

Property & Casualty Insurance

D&O Call Recap: Claims Continue to Emerge

We recently held a conference call with several brokers that specialize in directors and officers insurance. Here are the highlights:

- Claim trends:** The number and types of claims have been rising in the last several years from the relatively low levels of the 2003-2007 period. Within the brokers' client base, roughly one-quarter of clients have at least one claim and close to one-third are dealing with multiple claims. Before 2008, only 10% of the clients had a claim, and most of these clients had only one claim. In addition, legal costs have increased every year because law firms are raising rates every year.
- Terms and conditions:** Terms and conditions have eroded in the last several years as the directors and officers market has continued to soften. Insurers have been effectively giving away higher limits for similar dollars. The participants related that they are seeing retentions decline from \$150,000 to \$100,000 or even \$75,000 for some of their smaller clients.
- Pricing:** Pricing is becoming more stable than it was a year ago, but the competitive dynamic is still negative. Prices are generally flat to down 5%, compared with down 5% to 10% a year ago. They expect no change in pricing, terms, and conditions over the next six to nine months, as a result of an overhang in capacity.

Bottom line: The combination of higher claim activity, lower pricing, and weakened terms and conditions suggests that directors and officers underwriting results will deteriorate.

For a replay of the call, dial toll-free number +1 855 859 2056; the international number is +1 404 537 3406; conference ID: 94697531

Financial Services | Property & Casualty Insurance

September 07, 2011

Chubb Corporation (The)

Stock Rating: **Underperform**
 Company Profile: **Core Growth**
 Symbol: CB (NYSE)
 Price: \$59.33 (52-Wk.: \$55-\$66)

HCC Insurance Holdings, Inc.

Stock Rating: **Underperform**
 Company Profile: **Core Growth**
 Symbol: HCC (NYSE)
 Price: \$27.53 (52-Wk.: \$25-\$33)

Travelers Companies, Inc. (The)

Stock Rating: **Market Perform**
 Company Profile: **Core Growth**
 Symbol: TRV (NYSE)
 Price: \$48.53 (52-Wk.: \$47-\$64)

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Conference Call Summary

Claims Trends

The number and types of claims have been rising in the last several years from the relatively low levels of the 2003-2007 period. Starting in 2008, the participants saw a large increase in claim activity. This was driven in part by EPLI claims related to wrongful termination, sexual harassment, and discrimination claims. Within the brokers' client base, roughly one-quarter of clients have at least one claim and close to one-third are dealing with multiple claims. Before 2008, only 10% of the clients had a claim, and most of these clients had only one claim. In addition, legal costs have increased every year because law firms are raising rates every year. Emerging claim areas include:

- FLSA (Fair Labor Standards Act): Claims related to nonexempt employees (i.e., hourly) are becoming increasingly common. For example, these employees are suing related to overtime and other disputes related to time/pay issues. FLSA suits were not historically covered by insurers, but in recent years a number of insurers have offered protection with sublimits.
- Private equity/bankruptcies: Private-equity firms are being included in claims when sponsor companies go bankrupt. The plaintiff bar is suing under the Worker Adjustment and Retraining Notification Act, where employees are supposed to be given 60 days' notice before layoffs. There also have been a number of suits related to fraudulent conveyance alleging that assets were taken out before the bankruptcies.
- Recent financial stress: The participants related that the level of volatility recently experienced by the financial markets tends to increase the potential for lawsuits, although it is too early to see any visible signs.
- New financial regulation: A number of new bills, including Dodd-Frank, have the potential to increase the amount of claims even further.

Terms and Conditions

Terms and conditions have eroded in the last several years as the directors and officers market has continued to soften.

- Declining retention: Insurers have been effectively giving away higher limits for similar dollars. The participants related that they are seeing retentions decline from \$150,000 to \$100,000 or even \$75,000 for some of their smaller clients.
- Broadening coverage: With policy pricing going so low, carriers have shown significant flexibility in offering broader coverage and eliminating exclusions put in during the last hard market.

Pricing and Competitive Dynamics

Pricing is becoming more stable than it was a year ago, but the competitive dynamic is still negative.

- Prices are generally flat to down 5%, compared with down 5% to 10% a year ago. No change in pricing, terms, and conditions is expected over the next six to nine months, as a result of an overhang in capacity.
- While some of the larger players are attempting to be more disciplined, a number of midsize and newer players are still attempting to grab market share. They have been receiving two to three inquiries each month from insurers they do not work with asking for quotes.
- Underwriters are willing to fight more on excess layers because claims have not penetrated the excess layers.

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