NATIONAL COMMERCIAL INSURANCE PROGRESS REPORT

February 2023

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Executive Summary

About

In 2020, Insurance Bureau of Canada (IBC) launched the National Commercial Insurance Task Force (the "Task Force") to address consumer concerns about the availability and affordability of commercial insurance due to the hard commercial insurance market. The Task Force subsequently held roundtables across the country with various sectors, and consulted with industry experts on approaches to improve commercial insurance market conditions. In May 2021, the Task Force released a report outlining a suite of recommendations for improving the commercial insurance market in the short, medium and long term. In that report, IBC committed to issuing a progress update that would touch on its engagement with governments and stakeholders on commercial insurance challenges, progress on the implementation of the Task Force's recommendations, and identify any impacts on the availability and affordability of commercial insurance for businesses and organizations.

Market conditions improving, but significant headwinds may present continued challenges

There is evidence that the hard commercial market is showing signs of moderation – in Canada and globally. This was confirmed by Deloitte in its State of the Canadian Commercial Property & Casualty Insurance Market 2022 report, released in August 2022 and commissioned by IBC.

In Q4, 2020, at the peak of the commercial insurance hard market, global pricing across major commercial lines was experiencing double-digit increases. However, as of Q3 2022, the pace of rate increases has been on a downward trend for seven consecutive quarters, according to the Marsh Global Insurance Market Index, and is on track to equal the rate of inflation in much of the world. Price increases appear to be moderating in markets like the United Kingdom (UK), the United States (US) and Australia.

In Canada, there continues to be fluctuation in market conditions across commercial lines, but overall premium increases are down from the peak levels of late 2020.

Some anecdotal indications that the Canadian commercial insurance market has begun to moderate as of late:

- Among those industry, business and trade associations with whom IBC spoke in the development of this report, none spoke about challenges related to the availability of insurance, though several spoke of ongoing challenges related to the affordability of insurance.
- IBC's Business Insurance Helpline and Consumer Information Centre experienced a decline in inquiries in 2022 compared to 2021. In 2021, there were 1,113 calls for assistance, while in 2022 that number declined to 643.

However, many insurance market analysts expect conditions to remain challenging in 2023, due to a number of factors including persistent inflation, supply chain challenges, rising reinsurance costs, geopolitical uncertainty, increasing interest rates and a projected global recession.

Further, as cyber attacks become more common and impactful, cyber insurance claims costs have increased, which is adding to the pressure in the commercial market. In response, some insurers are reconsidering the scope of coverage, tightening underwriting standards and using exclusions to grapple with emerging cyber risks. Businesses demonstrating implementation of cyber risk management best practices may find a more receptive insurance environment.

Governments, industry and key stakeholders stepped up to support businesses

Since the start of the COVID-19 pandemic, governments have taken important steps to support commercial insurance consumers, including introducing liability immunity legislation to protect businesses and organizations from frivolous lawsuits with respect to exposure to, and contraction of, COVID-19. A number of sector-specific reforms have also helped create more sustainable commercial market conditions, including the Alberta government's legislation introducing licensing requirements for property managers. The Ontario government also made amendments to its *Condominium Act* that came into effect on January 1, 2022. The changes expanded the authority and reach of the Condominium Authority Tribunal, and helped to better define and address the grievance process with respect to nuisances within condominium buildings. Actions such as these support better risk management.

The property and casualty (P&C) insurance industry has continued to support commercial customers over the course of the hard market and during the pandemic, providing $900 million in premium relief and deferrals. IBC's Business Insurance Helpline and Consumer Information Centre have provided support to more than 3,100 businesses, with close to 300 businesses obtaining additional support through IBC's free risk management services. To date, 80% of the businesses that utilized risk management services found a path to insurance. IBC's risk manager continues to work on the remaining active files, as well as any new businesses that have contacted the helpline since the start of 2023.

Additionally, the industry's Business Insurance Action Team (BIAT) helped find viable insurance solutions for many small businesses in Ontario's hospitality sector. BIAT supported more than 120 businesses, and the large majority were able to find insurance in the regular market after working with IBC's risk manager. The remaining businesses were offered quotes through the BIAT pool of insurers. As the

Canadian economy began to rebound in 2022, and COVID-19 restrictions were lifted, IBC saw a dramatic reduction in the number of applications coming forward for assistance through BIAT. After a successful two years in operation, BIAT wrapped up on June 30, 2022.

