Crittenden's
Specialty Coverages Insider™
Excess & Surplus Lines ■ Admitted Carriers ■ Alternative & Offshore Markets
Crittenden Newsletters ■ P.O. Box 1150, Novato, CA 94948 ■ Customer Service: (800) 421-3483

Vol. 26, No. 17 January 2, 2012

RATES ON THE RISE FOR PRIVATE COMPANY D&O

Expect low single-digit rate increases for private company D&O this year as larger insurance companies collectively push for an end to the soft market. **Philadelphia Insurance Co.** will enact such an increase and **Liberty Mutual Insurance Cos.** awaits approval of a 3.8 percent rate increase in California for its private company D&O combination policy. It remains to be seen just how the shifting market will impact the notoriously soft private company D&O sector, which continues to attract new capacity. This competition, however, will more likely lead to broadened forms and service-related enhancements rather than rate reductions.

The door may be open for new competitors in this segment if there's truth behind conjecture that some of the longer-term markets are repositioning their books, including **XL Insurance**, **The Hartford** and **Navigators**. **Argonaut** expanded into private company D&O late last year and anticipates growth in the segment through the addition of miscellaneous professional liability (MPL) to its management liability package. Look for Liberty Mutual to also build its one-year-old private company D&O book. Newer capacity, however, may be more interested in capitalizing on an upward trend in rates rather than perpetuating the soft rating that dogged virtually all insurance lines for years. For now, this shift in the tide has carriers reporting nominal price increases or at least firming of pricing in books of private company D&O business.

Philadelphia and Liberty won't be alone in their efforts. **W.R. Berkley** and **Travelers** have been outspokenly bullish about their ability to put upward pressure on rates during the last half of 2011. Travelers pushed rate increases of up to 5.8 percent for business accounts. Berkley's third-quarter net premium written (NPW) rose 14 percent in part because of rate increases. **AIG** has reported rate increases.

No More Routine Rate Cuts on Renewal

Look for the first inkling of changing rates to show up in fourth quarter reports. Clean private company accounts renewing D&O coverage will typically find rates flat. The most desirable accounts may still incite competitive pricing. Last year's automatic decreases have disappeared and underwriting scrutiny will intensify over companies' financial stability and other factors that might trigger a claim. Many private companies with a claims history that received a rolling rate upon renewal last year will be smacked with increases in the 10 to 20 percent range.

Look for the big name carriers such as **ACE**, **Chubb**, **Chartis**, Travelers, **Zurich**, The Hartford, Philadelphia and **Arch** to lend momentum to the push for single-digit rate increases. Just about any carrier interested in building a professional liability book will eagerly write private company D&O, but when it comes down to it, brokers and wholesalers selling the product tend to shop within a comfort zone comprised of companies with which they tend to do the most business. That usually whittles down the competition to the top 15 or so markets, with retail brokers more inclined toward Chartis, Chubb, ACE, The Hartford and Travelers and wholesalers' list of likely writers including **Darwin**, **Scottsdale**, Philadelphia and **RSUI**. These carriers are only the tip of the iceberg; this segment will remain saturated throughout the year.

Rate increases for this segment largely reflect higher pricing for employment practices liability (EPL), since private company D&O is typically packaged with EPL. Despite the maturation of private company D&O and the development of its own claims history, these accounts are still considered much less risky than their public company counterparts. Limits range from $2,500 to $5,000 per million up to $20,000 per million depending on the type of company, size and location. Service-oriented businesses and businesses located in more litigious states command the highest premiums.

Continued on Next Page

INTERNATIONAL GROWTH

ARGO GROUP (NR): Andrew Carrier, chief underwriting officer, 110 Pitts Bay Road, Pembroke HM08, Bermuda, (441) 296-5858, andrew.carrier@argore.com.

AXIS CAPITAL (A): John Charman, president and CEO, 92 Pitts Bay Road, Pembroke, Bermuda HM08, (441) 496-2600, john.charman@axiscapital.com.

MARKEL CORP. (A): Ewa Rose, Managing Director, Markel International, The Markel Building, 49 Leadenhall St., London EC3A 2EA (44) 0207 953 6580.

XL GROUP (A): Michael McGavick, president and CEO, XL House, 1 Bermudiana Road, Hamilton HM 08 Bermuda, (441) 292-8515, michael.mcgavick@xlgroup.com.

TITLE AGENTS E&O

CNA (A): Eric Myers, VP, Victor O. Schinnerer & Co., Inc., 2 Wisconsin Circle, Chevy Chase, MD 20815, (301) 951-5428, eric.e.myers@schinnerer.com.

