

UNITED STATES INSURANCE MARKET REPORT 2016

CONSTRUCTION



# FOREWORD

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As part of our commitment to keeping you informed, Marsh is pleased to present you with this excerpt regarding the construction industry from our *US Insurance Market Report 2016*. Through data and analysis, it provides a snapshot of current market conditions and risk trends across major lines of coverage and industry/specialty sectors. The report reflects the experience of Marsh insurance professionals who work daily with the global insurance marketplace and provide clients with risk management advice.

With 2016 under way, the global insurance marketplace appears to be heading in the general direction of soft pricing, reflecting insurer capacity, competition, and relatively low catastrophe losses. At the same time, the insurance industry will continue to be affected by macro dynamics, including global economic, political, regulatory, technological, and environmental developments.

In addition, the insurance industry is also experiencing some significant developments that bear watching throughout 2016, including:

- ▶ Large-scale mergers and acquisitions.
- ▶ Executive leadership changes.
- ▶ A reduction in and changes in underwriting appetite at several companies.

- ▶ Some insurers' disposition of unprofitable segments.
- ▶ Recent announcements regarding potential and actual reinsurance underwriting.

These developments may ultimately produce positive outcomes, such as a prolonged healthy, competitive market with higher levels of innovation, new product offerings, and improved service.

Companies of all sizes and in all industries around the world choose Marsh for our breadth and depth of experience, expertise, and capabilities. These traits are critical in a volatile market, as is our ability as a trusted strategic advisor to help you navigate complex risk challenges and assess and recommend markets.

We thank you for the trust you place in Marsh every day. Should you have any questions about this report or the industry and market environment, please do not hesitate to reach out to your Marsh representative.

Best regards,



Robert Bentley  
President, US and Canada Division

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# EXECUTIVE SUMMARY

Following are some key takeaways from Marsh's *US Insurance Market Report 2016*.

## RISK ISSUES

### Cybersecurity

Cybersecurity is now a mainstream business concern across all industries as most companies have either been the victim of a cyber-attack, conducted business with a company that has been attacked, or expect to be attacked at some point. There is a realization that cybersecurity needs to be managed across the enterprise. From individual employees to the board of directors, everyone has a stake in cybersecurity.

### Drones

Insurers are paying increasing attention to the use of unmanned aerial systems — drones. Coverage for the risks presented by drone use may be excluded from casualty policies, and insurers are concerned about personal and advertising injury risks related to drones, although bodily injury and property damage coverage may also apply. In 2016, organizations that use drones may be expected to answer detailed questions from insurers including, but not limited to, questions about drone size and intended purpose.

### Mergers and Acquisitions (M&A)

M&A activity in 2015 was exceptionally high in many industries, including insurance, health care, and communications, media, and technology. Activity is expected to be high again in 2016, barring any unforeseen changes. Among the risks heightened by M&A activity are environmental exposures, including legacy pollution issues; technological risks, such as integration of systems, data protection, and cybersecurity; and regulatory issues.

## INSURANCE COVERAGE ISSUES

### Property

► The US commercial property insurance market continued a two-year softening trend in 2015, one that is expected to continue into 2016, barring unforeseen changes in conditions. Rates are generally decreasing for buyers as catastrophe (CAT) losses were again low in 2015, insurer competition is at a high level, and alternative sources of capital are expected to continue to buoy the market.

- The quality of data that insureds submit to underwriters will continue to play a significant role in determining property insurance pricing, particularly regarding catastrophe risks.
- Cyber issues are playing out in property policies as business interruption losses stemming from cyber-attacks are an increasing concern for many organizations.

### Casualty

- The US casualty insurance market generally softened in 2015 and, barring unforeseen changes, these conditions are likely to continue into 2016.
- Automobile liability remains among the most challenging of casualty areas. Nearly half of all auto liability clients renewed with rate increases in the fourth quarter of 2015, with trucking exposures facing a particularly difficult market.
- The workers' compensation insurance market continues to improve, with generally favorable conditions for buyers. Prescription drug prices remain a cost management concern.

## Financial and Professional

- ▶ Entering 2016, demand for cyber insurance continues to grow across all industries and segments. Demand for protection against data breaches remains strong as concern over business interruption risks is growing. Capacity will continue to increase for most classes, barring unforeseen changes, but organizations should be prepared to fully outline their cyber security controls for underwriters for the best results.
- ▶ Employment practices liability insurance rates generally declined in 2015 and are likely to do so again in 2016, barring unforeseen events. Wage and hour claims filings have increased, as have related insurance offerings.
- ▶ Directors and officers (D&O) insurance rates are likely to continue to decline in 2016, barring unforeseen changes in conditions. Insurer and broker coverage innovations are also expected to continue.

