

XPT Specialty State of the Insurance Market



eXpert Partner Team

*Industries of Focus:
Oil & Gas and the
Employment Practices
Liability Market*



MARKET
REPORT

An unpredictable economy, the labor shortage, growth in remote workers, the upward trend in nuclear verdicts and the continued impact of COVID-19 are a few of the key factors shaping the current state of the insurance market. As a result, many insurers and brokers are bracing for what could be the start of a [turbulent year](#), with shrinking coverage, tight underwriting requirements and limited writing capacity for certain lines of business.

At XPT Specialty, the best way for us to serve you, our retail broker partners, is to examine pertinent and current market conditions that can impact your business. In our latest state-of-the-market report, our industry experts provide their own professional insights into key trends and challenges that are affecting the Oil & Gas industry and Employment Practices Liability insurance market.



INDUSTRY FOCUS: OIL & GAS

General Market Trends

The ongoing labor shortage continues to have a negative impact on the transportation side of the Oil & Gas contractor space and is evolving into what could be considered a full-blown crisis. “Whether it’s an incidental exposure or a hired or non-owned auto exposure, the labor shortage is having a significant impact on businesses with fleets that depend heavily on experienced drivers to secure favorable auto insurance rates,” said Alicia Calhoun, Senior VP Broker at XPT Specialty. “The fact remains that the amount of drivers needed compared to the number

of trucks that should be on the road aren’t adding up, and this has become increasingly problematic.”

Since the start of the year, we have also seen an increase in new business ventures in the industry. In addition, more companies are consolidating and, in some cases, doing so with the respective owners deciding to remain as part of the business. In these situations where company assets, liabilities and leadership remain unchanged, brokers looking to write these risks as new business could face additional challenges.

Capacity and Pricing

"In general, the Oil & Gas insurance market remains very soft – with the exception of Auto and Excess. On the Casualty side, however, we are experiencing an approximate 30-40% increase in renewal revenue," Calhoun said.

Oil & Gas Transportation, where there was once more underwriting flexibility regarding coverages and limits, has now tightened. "Today, fleets of size, whether they are light, medium or heavy, or that have multiple losses or even no losses at all, are being impacted by rates and the economic climate, resulting in more insurers pulling in and out of the market and creating capacity issues," said Mark Evans, Senior VP Broker at XPT Specialty.

In the Excess market, some carriers are electing to not participate at all, where at one time, they were willing to offer up to \$5 million or even \$10 million in limits. Carriers that have maintained their Excess market position are now reducing their capacity, with lower limits of \$1 million or \$2 million. This reduction in limits can be attributed to the rise in nuclear verdicts – an issue that has forced many companies on the Oil & Gas Transportation side to indefinitely park their trucks.

Due to the increase in claims frequency and severity (nuclear verdicts), underwriters are being more safety conscious with their auto books, asking for enhanced safety practices, programs and driver training, as well as more stringent auto controls. "Brokers should expect underwriters to take an even closer look at key safety and risk mitigation efforts when evaluating accounts," Evans said.

Trends in Clean Energy

Last year ushered in landmark federal legislation and pro-climate state elections that are expected to accelerate clean energy initiatives across the country. Midway through the first quarter of 2023, the nation is already seeing private investments ramping up with [billions in new projects](#) that are aimed at meeting corporate and consumer demands for zero-emission technology.

For the most part, Oil & Gas company cash flow in 2022 was positive, allowing many businesses to experience healthy profits that they could set aside to invest in more clean energy ventures in 2023. However, despite the anticipated growth, we may not see as many investments as the industry anticipates over the next 12 months.



"We are currently experiencing a very uncertain economic climate that raises a lot of questions regarding growth in clean energy. With rising interest rates, even big companies with good assets that must finance their clean energy investments may not be willing to move forward just yet," Evans said.

Claims Mitigation

The backlog of court cases that were put on hold due to COVID-19 are now catching up to the industry, making it critical for brokers to remain cognizant of growing claim trends — especially the auto litigation problems that insurance carriers are currently experiencing.

Mitigating potential auto claim issues will require proactive measures that include the implementation of safety and compliance programs, as well as the use of technology in vehicles and on job sites.

In addition to conducting regular safety meetings and developing workplace best practices, companies must also become more transparent with their employees regarding claim issues.