Next steps

As we continue to wrestle with the challenges facing commercial insurance customers in Canada, there is considerable work to be done to foster more sustainable market conditions in the short, medium and long term. IBC will continue to engage governments and key stakeholders on a number of proposals that will have a positive impact on commercial insurance affordability, including:

- Reforms to joint and several liability frameworks that will align the tort damage award a defendant pays with their degree of fault. This will allow businesses with significant liability exposure (e.g., establishments that serve liquor) to avoid inequitable financial obligations when another defendant is judgement proof or unable to pay; and
- Sector-specific reforms in those sectors that are experiencing more acute insurance affordability challenges, including the commercial trucking, condominium, and small and medium enterprise (SME) sectors.

Meanwhile, IBC will continue to work closely with key stakeholders to ensure that commercial insurance consumers have the education and resources they need to support informed insurance choices. To that end, IBC will continue to:

- Regularly publish educational materials and produce a semi-annual report on the state of the commercial insurance market.
- Offer free risk management consultations for businesses across Canada experiencing insurance availability issues, and respond to any insurance inquiries through its Business Insurance Helpline (1-844-2ask-IBC) and IBC website.
- Meet with stakeholders to identify insurance challenges, offer relevant supports, and advocate for legislative and regulatory changes that would create more sustainable market conditions.

Finally, in recognition of the emerging risk presented by cyber threats, IBC is assisting SMEs looking to improve their cyber resilience. By giving financial support to the Canadian Federation of Independent Businesses' (CFIB's) Business Advisor Helpline (1-833-568-2342), IBC is supporting cyber education efforts. CFIB's advisors will answer basic questions on cyber security, or refer the caller to trusted, third-party resources on topics ranging from best practices in cyber risk mitigation to information on the latest cyber threats facing small businesses.

Introduction

In January 2020, Insurance Bureau of Canada (IBC) facilitated the creation of the National Commercial Insurance Task Force (Task Force) consisting of representatives from Canada's property and casualty (P&C) insurance industry. The Task Force was created to help address growing consumer concerns around the availability and affordability of commercial insurance in Canada. The Task Force subsequently held roundtables across the country with various sectors, and consulted with industry experts on approaches to improve commercial insurance market conditions. Alongside a group of key stakeholders and industry experts, the Task Force developed solutions and recommendations for consumers, insurers and governments, to help alleviate the insurance availability and affordability issues that had been building in the commercial insurance market. The Task Force was given the following mandate:

- Educate and inform consumers, governments and stakeholders on the factors contributing to the current availability and affordability challenges with commercial insurance;
- Learn from industry partners, consumers, governments and other stakeholders about their challenges with insurance availability and affordability and their ability to implement risk management practices; and
- Produce a report for industry partners, consumers and stakeholders with recommendations on how to improve commercial insurance availability and affordability.

This progress report follows up on previous conversations on the commercial insurance market and contains the following sections:

- Part 1: State of the Global Commercial Insurance Market
- Part 2: State of the Canadian Commercial Insurance Market
- Part 3: Industry Support Measures for Commercial Insurance Customers
- Part 4: The Path Ahead – Fostering the Conditions for a Sustainable Commercial Insurance Market

Part 1: State of the Global Commercial Insurance Market

The P&C insurance cycle is often characterized by periods of "soft" market and "hard" market conditions. When there is a hard market, cost pressures generally increase and some consumers may face insurance availability and affordability challenges. In this scenario, capital investment is lower and the supply of insurance is limited. Consequently, underwriting standards (the criteria that define whether or not a particular risk from a consumer will be insured or not), may become more strict and consumers may find it more difficult to find insurance coverage at an affordable rate.[1] The opposite is generally true in a soft market. [2]

The insurance market by nature is cyclical, and like a pendulum it swings between a "hard" market and a "soft" market. According to the International Risk Management Institute, these inflection points in the insurance business cycle are defined as follows:

- **Hard market** – This is the upswing in a market cycle when cost pressures increase and capacity for most types of insurance decreases. This can be caused by a number of factors, including falling investment returns for insurers, increases in the frequency or severity of losses, and regulatory interventions that increase transactional costs.
- **Soft market** – This side of the market cycle is generally characterized by increased underwriting capacity, less cost pressure, flexible policy terms and high availability of coverage.

