell, they remained close to the historic level reached in 2022. Results were expected to stabilize, following the extreme growth (related to the 7702 tax code update) in the previous few years and additional illustration restrictions set in May 2023.
- Despite some company success (related to product or rate enhancement and distribution campaign or expansion) low fixed UL market share persisted as credited interest rates (despite recent market rate gains) remain near historical lows.
- Affiliated and independent producers continued to sell most of the premium and face amount and gained ground in terms of policy market share in 2023. This came at the expense of the direct-to-consumer channel, which lost policy market share for a third consecutive year (after pandemic driven growth in 2020).
- The average new survivorship policy provides over $4 million of protection. These policies are commonly used to cover estate tax obligations, so there are relatively few purchased. However, if Congress does not act, the estate tax exemption amount will plummet at the end of 2025 and expand the survivorship market significantly.
- Combination product sales fell 4 percent in 2023. This follows a significant jump (related to the Washington Cares Act) in 2021 and a stagnant 2022. Overall, combination writers sold $2.9 billion in annualized premium, which represented 18 percent of the overall individual life industry in 2023.
- People most commonly say their life insurance is for final expense coverage. While income replacement ranks fourth, more should consider this vital coverage goal as at least half of families would feel financial hardship from the loss of their primary wage earner within a year.
- Most often, perceived expense stops people from buying life insurance (and most overestimate the cost). Issues around knowledge and procrastination are also common deterrents. In fact, most ranked end-of-life planning as more difficult to discuss than politics, religion, personal finance, or health issues.

The full report can be found on the Government Relations SharePoint site:
https://fblfinancial.sharepoint.com/sites/LGOV/ResearchandWhitePapers/Forms/AllItems.aspx

Geopolitical, Election Risks Have Insurers on High Alert

Carrier Management – Elizabeth Blosfield

Amid geopolitical turmoil and an unprecedented election year, insurers are reassessing their coverage strategies in response to the heightened risk of civil commotion, war and cyber threats, according to experts.

“For example, is it still appropriate to offer unnamed contingent business interruption coverage under a war policy?” said Tim Strong, head of crisis management at Aspen Insurance, referring to CBI that provides coverage if a third party that isn’t named in the policy has a loss impacting the insured’s business activities or supply chain.

“What happens if the insured has a supply chain that includes semiconductors made in Taiwan or Israel?” he said. “Recent geopolitical events have prompted underwriters to reconsider some of the expansions of coverage that were a product of the soft market years.”

U.S. policy institute The Center for American Progress reported that globally, more than two billion voters in 50 countries will go to the polls. In the U.S. alone, more than 160 million Americans are registered to vote in the November 5 presidential election, according to the World Economic Forum. Rising political tensions surrounding these global elections, coupled with ongoing conflicts in places like Ukraine and Israel, have led to mounting concerns of unrest and what it means for insurers.

“Elections and transitions of power can oftentimes lead to civil unrest and increased geopolitical risk,” said Matt Westhoff, head of North American Commercial Property at Beazley. “You add in the fact that we have two wars happening right now in the Middle East and what’s going on in Ukraine, and I think, broadly speaking, the world is a riskier place than it was four years ago. So, I think it’s very important we’re having this conversation. We want our clients and brokers to understand the risks and be prepared as best as possible.”

Strikes, Riots and Civil Commotion

In the property world, Westhoff said the conversation has been dominated recently by climate risk, inflation, increasing reinsurance costs and other risks.

“So, with these strikes, riots and civil commotion piece of the policy, oftentimes, we start at the bottom of the conversation,” he said. “Not that those other things aren’t important, because they’re so very important, but this topic needs to be discussed.”

Typical homeowners and renters policies, as well as commercial property insurance, cover damage caused by riots and civil commotion. However, exclusions may exist, which has led to more conversation about carving out strikes, riots and civil commotion as a standalone policy.

“I think right now, the property market, broadly speaking, is still a good place to get coverage for SRCC, but for your higher-risk clients, the standalone market certainly is there for you,” Westhoff said.

However, others see standalone coverage as the way forward for SRCC risks.

“Personally, I believe SRCC risks should be housed in the standalone, specialty market and not within property all-risk policies,” Strong said. “A standalone SRCC solution brings greater value to the client, as the coverage can be tailored to the insured’s specific needs and risk profiles.”