"In many cases, having a simple conversation with employees about the impact costly insurance claims can have on not just the company, but to their jobs as well, can go a long way in increasing safety awareness. Simply put, it's about getting employees invested in improving company safety that, in the end, will benefit everyone," Calhoun said.

Oil & Gas Conclusion

At XPT Specialty, we understand the challenges facing the Oil & Gas industry. It's why we maintain open conversations with our retail agents, allowing them to then speak candidly with their insureds regarding the current environment and what they are seeing on their accounts. "Having those all-important tough conversations with insureds early in the

renewal process can be a make-it-or-break-it moment for a broker. For example, if an insured's loss history hasn't been very good, brokers need to let them know in advance that, come renewal, they could be facing a very limited number of markets," Evans said.

At XPT Specialty, we make it our job to know the marketplace, maintain strong carrier relationships and share this knowledge with our retail brokers who, in turn, can better serve their clients with better communication and complete transparency. "When it comes to insurance, nobody likes surprises. Preparing insureds in advance as to what they might expect helps build trust and long-lasting relationships," Calhoun said.



MARKET FOCUS: EMPLOYMENT PRACTICES LIABILITY INSURANCE

General Market Trends

In general, we are seeing capacity for EPL insurance increase while premiums are at an all-time high, as are self-insured retention limits. Risk exposures due to employees working from home or in some type of hybrid work arrangement will continue to impact the EPL insurance space.

The main issue regarding employees working remotely are the unknowns. For example, is an employee following proper safety protocols while working from home? What about special accommodations and requirements set forth by the Americans with Disabilities Act (ADA)?

The fact is, employees who work from home cannot be monitored in the same way they would be in an office environment – and therefore can create additional EPL exposure for a business. On a positive note, the growing remote workforce has also resulted in a substantial decrease in sexual harassment claims, as there are fewer interactions among employees and managers.

Challenges regarding employees and COVID-19 vaccine requirements are also expected to impact the EPL insurance market and businesses. “Right now, it’s still too early for any judicial decisions to be made on this issue. However, we anticipate this having a big impact on businesses as requirements continue to evolve and as employers elect to mandate or encourage vaccination for employees as a condition of their employment,” said Becky Tucker, Program Manager at XPT Specialty.

Proposed changes in the Department of Labor’s (DOL) independent contractor rule this year are expected to greatly impact employers, especially in the state of California. “There continue to be discrepancies in differentiating an independent contractor from an employee, and that is creating new challenges for employers. Now, with the DOL making additional changes to classifications that are further redefining who is considered an employee, we’ll likely see this develop into a bigger issue in the coming months,” said Wayne Bernstein, Senior Vice President Professional Lines at XPT Specialty.



Claims

As employers adjust to remote and hybrid work arrangements and restructure their workforce, they are also having to adjust salaries and compensation to best fit their needs. This has become a major concern for businesses as they navigate the Fair Labor Standards Act and state laws that are giving rise to an increase in wage-and-hour claims. “The reality is that accounts with wage-and-hour-related claims will be challenged to secure coverage in today’s marketplace, as carriers become increasingly reluctant to offer any type of EPL coverage on these types of risks – regardless of remedial measures the insured may have taken,” said Bernstein. Sectors where we are seeing a significant number of wage-and-hour-related claims are the restaurant and contractor industries.

Today’s many different social movements have also led to an increase in EPL discrimination and employee retaliation claims, particularly for claims involving alleged violations of the laws associated with the ADA, Equal Employment Opportunity Commission and Title VII of the Civil Rights Act

of 1964. Wrongful termination claims involving teachers who object to certain assigned curriculums could also result in increased EPL claims over the coming months.

Capacity and Pricing

Capacity in the EPL insurance market has remained favorable. However, underwriting for EPL has become exceptionally stringent. “There just isn’t as much negotiating room as there once was. For example, it used to be that a broker could negotiate for higher deductibles to help keep premiums more affordable. Today, many carriers won’t allow for these types of options. Businesses with only a handful of employees are becoming increasingly challenged to secure affordable EPL insurance,” said Bernstein.