In late 2019, a hardening global insurance market began to impact Canada. The market entered a period of higher rates and reduced underwriting capacity (insurance availability) for certain business lines, like commercial property. The financial decline for P&C insurers happened due to many years of poor underwriting profitability. Market conditions were driven by rising claims costs and low returns on investment due to low interest rates between 2015 and 2019.[3] The economic conditions that led to this hard market are outlined in a fall 2020 Deloitte report commissioned by IBC.

[1] Insurance Information Institute, https://www.iii.org/publications/commercial-insurance/how-it-functions/market-conditions-cycles-and-costs
[2] Insurance Business Magazine America (October 11, 2019), "What Is a Hard Market?", https://www.insurancebusinessmag.com/us/guides/what-is-a-hard-insurance-market-180382.aspx
[3] State of the Canadian Commercial Property & Casualty Insurance Market Whitepaper (November 2020), https://businessinsurancehelp.ca/wp-content/uploads/2020/11/State-of-the-Canadian-Commercial-Property-Casualty-Insurance-Market-Full-Report.pdf

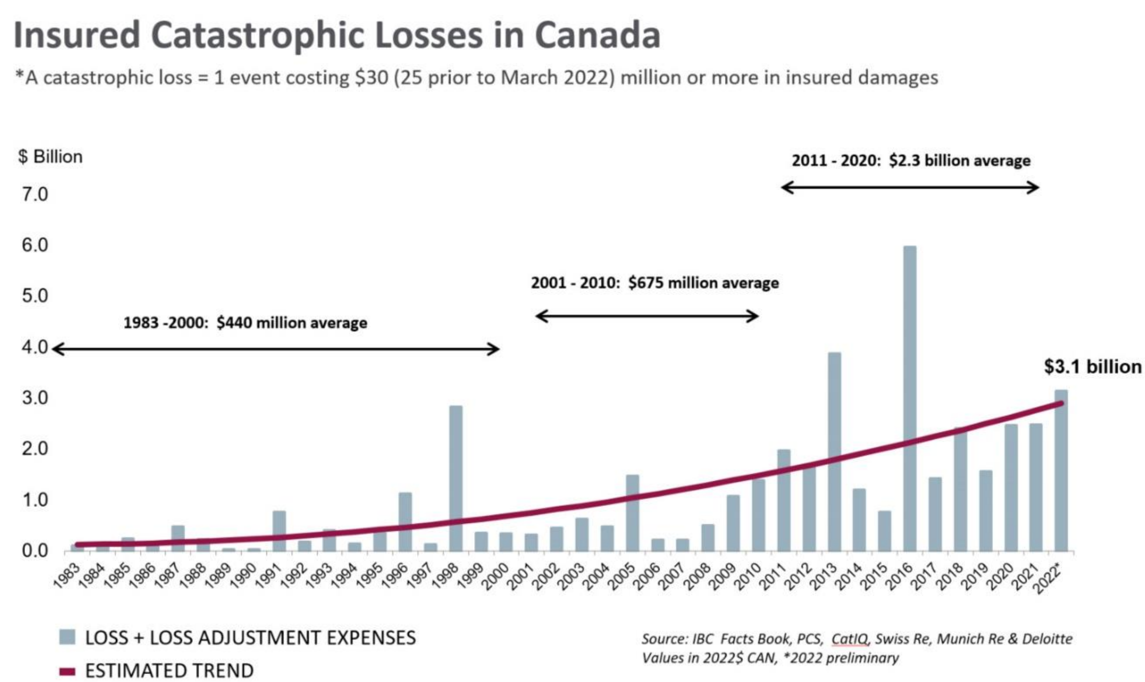
Prior to the current hard market in Canada, there was sufficient competition within the commercial insurance sector to keep premiums stable and affordable for consumers. However, between 2013 and 2018, there was a significant increase in the number and size of claims, driven mainly by a succession of severe natural catastrophe loss events in various parts of the country. This began the upward trend in claims. The hard market hit Canada around 2019, and the rapid growth in claims meant insurers had to adjust pricing of insurance products. This led to increased rates and affordability and availability issues for some Canadian businesses – issues that are still being experienced in some sectors.