He added that the standalone SRCC market can offer access to advisory services and post-incident support and response via third-party security consultants who have relationships with specialty insurers.

"In terms of industry trends, the approach varies by region and client type," he said. "Following a costly SRCC event in a specific country, property carriers tend to exclude SRCC and shift exposure to the specialty markets. However, when market conditions soften, carriers often revert to including SRCC in their all-risks forms to differentiate their offerings. Nevertheless, many clients find value in a standalone solution and seek to maintain those partnerships regardless of the coverage offered in their property policies."

Another point of dissention for insurers regarding SRCC coverage is how the losses are actually defined and whether they can aggregate, Strong said.

"While there is no single, uniform definition for an SRCC event, some event definitions in reinsurance or retro contracts may have time or distance considerations," he said. "For example, if there is widespread civil unrest in the U.S. around the presidential election, how would this be considered in terms of an event or a number of events? One could argue that all unrest linked to an election has been triggered by the same proximate cause, however, insurers may find that the language in their reinsurance or retro contracts considers these to be multiple events, and therefore, multiple net retentions."

He said improvements in SRCC modeling can help insurers gain better insight into their net retentions for these scenarios, but more work still needs to be done in this space. (Related article, "TEASE TO LISA's article whether online or in magazine)

"We're seeing a heightened awareness from leadership teams around how costly SRCC events can be and, with 2024 being a key year for elections along with other emerging geopolitical risks, it's only natural that this issue is currently a talking point," he said.

Westhoff said insurers should be preparing for starting conversations with brokers about how coverage is triggered in an SRCC event and what their retention levels are.

"We should be setting our risk appetite and risk tolerance appropriately for that, and we should be working with our brokers and our insurers to educate them on what the risks are, what to do if an event happens, and how to react," he said. "Not all of these policies are created equal. It's very important for people to understand the terms and conditions."

Deadly Weapons

Lucy Straker, U.S. focus group leader for political violence and deadly weapons at Beazley, added that it's not just SRCC coverage insurers should be thinking about. Newer coverage areas, such as deadly weapons coverage, should also be part of the conversation.

"That's going to go far beyond what a traditional insurance product offers, and ultimately, it gives you advice and support in the face of violence—whether that's before, during or after something happens," she said. "That's one of the products that we've seen emerging over the past five years, and especially growing in the face of an election super year."

Deadly weapons coverage can be triggered by the brandishing of a weapon, she said, which means physical damage or bodily injury doesn't necessarily have to be present. Brandishing a weapon with intent could be enough to trigger the policy. (Editor's Note: In addition to prevention and crisis management services, deadly weapons protection may include liability coverage for lawsuits arising from harm caused by deadly weapons attacks, physical damage coverage and business interruption coverage)

"Arguably, every single client should be purchasing that," she said. "Our clients tend to think of assets as their physical assets, and that's where we speak about the difference between potentially traditional insurance options and newer products such as the deadly weapon protection assets. If you're running a business, it's also going to be your people, your brand and your reputation. And so, it's important to make sure you're looking at everything holistically and protecting all of those assets."

Cyber Risk

Another coverage area that insurers are rethinking in the face of global conflict is cyber, said John Farley, managing director of the cyber practice at Gallagher.

"There are a variety of reasons that can motivate an individual or group to launch a cyber attack," he said. "Political ideologies are one of them."

Kellam Radford, senior vice president and national programs underwriting leader at DOXA Insurance, agreed.

"The U.S. itself is going through a polarized election cycle, with historically low levels of confidence in the political process," he said. "This makes the democratic process more vulnerable, especially where outcomes are predicted to be close…This is where the [cyber] risk will likely be greatest."

Farley said insurers and those purchasing cyber policies need to be mindful of how a policy will or will not respond in certain cases.

"Is there a war exclusion?" he said. "How broad or narrow is the wording of that exclusion? Do you have contingent business interruption coverage? If so, are you subject to a sublimit?"

Additionally, when cyber defense resources are focused on protecting the election process and averting any potential civil unrest or terrorist activity, commercially oriented and opportunistic attacks can occur, Radford said.