California, Florida, Texas and New York are experiencing the lion’s share of EPL claims, with California being the front-runner. In fact, Los Angeles has had a much higher propensity for EPL claims in recent months. “Statistically, EPL claims in Orange County, California, used to be somewhere in the neighborhood of 1 out of 10, and today, it is closer to the 1 out of 5 mark,” said Bernstein.

Due mainly to current market conditions, we are also seeing some EPL carriers shift from an admitted basis to a

non-admitted one. This has contributed to EPL insurance premium increases that are as high as 60-70%, and in some cases, even higher.

EPL Conclusion

With EPL premium increases as high as 100%, brokers today must work even harder to retain accounts, hitting every available market to find the best coverage and available pricing. “Brokers need to educate their clients regarding changes in the insurance market, as well as what type of risks they could be opening themselves up to if they don’t have the right EPL coverage in place,” said Tucker.

In addition to marketing new business and renewal accounts early, brokers must also ensure full and complete submissions. “In this environment, underwriters must have the information needed to properly evaluate accounts. It is more important than ever for underwriters to receive thorough submissions on every account,” said Bernstein.

Knowing how to respond to this ever-evolving EPL risk landscape can be challenging. At XPT Specialty, we are here to help our retailers better understand shifting conditions in the market through transparency and communication that, in turn, will help them better serve their clients.



XPT SPECIALISTS WHO CONTRIBUTED TO THIS REPORT



Alicia Calhoun

Senior Vice President, Broker
281-796-2917

acalhoun@xptspecialty.com

Alicia Calhoun is an insurance industry expert with over 20 years of experience. Her focus is on designing solutions for the most complex Energy and Construction brokerage accounts. Alicia joined XPT in 2020 with previous experience including Senior Vice President and Senior Broker in the Energy, Oil & Gas and Construction sectors.



Mark Evans

Senior Vice President, Broker
832-622-6302

mevans@xptspecialty.com

Mark Evans joined XPT Specialty in 2016, primarily focusing on effective and efficient solutions for hard-to-place and complex accounts. Specializing in Inland Marine, Energy, Construction and Excess, Mark provides his deep industry expertise to find the best coverage options available. Throughout his career, Mark has always valued the partnerships and relationships formed with both agents and carriers.



Wayne Bernstein

Senior Vice President, Professional Lines
469-252-7888

wayne.bernstein@xptspecialty.com

Wayne Bernstein has been in the insurance industry for nearly 40 years, with experience in both retail and wholesale operations. Over the last 24 years, he has worked exclusively with professional and executive liability products. Wayne was also as a founding member and Managing Director of a specialty boutique wholesaler in Los Angeles. He has authored professional liability articles published in various trade magazines, worked on the development of various affinity & specialty programs, and appeared as a guest speaker at industry events.



Becky Tucker

Program Manager
559-256-6900

beckytucker@xptspecialty.com

Becky Tucker has been with XPT/ Sierra Specialty since 2015. She is currently a Program Manager, and her experience includes binding and brokerage with a focus on Professional Lines. Becky is passionate about her work and finding solutions for hard-to-place risks. She is currently on the CIWA Futures Committee and is Chair of CIWA's Recruiting Division.

XPT SPECIALTY

Why XPT Specialty? Because we are as dedicated to your success as you are!

Every broker at XPT Specialty has the deep industry knowledge to find the best coverage for your oil & gas and employment practices liability clients. Our specialists have the combined expertise to help you find solutions to problems when other wholesalers can't. How do we do it? By working closely with you, our retail partners, to better understand the specific needs of each insured and risk, including tough, hard-to-place accounts.

To us, having access to insurance products isn't enough; it is how you deploy them that really counts. From the moment you reach out for a quote to the day we close the deal — and while binding, securing coverage and managing the insured through the service life cycle — we'll be at your side, working hard to prevent disruptions before they happen. This process allows us to get you the best quotes quicker and find solutions to your challenges sooner so you can provide differentiating service to your own clients.

At every step, the expert teams at XPT are here to help you navigate the complexity of the market and provide you with ongoing support. From brokerage to underwriting, you can be confident that our specialists will work as diligently as required to find your clients the very best coverage at the best possible price.

For additional information, please visit xptspecialty.com or email info@xptpartnersllc.com.

Contact your broker or underwriter today
xptspecialty.com | info@xptpartnersllc.com



eXpert Partner Team