The COVID-19 pandemic and today's context

The onset of the COVID-19 global crisis in late 2019 exacerbated hard market conditions in Canada, as well as globally. Pandemic-related lockdowns slowed business activity and presented new and unfamiliar risks to insurers. While the market has shown signs of improvement, in 2023 the economy is being challenged by new macroeconomic shocks such as rapidly increasing inflation, increasing severity of insured losses from catastrophic weather events (see Figure 1), ongoing pandemic-related supply chain disruptions driven by COVID-19 lockdowns in places like China, rising interest rates by central banks, and geopolitical risks related to ongoing global conflicts. Furthermore, there is continued uncertainty around the pandemic and how it will continue to impact the global economy. All of these global cost pressures have potential implications for insurers and the existing hard market. In addition, new tensions have emerged around rising inflation and a steep rise in catastrophe reinsurance costs for insurers, especially for property risks. (Insurers buy reinsurance to transfer portions of their risk portfolios to other parties by some form of agreement to reduce the likelihood of paying a large obligation resulting from an insurance claim.)

<u>Figure 1</u>

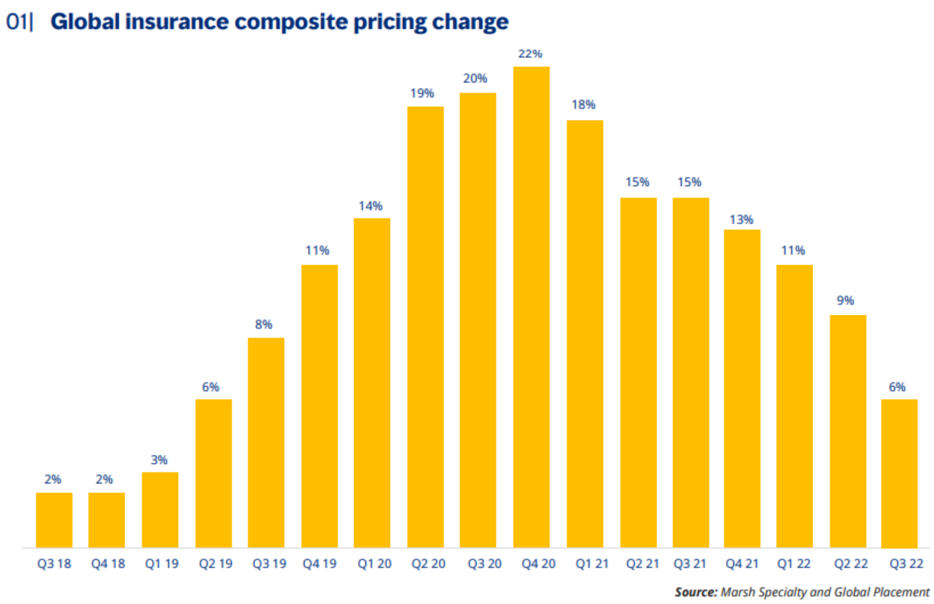
As of January 31, 2023



Global commercial insurance market

According to Marsh McLennan's (Marsh's) latest Global Insurance Market Index Report, the global P&C market is still in a hard cycle. However, the market may be in the early stages of softening, based on analysis of the most recent premium increases.[4] As shown below in Figure 2, in Q3 2022, the global composite pricing change was 6%, down from 15% in Q3 2021. Pricing has been on the decline for seven consecutive quarters.

Figure 2: Global Insurance Price Changes



While the global commercial insurance market may be showing preliminary signs of softening, several specialty lines continue to face difficulties. Cyber insurance claims costs continue to rise with corresponding premium implications. Marsh notes that cyber insurance premiums increased by 48% in the US, and 66% in the UK.[5] Although Marsh did not present comparable Canadian cyber insurance data, MSA Research data confirms substantial premium increase trends in Canada.[6]

Aon also noted ongoing cyber insurance challenges in a separate report[7], which found that as of Q3 2022, cyber insurance was the most challenged of any commercial line. This mirrors the trend in every major region around the world.