## Aviation

- ▶ The airline insurance market is expected to remain soft in 2016, barring unforeseen events. In the fourth quarter of 2015, most buyers renewed with decreases of between 15% and 25%. Competitive markets are also expected for general aviation and aerospace manufacturers.

## Captives

- ▶ In early 2015, the Internal Revenue Service (IRS) included the formation of small captives on its annual list of questionable tax avoidance strategies. Any company seeking to form a small captive should follow a strict and detailed approach to ensure compliance.
- ▶ More captives may access terrorism insurance in 2016 as awareness of the potential benefits increases.

## Employee Benefits

- ▶ Employers predict that in 2016 their health benefit cost per employee will rise by 4.3%, on average, according to Mercer, one of the Marsh & McLennan Companies.
- ▶ Employers are becoming more creative in how they support workforce health. For example, about one-fourth of large employers (24%) encourage employees to track their physical activity with a “wearable” device.

## Energy

- ▶ Overall energy insurance market capacity increased in 2015, putting downward pressure on pricing. Barring unforeseen events, soft market conditions will likely continue in 2016.
- ▶ Energy companies have generally increased their focus on cybersecurity, including on regulations and adherence to certain contractual risk allocations to better manage each party’s risk and exposure to cyber loss.

## Environmental

- ▶ Barring unforeseen changes, the soft environmental insurance market conditions seen in 2015, which were driven by abundant capacity, are likely to continue in 2016.
- ▶ The rapid pace of M&A activity has led to an increase in environmental insurance purchases to help facilitate transactions.

## Entertainment

- ▶ The market for entertainment and events insurance was relatively soft in 2015.
- ▶ Drone use and terrorism risk are expected to be prominent issues in 2016.

## Marine

- ▶ The marine market significantly softened in 2015, largely driven by a continued influx of capacity, a soft reinsurance market, and reduced losses.
- ▶ A high number of mergers among marine underwriters in 2015 did not affect the overall market.

## Political Risk

- ▶ Despite significant global political turmoil and violence, political risk insurance rates generally declined in 2015 and should do so again in 2016, barring a significant change in conditions.
- ▶ High risk areas are exceptions. For example, it is difficult to obtain coverage for Russia, while portfolios that included Turkey or Brazil generally saw increases of about 10% in the fourth quarter of 2015.

## Surety

- ▶ Surety market outlook for 2016 is positive, assuming continued strength in the construction industry.

## Trade Credit

- ▶ The market for trade credit insurance is expected to remain generally favorable for buyers into 2016.
- ▶ Larger rate reductions were possible in 2015 for portfolio programs covering multiple debtors (as opposed to single-debtor programs).

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*Note:* For specific insurance market and risk trends by industry, see the “Industry Specialties” section of this report.

# Construction

## Q AHEAD IN 2016

Single-digit increases likely for commercial general liability.

Rate increases likely for subcontractor default insurance.

Contractors pollution liability (CPL) to remain competitive.

## INSURANCE MARKET CONDITIONS

COVERAGE	SEGMENT	RATE CHANGE Q4 2015	RATE CHANGE Q4 2014
PRIMARY LIABILITY (INCLUDING COMMERCIAL GENERAL LIABILITY (CGL), WORKERS' COMPENSATION/EMPLOYERS LIABILITY, AND AUTO LIABILITY)	ALL	FLAT TO 4% INCREASE	FLAT TO 7% INCREASE
EXCESS CASUALTY	ALL	2% DECREASE TO FLAT	FLAT TO 5% INCREASE
BUILDERS RISK	ALL OTHER PERILS	10% DECREASE	5% DECREASE TO FLAT
	CAT-EXPOSED	10% DECREASE	5% DECREASE TO FLAT
A/E PROFESSIONAL	ALL	5% DECREASE TO 5% INCREASE	5% DECREASE TO 5% INCREASE
CONTRACTORS PROFESSIONAL	ALL	5% DECREASE TO 5% INCREASE	5% DECREASE TO 5% INCREASE
PROJECT PROFESSIONAL	PROJECT PROFESSIONAL LIABILITY	5% DECREASE TO 5% INCREASE	5% DECREASE TO 5% INCREASE
	OWNERS PROTECTIVE PROFESSIONAL INDEMNITY	5% DECREASE TO 5% INCREASE	5% DECREASE TO 5% INCREASE
	CONTRACTORS PROTECTIVE PROFESSIONAL INDEMNITY	5% DECREASE TO 5% INCREASE	5% DECREASE TO 5% INCREASE
CONTRACTORS POLLUTION LIABILITY	ALL	10% DECREASE TO FLAT	5% DECREASE TO 5% INCREASE
	PROJECT-SPECIFIC	10% DECREASE TO FLAT	10% DECREASE TO FLAT
CONTRACTORS POLLUTION AND PROFESSIONAL LIABILITY	ALL	FLAT TO 10% INCREASE	5% DECREASE TO 10% INCREASE

The above represents the typical rate change at renewal for average/good risk profiles.

