

Insurance Brokerage Services

State of the Insurance Market

The Impact of 2020 and Looking Ahead in 2021

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Impact of 2020 in the Insurance Market

2020

- Increased risks in cyber events, business interruption, service disruption, legislation, regulatory environment and catastrophes
- Increasing rates
- Underwriting discipline
- Increased claims activity

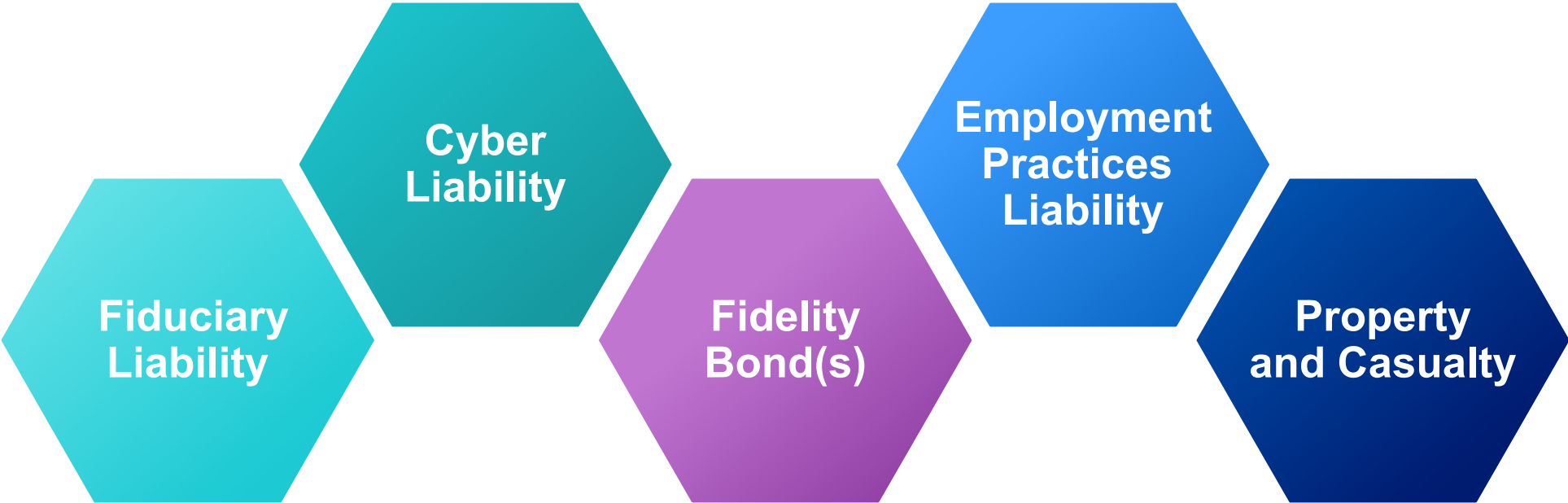
Looking Ahead

2021

- Continued firm pricing environment
- Proactive underwriting approach
- Excess and surplus market reliance
- Continued uncertainty due to COVID claim activity

Another year of expected rate increases, changes in policy terms and conditions, more stringent requirements for new policies and renewals

Insurance Market Impacts



What is Fiduciary Liability Insurance?

- Provides defense costs, and pays damages
- Alleging a wrongful act
 - A breach of fiduciary duty, or
 - An administrative error
- All subject to a claim against a named insured
 - A plan or trust
 - A trustee(s)
 - An employee(s)
- Coverage is subject to other policy terms and conditions

2021 Insurance Forecast

Fiduciary Liability

- Increasing claim environment
- Advanced litigation in recordkeeping and vendor related fees = increased underwriting questions
- Increasing compliance risk
- Limits management
- Rate pressures
- Pending U.S. legislation for certain type of plans



Typical ERISA Claims

- Failure to enroll
- Improper advice on eligibility
- Prohibited transaction
- Imprudent investment/
diversification
- Improper benefit calculation
- Reduction in retiree benefits
- Excessive recordkeeping fees
- Failure to comply with plan documents
- False or misleading statements
- Actuarial insolvency
(DB Plans)
- Regulatory investigations
- Benefit overpayments

Fiduciary Liability Claims

While various types of claims continue, the frequency and severity of Excessive Fee Litigation claims increased in 2020.