"Three main goals of any conflict are to control the narrative around the event, ensure the flow of capital to fund activities, and minimize any owned supply chain disruptions while maximizing disruptions to the other side," he said. "All three of these goals create opportunities for cybercrime."

Because cybercrime is most likely regionalized to areas of conflict and associated with the physical movement of goods and flow of capital around associated supply chains, Radford said the exposure for carriers and businesses depends on where they are doing business, although there is always potential for damage and losses beyond areas of conflict.

"From an insured loss standpoint, I'm not aware of any major change in claims because of these conflicts, although the covert nature and sophistication of these activities can make them hard to detect," he said.

Although cyber policies have always included war exclusions, he said recent initiatives separating cyber and traditional wars with enhanced cyber war exclusions have prompted U.S. domestic markets to rethink their own exclusionary language.

"While this language makes it clearer as what constitutes a legitimate claim, given the covert nature of nation states, it can increase the likelihood that more claims can become disputed," he said. "I'm hearing there has definitely been some pushback around this."

Other concerns, such as supply chain issues and ransomware, are ongoing and likely to continue impacting cyber policies, he said.

"Cyber policies often offer contingent business interruption, and my belief is demand for coverage for this type of exposure will continue to increase. So, many carriers are likely exploring their coverage offering, perhaps with a sublimit," he said. "If geopolitical events drive up ransomware and other insurance losses and rates can't adjust, that could also drive carriers to try and impose more coinsurance, which we've seen in the past."

One of the biggest challenges with the cyber risk landscape, Radford said, is that it's always evolving. This makes it difficult for underwriters to quantify and price risk based on historical events and subjective assessments of the data.

"This is where models will increasingly come into play to help underwriters harness data to predict organizational vulnerabilities and their associated economic impacts more objectively to better determine the underwriting tolerance and pricing of risks," he said. "Unlike other lines, cyber does not adhere to more standardized policy language. Coupled with the ability to better model individual risks, this will create more flexibility for underwriters to tailor policies toward specific client needs and exposures."

Proactive vs. Reactive

Whether it's SRCC, cyber or war coverage, Tom Lewis, crisis management senior underwriter at Aspen Insurance, said the key for insurers in navigating the impact of global conflict and an unprecedented election year is to remain proactive.

"If you're looking at your portfolio at this point in May before the U.S. election, for example, it's already too late to make fundamental changes to what you're doing," he said. "So, if you want to significantly change your portfolio, you have to be looking almost 12 months in advance."

He said Aspen does this by examining key indicators in its business areas to determine whether a certain country is likely to have civil unrest in the near future and assess that alongside aggregations.

"We absolutely make use of external political risk consultants as, fundamentally, we see risks across the entire globe, and it's very difficult to keep up with events everywhere," he said. "We try to encourage cross-product-line discussion. The standalone market is not the only team within insurance companies that has this kind of exposure, so stimulating conversations between product lines is really important to make sure that we're speaking with one message and operating to the same strategy."

Court Orders Start to Expose "Startling" Data on Litigation Funding Sources

Carrier Management – Chad Hemenway

There is no federal law that requires the disclosure of litigation funding agreements in court cases, but some disturbing insight has been found in individual jurisdictions that have rules to increase transparency, according a panel on the topic at the American Property Casualty Insurance Association's annual meeting.

"We don't know the extent of it because there are so few jurisdictions that require disclosure, but in those few jurisdictions that have disclosure rules, it has been startling what has been uncovered," said Paul Taylor, a fellow at the National Security Institute at George Mason University's Antonin Scalia Law School, who served more than 20 years as counsel to the House Judiciary Committee's Subcommittee on the Constitution and Civil Justice.

Taylor said that in one intellectual property case in federal court in Delaware, a Chinese-backed third-party funder named Purple Vine was involved. The Federal District of Delaware requires litigation finance disclosure via a standing order, and the implications of this particular finding, Taylor continued, are crystal clear when considering information shared during the legal process, especially during discovery—a pretrial exchange of information between parties in the case.

"No matter how airtight a nondisclosure rule might be, there are so many people involved that there's a lot of room for leakage," Taylor continued at the conference in Chicago. "That's where sensitive information could give foreign competitors an advantage in a certain area. If they get sensitive knowledge about a company's product, it could allow them to just reap proceeds from litigation, which they could use to fund other anti-American projects, whatever they might be."