PRIME INSURANCE CO. (B++): Rick Lindsey, CEO, 8722 S. Harrison, Sandy, UT 84070, (801) 304-5510, rjl@primeis.com.

PROSIGHT SPECIALTY INSURANCE CO. (A) / ACE (A+) / HISCOX (A) / ALTERRA INSURANCE (A): Maria Treglia, SVP, Program Brokerage Corp., 100 Sunnyside Blvd., Woodbury, NY 11797, (516) 496-1345, fax (917) 934-9499, mtreglia@programbrokerage.com.

TITLE INDUSTRY ASSURANCE CO. (RRG): Max Paradise, program manager, 7501 Wisconsin Ave., Suite 1500, Bethesda, MD 20814, (800) 628-5136, max.paradise@cpim.com.

TITLEPAC INC. (NR): Bart Newsom, VP, P.O. Box 857, Muskogee, OK 74402, (800) 331-9759, bnewsom@titlepac.com.

Rates on the Rise for Private Company D&O…

Continued from Previous Page

Some carriers will offer expanded coverage options in this firming rate environment. W.R. Berkley stands out with wage and hour defense coverage in its standalone EPL or within its typical private company D&O coverages. Its private company D&O is written nationwide on the paper of **Carolina Casualty Insurance Co.** and **Admiral Insurance Co.** through member company Monitor Liability Managers. Scottsdale and **Allied World** may also provide wage and hour defense coverage, but it's questionable whether they will provide it in California.

Monitor will consider all types of private company D&O accounts but targets midsized accounts with up to 2,000 employees or revenues up to $100 million. Limits are available up to $5 million. It expects to grow its private company D&O book, along with the rest of its professional liability lines, with the launch of a mobile application for real-time quoting. It considers ease of use and other customer service enhancements key to growth in an environment of rising rates and has experienced significant interest in the app since its launch in November. Monitor has signed up new wholesale and retail brokerages interested in using the interface. Chubb also looks to technology for growth. It expects to add private company D&O to its new online quoting and binding system later this year. The system currently services various PL lines.

EPL's Impact on D&O Package Pricing

Increased exposures to various EPL risks is the primary factor behind Philadelphia's push for rate firming for its private company D&O accounts. Within the past six months, it's managed to increase its rates in the low single-digit percent range for select accounts, and the cleanest risks typically experience flat renewal pricing to a nominal increase. The carrier is also a large market for standalone EPL, for which it also implements modest rate increases. Philadelphia's form includes an optional duty to defend, which it considers to be a standout feature because it provides the insured with various defense options from tendering the claim to the carrier to receiving reimbursement for managing the claim within the company. Philadelphia recently began selling more private company cyber liability/privacy protection coverages, as either an endorsement to the bundled D&O coverage or a standalone policy.

Look for Argo to bring more capacity to the Side A DIC market. Argo's management liability program is admitted in 12 states and will be nonadmitted in the remainder as the carrier awaits completion of its rate filings. Expect its coverage to be admitted nationwide by midyear. Argo's management liability program includes EPL, D&O, MPL and fiduciary coverage.

PRIVATE COMPANY D&O

ARGONAUT INSURANCE CO. (A): Laurie Banez, SVP, head of management liability, 610 Broadway, Fourth Floor, New York, NY 10012, (212) 607-8816, lbanez@argogroupus.com.

CAROLINA CASUALTY INSURANCE CO.(A+) / ADMIRAL INSURANCE CO. (A+): Tom Mathias, SVP Underwriting, Monitor Liability Managers, 2850 W. Golf Road, Suite 800, Rolling Meadows, IL 60008, (800) 446-2100 ext. 510, tmathias@monitorliability.com.

CHARTIS (A) / CHUBB GROUP (A++) / ACE GROUP (A+) / SCOTTSDALE INSURANCE CO. (A+): Maria Treglia, SVP, Program Brokerage Corp., 100 Sunnyside Blvd., Woodbury, NY 11797, (516) 496-1345, mtreglia@programbrokerage.com.

LIBERTY MUTUAL INSURANCE CO. (A): Bobby Vernon, president, Howden Specialty Underwriters, 9100 S. Dadeland Blvd., Miami, FL 33156, (786) 275-3251, bvernon@howdengrp.com.

PHILADELPHIA INSURANCE COS. (A+): Tom Herendeen, VP, Specialty Lines Division, 1 Bala Plaza, Suite 100, Bala Cynwyd, PA 19004-095, (610) 617-7623, therendeen@phlyins.com.