- Single and multiemployer plans have been sued.
- Over 200 suits have been filed since 2015, almost half were during 2020-21.
- Multiemployer 401(k) Fund settled for \$8.75M in 2019.
- Plans as small as \$9M and \$25M experienced litigation.
- Some of the largest settlements have exceeded \$30M.

What is Cyber Liability Insurance?

- **First-party coverage** covers cost to notify participants, forensics, attorneys, lost business income.
- **Coach / Liaison** provides assistance via a 'hot-line' to answer questions and assist regarding a data event that may be in progress.
- **Third-party coverage** insures against liability to third-parties.



Cyber Liability — More Claims Likely

2021 Insurance Forecast

- The increasing use of distributed networks rapidly put in place in reaction to the pandemic has triggered an increased in claims.
- Major data breaches, ransomware attacks and social engineering fraud events are increasingly frequent in this remote environment.
- Losses driven by direct costs, defense costs and use of availability of policy services



Cyber Liability — Market Reaction

2021 Insurance Forecast

- Carriers' market growth strategies have been impacted by a rapidly advancing claim environment.
- Carriers are requiring:
 - Increasing use of supplemental applications for ransomware/social engineering fraud
 - Their own applications, sometimes Warranty applications
 - Attestation that multifactor authentication (MFA) is utilized
 - New exclusions, raising retentions, increasing premiums
 - Turning away new business



Cyber Claim Examples

- Ransomware threat – ransom demand for return of access to plan data
- Thumb drive with participant information lost
- Trustee's laptop contained participant information. He left laptop at an airport to his surprise, the laptop was stolen
- Misdirected email where 1000s of personal information records are released



304 million

Ransomware
attacks in 2020*

Cyber Liability Claim

Risk exposures materially increased during the pandemic. The rapid shift to a remote workforce, which brought increased phishing attacks and other malware intrusions, added stress to unprepared and now overtaxed distributed network security systems.

- Most malicious breaches are due to successful social engineering and phishing attacks.
- Ranges for losses are from the low thousands to well over \$1M per event.
- Ransomware losses have been escalating as ransom demands increase due to sensitive data being stolen prior to its encryption on the victims network.

Fidelity Bond Coverage

A Review of the Basics

- Basic Coverage
 - Who is required to be covered?
 - Compliance matters
- 3rd Party Frauds
 - Forgery or alteration of documents
 - Wire transfer fraud
 - Computer fraud (cash and securities, not data)
 - Social Engineering fraud
- Outside Agent/Vendor Coverages
 - Individually
 - Blanket basis
 - Administrative review for compliance
- Public Sector: Required?
 - Scope of coverage
 - “Dishonesty or “faithful” performance”

Mandated by ERISA for almost all multiemployer benefit plans.

Fidelity Bond(s)

2021 Insurance Forecast

- Social engineering fraud and phishing scams continue
- Greater utilization of insurance applications to access controls to determine policy terms
- Underwriters scrutinizing exposures through applying rates, retentions and limits management to provide coverage options
- Targeting third-party coverages (funds transfers fraud coverage, computer theft, social engineering fraud)



Fidelity Bond Claim

The transition to a remote work environment created exploitation as employees rely more on electronic than in-person communications.

- A Fund inadvertently transferred over \$1,000,000 to cyber criminals as a result of fraudulent emails. Tendering a claim under both the Fidelity Bond and a Cyber policy.
- In general, funds transfer losses are estimated to have increased over 25% in 2020 due to email intrusion, invoice manipulation and domain spoofing as a result of the remote working environment.

Employment Practices Liability

What is Covered?

