An Overview of Issues Facing the Market

Liability Conference

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Softening Market Conditions & Broader Coverage

- *Ongoing softening market conditions.*
- *Increasing pressure from brokers and insureds for broader coverage and reduced premiums.*
- *More aggressive negotiation of policy wordings and tender submissions.*
- *Growing use of broker-generated wordings and facility wordings.*
- *Expansion of cover extensions previously regarded as specialist or standalone products.*

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Product Liability Risks

Major trend was the expansion of traditional product liability exposures beyond physical products

- Software as a product.

- AI systems.

- Digital services.

- Data-related harms.

- Reversal of the burden of proof.

- Longer limitation periods.

- Increased collective redress and class action activity.

Increased claims activity?

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US Litigation Environment

Major concern with US claims settlements, particularly US Auto

- Social Inflation
- *Litigation funding.*
- *Collective actions.*
- *Long-tail casualty deterioration.*
- *Expanding theories of legal liability.*

Examples included:

- *PFAS litigation.*
- *Plastics and microplastics litigation.*
- *Food and nutrition-related litigation.*
- *AI-related copyright actions.*

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PFAS

PFAS was discussed more consistently than any other emerging risk.

Themes included:

- Development of PFAS exclusions.
- Uncertainty regarding causation.
- Environmental contamination risk.
- Workplace exposure claims.
- Product liability exposures.
- Potential future regulation.

Members also debated whether the market should move towards more refined model exclusionary language rather than broad exclusions.

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AI

A much-discussed topic in the last 12 months

- *Proposed AI exclusions.*
- *Product liability implications.*
- *Copyright and IP disputes.*
- *Automated vehicle developments.*
- *Errors and omissions risk.*
- *Uncertainty regarding future liability frameworks.*

Is the market still cautious on this topic? Exclusion – yes or no?

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Workplace Health Exposures

- *Extreme heat.*
- *Workplace noise.*
- *Long-tail hearing loss.*
- *Work-related stress.*
- *Mental health.*
- *Occupational skin cancer.*
- *Communicable disease.*
- *Silica exposure.*

Several discussions highlighted the tension between genuine emerging liability concerns and the evidential challenges of proving causation.

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Climate/Environmental

- *Climate litigation.*
- *Climate exclusion clauses.*
- *Environmental impairment liability.*
- *Wildfires.*
- *Data centre resource consumption.*
- *Pollution liability.*
- *Microplastics.*
- *Circular economy risks.*
- *Food production technology.*

A notable trend was movement away from broad climate exclusions towards more nuanced approaches focused on climate litigation rather than pollution events that insurers traditionally intend to cover.

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Autonomous Vehicles

- *Automated vehicles.*
- *Product liability consequences.*
- *Data access.*
- *Claims handling challenges.*
- *Severity versus frequency considerations.*
- *Motor/PL interaction.*
- *Contingent motor cover.*

The consensus appeared to be that claim frequency may reduce but claim severity and claims complexity are likely to increase.

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Questions?

Go on don't be shy…..

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