MORE MARKETS EYE REPUTATIONAL RISK

Expect to see more coverages designed to mitigate damage to corporations' and their executives' reputations. **Zurich**, **Chartis** and **Lloyd's of London** all provide some form of reputational risk coverage and more are on the way as the London-based market works with a number of underwriters to develop strategies and differentiate offerings that address corporations' various exposures. Lloyd's estimates that about 80 percent of the world's largest 1,000 companies lose more than a fifth of their value every five years because of some major reputational event. For decades, the London market has provided reputation risk coverage in one form or another for corporations, from contingency market risks, death and disgrace coverage to various forms of business interruption.

Demand and coverage options for this niche will grow, piggybacking on existing base products that include product recall, trade name restoration, trade disruption and the like. These coverages combined already generate millions in annual premium. High-profile media events and increasing use of electronic record management systems will be among the factors that will drive this demand. Also expect more insureds to purchase reputational risk covers now that corporations work harder and spend more money than ever in the Internet Age to build, maintain and protect their reputations. Carriers developing new product to address reputational risks will be aided by increasing statistical data that helps identify and quantify brand value.

The Lloyd's coverage is available to most companies but demand is strongest for upper middle-market corporations with revenues from $500 million to $3 billion. Its accounts typically buy $10 million to $25 million limits and rates generally are 2 to 5 percent of the limit. The Lloyd's coverage is usually comprised of two elements: crisis management and brand reestablishment, and loss of revenue, loss of profits and/or increased costs of doing business.

Chartis' new version of reputational risk coverage is an offshoot of long-established, well-known variations of business interruption coverage. The carrier splashed into the market late last year when it launched its ReputationGuard reputational risk coverage to specifically protect corporations' executives' reputations. The Chartis coverage targets small to mid-sized firms generating premium in the $10,000 range. At about the same time, Willis launched a Lloyd's-backed, but more traditional brand of reputational coverage designed for the hospitality industry under the Hotel Reputation Protection 2.0 name. The coverage will be replaced by version 3.0 sometime next year.

INSURANCE BRIEFS

AmWINS' proposed acquisition of the London-based THB Group will expand AmWINS international presence and give it more than 2,400 employees in 20 countries worldwide. AMWINS places over $6.7 billion in annual premium.

Completion of **Zurich**'s long-term alliance with Banco Santander, S.A. will allow the carrier to extend its life and general insurance distribution capabilities to Brazil, Mexico, Chile, Argentina and Uruguay. Zurich will also extend its global reach to Malaysia through its acquisition of **Maylasia Assurance Alliance Berhad** (MAAB).

REPUTATIONAL RISK COVERAGE

CHARTIS (A): 175 Water St., New York, NY 10038, (877) 867-3783.

LLOYD'S OF LONDON (A): John Eltham, Miller Insurance Services, Dawson House, 5 Jewry St., London EC3N 2PJ, +44 (0) 20 7031 2689, john.eltham@miller-insurance.com.

CONTRACTION HITS TITLE AGENT E&O BEFORE STABILIZATION

Expect one or more major markets to capitalize on a growing dearth of capacity for title agent/abstractor E&O hot on the heels of **Zurich** and **Chartis**' exit from this class of business. Expect a few other E&O writers to follow Zurich's and Chartis' lead. Carriers have taken a beating in this sector during the unprecedented real estate meltdown, resulting in title agent/abstractor E&O loosing capacity during the past few years. Appetite-killing losses largely attributed to soft market rates and heightened risk will prevent major markets from making a quick return. **Chubb**, **Frontier**, **Homestead**, **St. Paul Travelers**, **Tudor**, **Scottsdale** and some **Lloyd's of London** markets are among those who've left this market.

The real estate markets' meltdown will eventually result in fewer title claims in the near term, particularly once the glut of distressed housing inventory stabilizes. Claims have surfaced during the last three years out of mistakes made during the frenzy of the real estate bubble, followed by those made as distressed properties began to change hands every one to three years instead of the historical norm of seven to eight years. Titles were cleared for many properties that were, in fact, still encumbered. But now, mortgage lenders that once would sign-off on a "marketable title" now insist on a completely cleared title. This change, and the class' shrinking workload and carriers' overall momentum towards more disciplined underwriting will give rise to a rebirth of profitability over the long term as claims decline.