Third-party litigation funding (TPLF)—an investment to the plaintiffs from an outside firm in exchange for a share of a settlement or judgement—has been cited repeatedly by the insurance industry as a factor in the rising cost of casualty claims. Industry trade associations have lobbied to increase awareness of the practice and encourage court rules to reveal third-party financers.

Shortly before the panel discussion, APCIA released a statement in support of TPLF-related federal legislation introduced by Congressman Darrell Issa, chairman of the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet.

“The misuse of the legal system fueled by third-party litigation funding has formed a litigious culture, ultimately burdening every consumer and business through increased costs, including the cost of insurance throughout the country,” said Nat Wienecke, APCIA’s senior vice president of federal government relations, in a statement.

Vishal Amin, head of IP policy at Intel, said an “immense amount” of IP cases come not from competitors but from others funded by third parties and are “coming after our interests.”

“It’s almost a form of economic warfare,” Amin told the conference audience. “You have sovereign wealth funds from the Middle East; you have foreign governments [like] the example with the Chinese, or Russian oligarchs now funding some of this litigation finance. There is a method to the madness here.”

Former Congressman Bob Goodlatte of Virginia, also a panelist, said TPLF upsets the job of a judge to fairly and efficiently administer justice because judges can’t identify potential conflicts of interests. Additionally, he said, plaintiffs’ attorneys may be less likely to settle cases because they are beholden to TPLF contracts. In fact, they may be forced to continue with a case because contract stipulations have not been met.

The terms of insurance contracts involved in a case are confidentially disclosed and the same should go for TPLF agreements, Goodlatte said. Whether through court rules or state or federal law, more needs to be done to stop turning the courts into a “casino,” he added.

“The courts were not designed for this purpose, and justice is being denied—not more fairly administered—by having the extensive amount of third-party litigation funding as is taking place,” Goodlatte said.

Each topic addressed in this report comes with strategic recommendations from Wards Intelligence's experts, so you can be sure you are setting up your business for success for the rest of 2024 and beyond.

The e-book is available on the SharePoint site:
https://fblfinancial.sharepoint.com/sites/LGOV/ResearchandWhitePapers/Forms/AllItems.aspx

NCOIL Pre-meeting Materials

The 2024 NCOIL annual meeting will be held November 21-24 in San Antonio, Texas. The 30-day materials for the November NCOIL Annual meeting are out.

Topics of interest:

- The Health Insurance & Long-Term Care Issues Committee will discuss developments in vision care services legislation.
- The Workers Compensation Insurance Committee will hear a presentation titled "Perspectives from the Bench on Structured Settlements."
- The Life Insurance & Financial Planning Committee has a packed agenda, including: (1) a presentation on wellness program innovations in the long-term care insurance marketplace; (2) a presentation on LexisNexis Risk Solutions' 2024 Life Insurance Mortality Risk Management Study; (2) consideration of proposed amendments to the NCOIL Life Settlements Model Act; (3) an update on Interstate Insurance Product Regulation Compact activities; and (4) an update on a proposed Resolution in Favor of Encouraging a Redesign and the Use of Lifetime Income Investment Solutions in Defined Contribution Plans.
- The NCOIL-NAIC dialogue will include discussion of the NAIC Securities Valuation Office activities.
- The Financial Services & Multi-Lines Issues Committee will hear a presentation on inflation's impact on the insurance market.

The meeting materials are located on the SharePoint site. A PDF version has been bookmarked with the items of interest listed below. Click the arrow on the left side of the screen, then select the ribbon icon (bookmarks) and they all should be listed there.

Items of interest:

- Transparency in Third Party Litigation Financing Model Act: page 205-218
- Insurance Fraud Model (readoption): page 232-246
- Resolution in Support of Catastrophe Savings Accounts: page 279-280
- Motor Vehicle Glass Model Act: page 315-321
- Strengthen Homes Program Model Act: page 322-328
- Online Marketplace Guarantees Model Act: 329-335
- Use of Aerial Images Model: 336-337

A full recap of the meeting will be provided with materials for review.