A Review of the Basics and Trends

- Allegations of harassment, discrimination, retaliation, failure to hire, failure to promote, bullying, breach of contract and violation of FMLA or OSHA, to name a few
- Damages, legal costs, awards due to judgements, settlements punitive damages as applicable by law
- Workplace violence
- Wage & hour violations

Employment Practices Liability

2021 Insurance Forecast

- Increasing litigation with legal and social awareness
- Changing regulatory environment with advancing use of biometrics and social accountability
- Continued attention to problematic, litigious states, addressing policy rate and terms to improve carrier profitability
- Increasing rate environment
- Limits management
- Self-service loss prevention





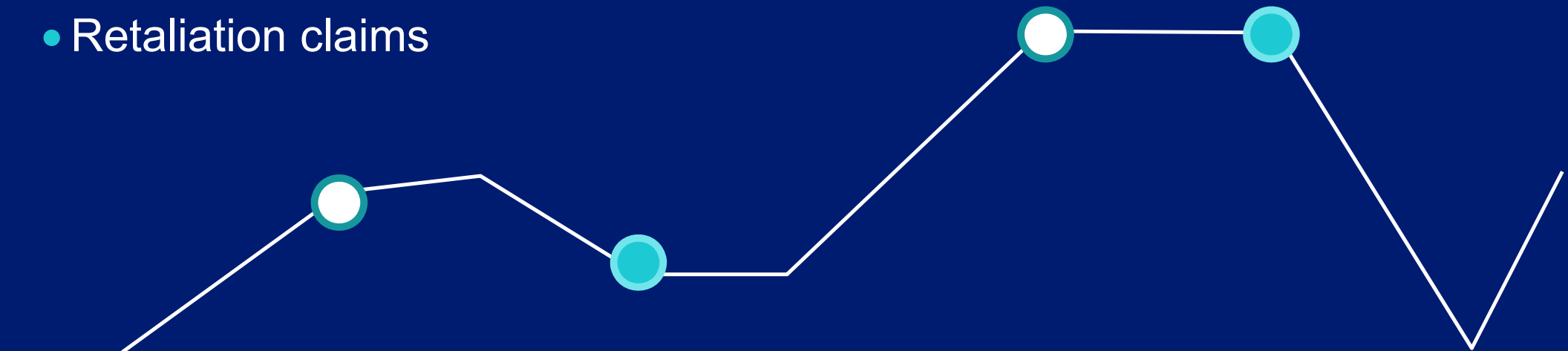
Lowering the Risk of Claims

Predictable:

- ✓ Claim history
- ✓ Financial health
- ✓ Specific turnover
- ✓ Employment handbook
- ✓ Employee sensitivity training
- ✓ Supervisor/manager training
- ✓ Designated human resources professional (“Risk Control”)
- ✓ Engaging outside counsel
- ✓ Policies & procedures

What's Trending in Employment Practice Litigation

- Invasion of employee privacy
- Disability and leave cases
- Illegal background checks
- Reasonable accommodation exceptions
- Unemployed protected status
- Retaliation claims