Anemic capacity will present opportunity to build premium for any market willing to take on the risk. The title agent/abstractors segment has faced hardening market conditions since real estate lost its legs in 2008. Minimum premiums for claims-free accounts have risen to $5,000 for nonadmitted coverage and at least $2,000 for admitted coverage. Larger title companies with a loss history and/or broad exposures can expect premiums of $20,000 or more. Even these rates are still considered soft. Deductibles have also increased. Deductibles that used to be in the $5,000 to $10,000 range for title agents/abstractors working the metro areas now range from $20,000 to $50,000 or more. In the search for profitability, some carriers have shed risk by excluding formerly common coverage for subcontractors or third-party information providers. Most carriers will place coverage either through a title agent/abstractor E&O-specific product or under miscellaneous professional liability coverage.

Look for rates to rise even more for this class. Capacity is spooked and underwriters are more stringently evaluating accounts after years of soft pricing, a flood of title agent/abstractor claims and reservations about another possible wave of claims triggered by distressed properties expected to come to market this year. Ironically, it's also possible that rates for some of the cleanest risks will undergo more softening in the short-term as remaining markets strengthen their market share by cherry picking the best accounts now searching for a new cover holder. Newer entrants such as **ProSight Specialty** could benefit.

Capacity still in the game will include the **Title Industry Assurance Co. (TIAC)** risk retention group, **CNA**, **Prime Insurance Co.**, **Hiscox** and **Alterra Insurance**. TIAC fields a 10 to 15 percent increase in submissions and expects this momentum to continue. The RRG is endorsed as the preferred source for title agent's E&O by all of the major title insurers including Fidelity, First American, Old Republic, Stewart Title and Security Title Guarantee. Prime has experienced an increase in submissions and is among the few carriers that will write title agents/abstractors with claims history. The B++-rated carrier will underwrite $1 million/$2 million limits for premium in the $3,000 to $10,000-plus range.

Zurich's exit leaves the large, well-established TitlePac book open for negotiation. TitlePac became a managing general underwriter for its book in the 1990s and partnered with Zurich in 2003. Over approximately 20 years, the MGU partnered with only two others, **Fireman's Fund** and the now defunct **Kemper**. The MGU will tap available markets for existing clients while negotiating with potential new carriers/partners. TitlePac has been placing title agent/abstractor E&O since the 1970s.
.

Continued on Next Page

FOREIGN CORRUPT PRACTICES COVERAGE

CHARTIS (A) / CHUBB GROUP (A++) / ARCH INSURANCE GROUP (A) / ACE GROUP (A+) / THE TRAVELERS INDEMNITY CO. (A+) / ZURICH (A+): Ann Longmore, EVP, Willis, 1 World Financial Center, 200 Liberty St., 7th Floor, New York, NY 10281, (212) 915-7994, ann.longmore@willis.com.

CHARTIS (A): Robert Yellen, chief underwriting officer, 175 Water St., New York, NY 10038, (212) 458-3745, executiveliability@chartisinsurance.com.

TORUS SPECIALTY (A-): Jeffery S. Grange, SVP, chief underwriting officer, global professional lines, Harborside Financial Center, Plaza 5, Suite 2900, Jersey City, NJ 07311, (201) 830-2534, jgrange@torusinsurance.com.

CONTRACTION HITS TITLE AGENT E&O BEFORE STABILIZATION…

Continued from Previous Page

CNA will be more conservative, targeting clean risks but will consider title agents/abstractors with a coverage gap. The carrier provides E&O through managing general underwriter Victor O. Schinnerer & Co. The MGU tests the waters with admitted title agents/abstractors coverage through a pilot program selling in Alabama, Louisiana, Mississippi, North Carolina and Texas. The admitted coverage is written on an exclusive basis through a single broker.

ProSight started writing title agent/abstractor E&O exclusively for Fidelity National Title agents in July. The coverage offers limits up to $2 million and a minimum premium of $2,000. It is brokered through exclusive managing general agent Program Brokerage Corp. and sold on the retail market through Arthur J. Gallagher & Co.

CARRIERS FIND OPPORTUNITY IN INTERNATIONAL LINES

Capacity will swell next year for international excess and surplus lines as carriers expand global platforms and broaden coverage. International growth showing up in Q3 and Q4 results will comfort carriers making global decisions while uncertainty still swirls around the European economy and profitability in the region. Certain lines may see some constriction of capacity while merger and acquisition activity will remain strong, especially for smaller strategic opportunities and consolidation in Bermuda. Premium volume declines in Europe will force stricter underwriting actions to improve profitability. Look for much of this global activity to focus on growing regions such as Asia and Latin America.

