RESTAURANT INDUSTRY
SUMMER 2021 MARKET UPDATE

THE CURRENT ENVIRONMENT

The reopening of the economy has brought the restaurant industry roaring back from the depths of the pandemic. Necessity forced innovation around curbside pickup, outdoor dining, online ordering, and delivery. The most resilient brands have delivered on new customer preferences and positioned themselves to benefit as vaccinations picked up in the first half of 2021. That said, headwinds remain because of labor shortages, food price inflation, and lingering COVID-19 concerns. The net effect on risk and insurance is that restaurants must ensure their evolved business models and associated loss controls are properly communicated to underwriters.

PROPERTY RISKS

A TALE OF TWO PROPERTY MARKETS

The pace of property rate increases is generally slowing because of additional capital coming into the market. This additional supply is easing increases for less challenged restaurant portfolios that have more superior construction, documented risk mitigation, and favorable loss history. However, brands with less desirable construction, less documented risk mitigation, and poor loss history will face much more significant increases at renewal.

EVENT NEUTRAL BUSINESS RESILIENCY PLANS

Larger hospitality brands have generally had business resiliency plans in place that are centered around natural catastrophe response. However, the pandemic, supply chain disruptions, and civil unrest taught the restaurant space that a more holistic approach to business resiliency is required to mitigate risk more effectively.

NFIP CHANGES

Effective October 10, 2021, FEMA is updating the National Flood Insurance Program's (NFIP) risk rating methodology via the implementation of a new pricing method called Risk Rating 2.0. This methodology leverages a decade of research and cutting-edge mapping technology to reflect a property's unique flood risk profile more accurately. Many properties will see a decrease at renewal; however, this new technology will also cause some properties to be more expensive to insure. Risk Rating 2.0 notes the rate increases are likely to be capped at 25% plus taxes and fees per year. Coastal or waterfront restaurants should be prepared for increases they will likely receive after October 10, 2021.

BUSINESS INTERRUPTION AND COVID-19 CASE UPDATE

As more business interruption cases make their way through the court system, it is becoming apparent the courts are deciding in favor of insurers. The courts are basing decisions on grounds that no actual physical damage occurred and, thus, no underlying property loss was suffered that would trigger business income coverage. In some cases, the virus exclusion is being relied upon to deny coverage. That said, there have been some cases decided in the favor of restaurants that involved unique situations and coverage grants. However, for every decision in favor of a policyholder, there have been about 10 more cases decided in favor of insurers.

CASUALTY RISKS

SOCIAL INFLATION'S IMPACT ON THE LIABILITY MARKET

Social inflation is generally used to describe the rising costs of insurance claims due to trends, such as:

- A ubiquitous media
- Desensitization to the value of money
- Litigation funding
- Skyrocketing medical costs
- Rising anti-corporate sentiment

In comparison to previous years, research shows a **300% increase** in the frequency of verdicts in excess of **$20 Million.** With nuclear verdicts becoming more commonplace, especially in highly litigious states, insureds will continue to see an increase in general and excess liability insurance premiums.

DATA ANALYTICS TO NAVIGATE THE HARD MARKET

The hard market has ushered in the need to adopt an analytics-based approach to negotiating with carriers. Insurers are becoming much more particular about the risks they write, which requires an investment in a best-in-class carrier RFP that gains “top of stack” treatment by the underwriter. The most effective way to do this is by using analytics to determine your optimal retention level and general program design. When paired with the right narrative about your brand's risk management program, carriers will provide preferential terms and conditions.

ALCOHOL TO GO AND LIQUOR LIABILITY

While rules and regulations vary by jurisdiction, nearly 20 states have approved alcohol-to-go sales and many more states are considering similar bills. Loss control-conscious brands should be working with their legal counsel to understand the law, maintain compliance, and ultimately control the exposure.

EVOLVING FLEET RISKS AND DEMAND FOR RESOURCES

As restaurants were forced to navigate the reality of COVID-19, some restaurants offered carry out and delivery services. The introduction or expansion of delivery services deemed profitable for many restaurants and will persist even as we enter a post-COVID-19 world. It is imperative restaurants verify that their Worker's Compensation and Auto Liability coverage properly covers their delivery operations. Enhanced loss control measures will prove to be an asset over the long term. Restaurants will find it productive to run MVR's, implement delivery protocols, and conduct safe driving trainings for their delivery drivers to mitigate claims going forward. If third-party delivery is being utilized, it is critical to have the right indemnification language addressed in the delivery contract.

HOLISTIC WORKERS' COMPENSATION CLAIMS MANAGEMENT

Slips, trips, cuts, and burns still comprise a majority of worker's compensation claims in the restaurant space. The approach to resolving claims and returning staff to work is evolving, though, and starting to focus more and more on the behavioral element. The brands that are on the vanguard are starting to incorporate EAP helplines, insurance carrier case management tools, and analytics to enhance claims outcomes.

EXECUTIVE RISKS

ONLINE ORDERING AND HEIGHTENED CYBER RISKS

As a matter of necessity, many restaurants advanced their adoption of e-commerce during the pandemic to survive. The unintended consequence, though, has been an increase in cyber exposure and the need to become more cyber resilient. Forward-thinking brands are now working more aggressively to enhance their defenses and incident response plans should a cyber event occur.

HEIGHTENED EPLI RISK

The pandemic unfortunately exacerbated what was already a challenging employment practice liability market for restaurants. A combination of new/updated legislation (FFCRA, FLSA) coupled with socially driven movements (#MeToo, Pay Equity, and Black Lives Matter) have accelerated the rate of litigation. In turn, we continue to observe an upward trend in both rates and retentions. As a result, restaurant underwriters are asking for more details around vaccine plans, financials, reductions in force, pay, FLSA compliance, and anti-discrimination.

EMPLOYEE BENEFITS

THE WAR FOR TALENT

The pandemic accelerated the adoption of many employee benefit tools and resources, such as virtual open enrollment technologies, telemedicine, and mental well-being support. With respect to claim trends, COVID-19 led to a large decrease in healthcare claims because of elective procedure deferrals, provider closures, and avoidance of the emergency room. Thankfully, actual treatment costs for COVID-19 did not offset the savings for deferred care. Going forward, restauranteurs are evolving their benefits program by implementing more nontraditional benefits, such as student loan repayment, commuter benefits, mental health apps, and financial well-being programs.

TIPS FOR NAVIGATING THE MARKET

- **Depending on size and complexity, start the renewal planning process between 4-6 months out.**
- **Craft a carrier RFP that highlights your positive risk characteristics and gains preferential treatment.**
- **When appropriate, utilize analytics to project renewal pricing and improve negotiation leverage.**
- **Consider using video conferencing to meet with competing underwriters and personalize the process.**
- **Demand a detailed coverage analysis to avoid punitive exclusions being added to your program at renewal.**
- **Request a detailed service plan after binding the renewal to ensure a return on broker compensation.**

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