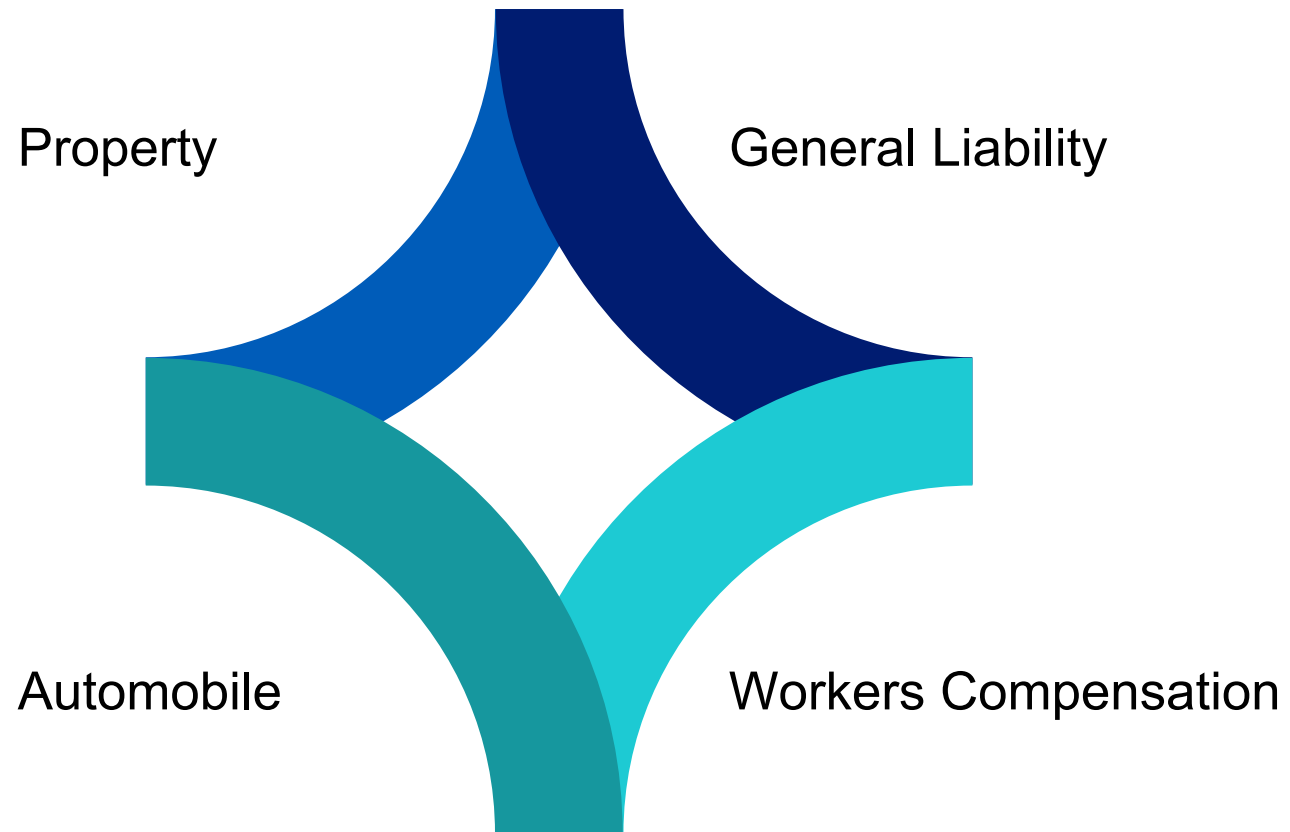
Employment Practices Liability Claims

The COVID environment changed workplaces including administrative offices where policies and procedures had to be quickly developed to address remote working, furloughs, and compliance requirements. Litigation against employers has followed.

- Large retailer sued alleging managers knew employees were exhibiting COVID-like symptoms and did not properly act including sending them home, closing the store, etc.
- Employer was sued after an employee died from COVID. Allegation was that the employee was warned he would be laid off if he did not report to work even though he was clearly exhibiting COVID symptoms.

**The latest concerns are being raised as to how to get back into the workplace safely and legally.*

Property & Casualty Insurance



Property and Casualty

2021 Insurance Forecast

- Deteriorating profitability of liability lines due to increasing medical costs and jury awards, litigation funding and general inflation
- Rising claim severities due to changes in statutes of limitations due to sexual abuse claims and opioid use
- Common weather trends impacting property market with advancing premium and coverage impacts
- Automobile market continued state of flux



Property and Casualty Claim

Event Cancellation market has changed post COVID, increasing premiums, coverage restrictions and claims are taking time to be processed.

- Cancelled event due to COVID
- Client filed claim under Event Cancellation Policy
- Outside adjuster provided to the client to review claim expenses
- Expenses presented associated with set up of cancelled event and carrier paid expenses

Considerations When Purchasing Insurance Products

- Carrier
 - Financial Security
 - Commitment
- Quality of Claims Administration
 - Specialization in Claims Handling and Legal Counsel
- Scope of Coverage
 - Keeping up with the market
 - Limits Management
- Underwriting Requirements
- Risk Prevention Services



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Independence

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The Segal Company is 100% employee-owned



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We have work with over a dozen AM A rated carriers

Your team has deep knowledge in all of the areas requested in the scope of insurance



Approach

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Our approach is highly personal and collaborative, and we provide complimentary reviews of premiums, limits and scope of coverage



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Segal knows and is respected by all major carriers in today's market

Segal is sensitive to multiple constituents of a client, including bargained groups

Segal has been successful in optimizing our clients' insurance programs



Specialization

Segal understands the dynamics of the Benefit Funds, Corporations and Public Sector markets

We serve as consultants to the full array of fund, organizations, governance and corporate structures

Segal optimizes solutions for all stakeholders

Segal, with our expertise and resources, is positioned to serve you.

Thank You!



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