Two New Global Platforms

XL and **Aspen** will launch new platforms. Aspen looks to trim costs with a new global claims platform while XL hopes to improve loss and expense ratios with its new FirstBest Global Underwriting Platform to help free up capital for growth and expansion. Look for **Allied World** and **Zurich** to focus on expansion in Malaysia and in international niches such as trade credit. Allied World penned 8.7 percent more premium in international lines during Q3 after expanding the scope of its offerings in international trade credit and global professional liability business. **ProSight** will expand its global offerings with the help of a newly acquired **Lloyd's of London** syndicate.

Expect **Axis** to shift more effort into its global programs after ending 2011 with marked growth in smaller professional lines accounts and a geographic expansion that included Europe and Canada. Its net premiums showed a 7 percent gain. Expect **HCC** to follow up a 7 percent gain in net premium written during Q3 2011 with continued expansion in property treaty reinsurance business.

XL will roll out the FirstBest platform to all business units, but will begin with most classes in North America, specifically general liability and workers comp. Expect the platform to be implemented for most classes in global property later in the year. The system will integrate with back-office systems — including policy administration, pricing spreadsheets, document management, and risk analysis — as well as customer relationship management and broker management systems. XL also plans on opening its XL Seguros Brasil office in Sao Paulo, Brazil, to tap the region's primary market for casualty, property, professional and specialty insurance products. XL has offered reinsurance in Brazil for over a decade and more than 30 percent of its approximately 1,700 global programs have at least one policy in Latin America on the books.

CHANGES LOOM OVER D&O COVERAGE OF FOREIGN CORRUPTION

Carriers will make big decisions next year that could include blending D&O coverage in order to more adequately cover claims related to the Foreign Corrupt Practices Act (FCPA) and corruption investigations while still being able to price the coverage to sell. They aren't fond of the idea, but may be forced to make changes to eliminate flaws in current policies and address rising demand for coverage more specific to corruption investigations. Increasingly strict enforcement of FCPA, China's move to revive local regulations, new and evolving regulations, and the United Kingdom Bribery Act in full force will help foment need for better coverage.

If the coverage isn't a problem, the pricing of it will be. Carrier's examinations of rates will likely bring up consideration of blending limits to allow for better pricing: the coverage often doesn't sell because its priced too high. Look for **Chartis** to try to revamp its policy next year in order to make it more appealing and affordable. The carrier's Investigation Edge policy has not shown promising numbers in the nine months after its launch due to high premiums and low limits. The price skyrockets with higher limits and generally makes the policy unaffordable. One major brokerage rolls out a foreign bribery insurance policy with an option for two years of coverage that allows for a payout of half the limit to be triggered should the insured face an investigation for violating bribery law. The policy can also be structured as a traditional risk-based model that considers normal factors in pricing, including the company's size, markets or industry sector. The policy can be written for companies of all sizes in any industry to cover legal expenses, accounting, auditing and consulting expenses.

There's a hint that **Chubb**, **Travelers**, **Hartford**, **Zurich** and **ACE** will also retool excess polices that cover some aspect of foreign corruption claims. **Torus** insures fines and penalties where insurable, and its coverage doesn't contain any regulatory exclusions. Final adjudication follows industry standards. The carrier can also write Side A coverage for allegations of fraud and corruption.

Demand for the coverage will grow as more companies source inventory internationally and sell stocks overseas. FCPA and other global corruption regulations will impact private and public companies of all sizes; small companies face just as much risk as multinational corporations. Publicly traded corporations may present greater exposure as about 10 percent of all tips related to FCPA violations coming from outside of the United States involved publicly traded corporations. Companies involved in exploration and production will be most at risk, as well as those in government contracting. New risks will arise in medical device technology, sales and marketing.

The Specialty Coverages Team
editor@crittendenspecialtycoveragesinsider.com

Customer Service
Tel: (800) 421-3483 Fax: (619) 923-3518
E-mail: membership@crittendenresearch.com

Newsroom Fax: (415) 475-1576

Crittenden's Specialty Coverages Insider™ is published by Crittenden Research, Inc., 45 Leveroni Court, Suite 204, Novato, CA 94949. Send address changes to *Crittenden's Specialty Coverages Insider*™, P.O. Box 1150, Novato, CA 94948-1150. Contents copyright © 2012 Crittenden Research, Inc. Sample reports may be requested online at www.crittendenonline.com.

Crittenden publishes *Crittenden's Insurance Markets*™, *Crittenden's Medical Insurance*™, *Crittenden's Specialty Coverages Insider*™, *Crittenden's Insurance Rate Filings*™ and *Crittenden's New Product Filings*™. For more information on our reports go to www.crittendenonline.com.