## Market Commentary

### PRIMARY CASUALTY

Primary liability insurance rates — including commercial general liability (CGL), workers' compensation/employers liability, and auto liability — for construction firms are likely to generally renew in the range of flat to 4% increases

into 2016, barring unforeseen changes in market conditions. The marketplace in 2015 remained generally competitive, a key component to achieving favorable results. New York-based risks, however, continue to be challenged by losses stemming from the state's labor laws. Residential contractors also faced challenges in the form of deductibles, premium, and

coverage due to construction defect claims. Depending on the insured's specific risk profile, challenging environments continued in Colorado, Florida, Washington, Nevada, and California. Insureds with adverse loss experience can expect to face deductible and premium rate increase challenges in 2016.

## EXCESS CASUALTY

Organizations buying excess casualty insurance generally experienced competitive rates and coverages due to an overabundance of capacity in the umbrella and excess marketplace. Lead umbrella attachment points, particularly for primary automobile liability, continued to face scrutiny in terms of adequacy. In New York, however, the first \$10 million to \$15 million of capacity was extremely limited, which at times significantly increased attachment points and premium rates, a trend that is expected to continue.

## PROFESSIONAL LIABILITY

New market capacity was at record levels in 2015 with the addition of two significant entrants. Professional liability insurers remained competitive, a trend that will likely continue in 2016, particularly for those firms with good loss ratios.

## ENVIRONMENTAL

The market for contractors pollution liability (CPL) is likely to remain competitive in 2016, especially for small and midsize firms. Premium increases seen in 2015 were generally driven by adverse loss history, revenue increases, or changes in operations. Layered programs involving multiple underwriters remained popular and were often necessary in light of capacity restrictions or aggregation issues for large contractors.

## Project-Specific Policies

### GL WRAPS

The growing demand for wrap-ups in 2015 was offset by increased capacity, which kept rates competitive in most jurisdictions, particularly for commercial grade nonresidential projects. There were new entrants for primary capacity, and excess markets offered competitive pricing, particularly on higher layers. However, New York's labor laws remained a challenge for insurers due to claims activity.

## WORKERS' COMPENSATION

Owners in 2015 were more selective in their use of owner-controlled insurance programs (OCIPs) with workers' compensation. However, for large capital projects with dedicated project management, risk management, and safety teams, workers' compensation is still a viable alternative under OCIPs. Demand for contractor-controlled insurance programs (CCIPs) continues to increase. In some circumstances, owners may sponsor general liability under an OCIP and contractors may offer workers' compensation under a CCIP. These trends are expected to continue in 2016.

## BUILDERS RISK

Demand for builders risk insurance grew in 2015 due to increased investments, particularly in the real estate segment. The increased demand for coverage coupled with limited catastrophe losses generally resulted in increased capacity, competitive terms, and decreased rates. London-based insurers that penetrated the US market in 2015 also pressured domestic builders risk insurers, resulting in some cases in rate reductions.

## PROFESSIONAL LIABILITY

Project-specific architecture, engineering, and construction (AEC) coverage remained costly in 2015; however, competition from new market entrants may lower costs slightly in 2016. Owner's protective insurance remained a popular and less costly alternative. Contractor's protective professional indemnity provided flexible, cost-effective protection in support of design-build and engineering, procurement, and construction (EPC) contracts. On new projects, owners typically demanded higher limits from design firms and introduced more restrictive indemnification agreements for subcontractors and subconsultants. Residential projects continued to be challenged by AEC insurers, particularly in California and Florida.

## ENVIRONMENTAL

Project-specific policies covering pollution legal liability and contractors pollution liability continued to be used for large, complex projects in 2015. Owners and lenders environmental insurance requirements are often higher than any single insurer's capacity, resulting in the need for layered programs. Ample excess capacity is generally available to meet the needs of most projects, and primary and excess layers were competitively priced. These trends are expected to continue in 2016.

## RISK TRENDS

### Subcontractor Default

The demand for subcontractor default insurance grew in 2015 due to an increased availability of work. Increased claim activity caused insurers to generally seek 5% rate increases for the coverage, a trend likely to continue in 2016.

### Definition of Occurrence

Claim resolution issues on coverage relating to the definition of occurrence may affect some organizations. Solutions such as alternative policy language will vary according to risk profile and policy language; a potential coverage grant around the definition of occurrence that amends the insuring agreement may be available from certain insurers. The case law around the definition of occurrence is expected to continue to evolve throughout 2016, with potentially broad and more restrictive interpretations in many jurisdictions.

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