TransRe’s View Of Large Law Firm E&O

Our analysis of the lawyers’ liability market is based upon the insurers we serve, and the data we receive. As a result, the underlying data is not identical to last year’s analysis. Large law firms are predominantly insured by carriers that write in multiple states and focus on firms with 25 or more attorneys. Our analysis therefore excludes data from mutuals, captives and risk retention groups.

Our analysis is based on on-level premium of approximately $5.2B from 2006 – 2018, and on aggregated internal submission data reviewed through 9/1/19.

1The charts below first exclude, then include an annual loss cost trend assumption of 2.5%. 2018 is still relatively immature at this point, with estimates largely driven by IBNR.

2012 to 2015
Loss Ratio up 20 points compared to 2006-2011 average

2014
Only recent year with acceptable loss ratio

Applying a modest loss cost trend of 2.5% adds 12.5 points to Loss Ratio across all years

As defense and settlement costs rise, trended results become more deficient

85.0% Ultimate Loss Ratio
15.0% Acquisition Costs
12.5% Internal Expenses
112.5% Underwriting Ratio
Primary & Excess Analysis

Our analysis of the difference between primary and excess layers is based on on-level premium of ~$1.5 billion for primary and ~$1.1 billion for excess, from 2006 – 2018, and on aggregated internal submission data reviewed through 9/1/19.

Only portfolios where the bulk of the business can be classified as either primary or excess are included in these figures.

1 Both charts exclude any annual loss cost trend assumption.

Primary loss ratios remain consistently higher than excess layers – over the period of the report ~44 points worse

Claims are costly to defend. We have observed a number of early/quick settlements that run above the primary layer, with insufficient SIRs

It is not a surprise that excess layers are volatile

A number of large losses from recent policy years have already impacted the excess market adversely, pointing to the need for prices to rise.
Our analysis of severity, large-loss claims and estimated industry reported losses is based on estimated ground-up losses valued at $5 million or more. These total $7.8 billion across all years.

The source of the data is both public information and submission-data reported losses, coupled with per-claim limit (layer share and 100%) and SIR / Attachment Point information.

Each ground-up loss is estimated at the per-claim level across all layers/insurers combined and counted as one claim regardless of the number of layers/insurers involved. Layer shares are estimated when not known.

The ground-up estimate could be understated to the extent higher layers of the tower and/or SIRs are unknown, or layer shares (when estimated) are not correct. Alternately, some claims information is at the per-policy level rather than the per-claim level, so the ground-up estimated loss could be overstated to the extent the total loss for a policy is comprised of more than one large claim.

2015 is showing early and elevated severity in a year not yet fully developed

2018 has incurred significant claim development beyond the primary layers, with more development to come

No single area of practice is driving outsized losses – over the past decade the losses impacting insurance layers are largely non-systemic errors across all areas of practice

2015 has over $690 million in reported large losses, up >50% from last year’s report

2017 has $172 million of large losses, $91 million of which from claims over $25 million

2018 is off to a poor start – one claim already over $100 million, and numerous claims larger than $10 million
Large Law Firm
Policy Year Rate Index

After many years of rate reductions, premiums (relative to exposures) hit a low in 2011 and slightly increased over the next two years as carriers recognized Financial Crisis losses.

From 2013 - 2017 premiums were generally flat to slightly down. However, as demonstrated here, insurers were not being paid adequately for the risks they assumed.

Since 2017, as insurers have incurred losses in recent policy years, some have reduced limits or withdrawn from the Large Law Firm space entirely. Those that remain are now, finally, pushing much needed rate across their portfolios.

However, when taking a long-term view, rates are still below pre Financial Crisis levels.

Our analysis is based on the data from insurers that write in multiple states and focus on firms with over 25 attorneys. This price index excludes the data of mutuals, captives and risk retention groups.

The figures are based on rate changes reported in submissions reviewed through 10/1/19, and reflect renewal business only.

Policy Year 2019 rate changes are largely based on budgeted or partial year figures.

As such, the data sources used to compile the rate change data do not exactly mirror those used to compile the gross loss ratio analysis shown earlier.

Large Law Firm have enjoyed multiple years of abundant insurance capacity. As demonstrated, this has kept rates at levels that do not support profitability.

Compounding the problem for insurers are new sources of claims. These arise from changing client expectations, and a change in role, with more ‘consulting’ advice being provided on larger and complex issues such as geopolitical/international, wealth transfer and technological matters.

It is too early to assess ultimate expectations for 2016-2018 frequency and severity, but the trend is already a cause for concern. Therefore we expect the market to continue to address prices and self-insured retentions to better reflect the risks being assumed.
We intend to update this report periodically, and to delve deeper into the quantification of the identified trends. To discuss how we can help you and your business, please call:

Brian Finlay  (212) 365 2038
Daniel Hojnowski  (212) 365 2168