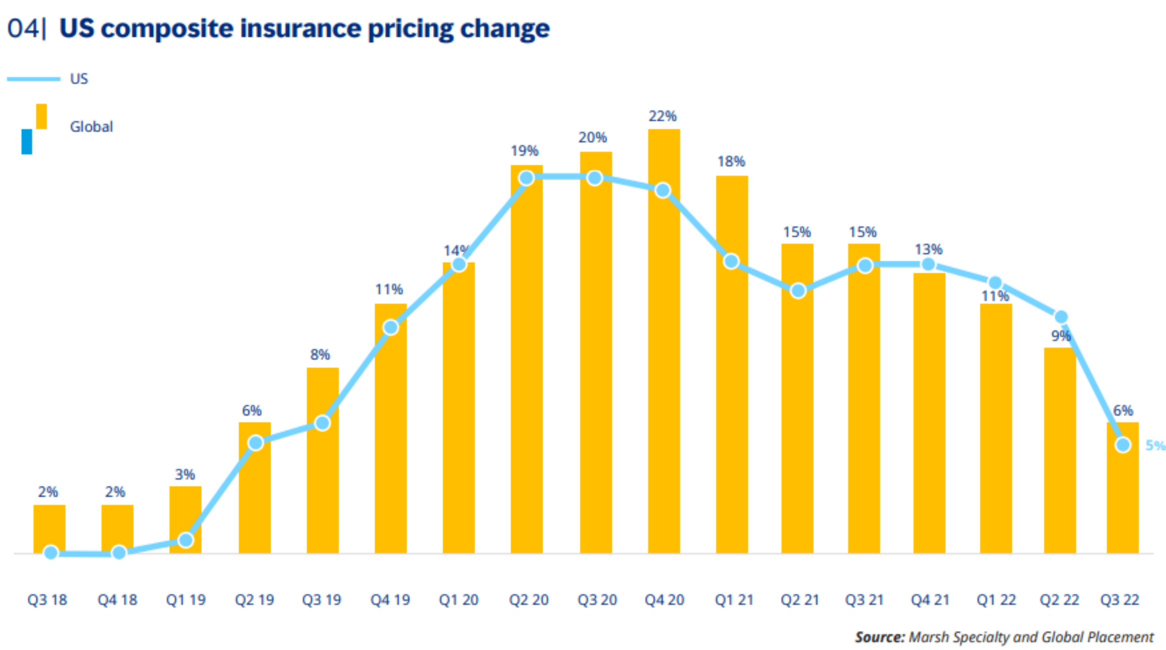
[4] Canadian Underwriter (February 3, 2022), "The Hard Market Showing Signs of Thawing", https://www.canadianunderwriter.ca/insurance/hard-market-shows-signs-of-thawing-1004217106/
[5] Marsh Global Insurance Market Index Q3 2022 Report, https://info.marsh.com/l/395202/2022-10-25/cgp28m/395202/1666709931z0HAOeZ8/GIMI_Q3_2022.pdf
[6] IBC estimates with data from MSA Research, all private companies for 2020 and 2021
[7] Aon Global Market Insights Report: Q3 2022, https://publications.aon.com/q3-2022-global-market-insights/

The United States

Evidence from the US paints an uncertain picture of the direction of the commercial insurance market. Rate increases are ultimately being driven by loss performance. As a result, some reports suggest that challenging market conditions will continue in 2023 as well as a tightening of capacity.[8] In particular, cyber insurance has been highlighted as a key line that is putting pressure on US pricing.[9]

Other reports are more positive. In IBC's discussions with US insurance experts, it was noted that while there may be specific insurance affordability challenges in certain states or business lines, such as cyber or commercial trucking, overall, insurance is still available for most commercial lines. Affordability concerns that do arise are generally due to individual pricing issues on quoted rates (i.e., differences between the insurer quote and what the insured is willing or able to pay). But the US commercial insurance market remains competitive. This more positive sentiment is reflected in recent pricing changes. As seen below in Figure 3, throughout 2022, US rates have grown at a more moderate pace. It is likely that new market entrants will serve to increase the already well diversified US insurance market, which could aid in driving rate changes lower.

Figure 3: US Insurance Price Changes



The US rate of 5% for Q3 2022 was much lower than the rate for the same period in 2021. Globally, the average pricing at renewal for Q3 2022 was 6%, down 9% from the same period in 2021.

That said, US insurance experts have also flagged concerns around reinsurance rates and are expecting significant increases in 2023, which are anticipated to have a cascading effect on the primary commercial insurance market.

[8] Commercial Risk Online. (April 13, 2022). "Hard Market Conditions Slowing Down in the US", https://www.commercialriskonline.com/hard-market-conditions-slowing-down-in-the-us-says-amwins/

[9] Marsh Global Insurance Market Index Q1 2022 Report, https://www.marsh.com/us/services/international-placement-services/insights/global_insurance_market_index.html

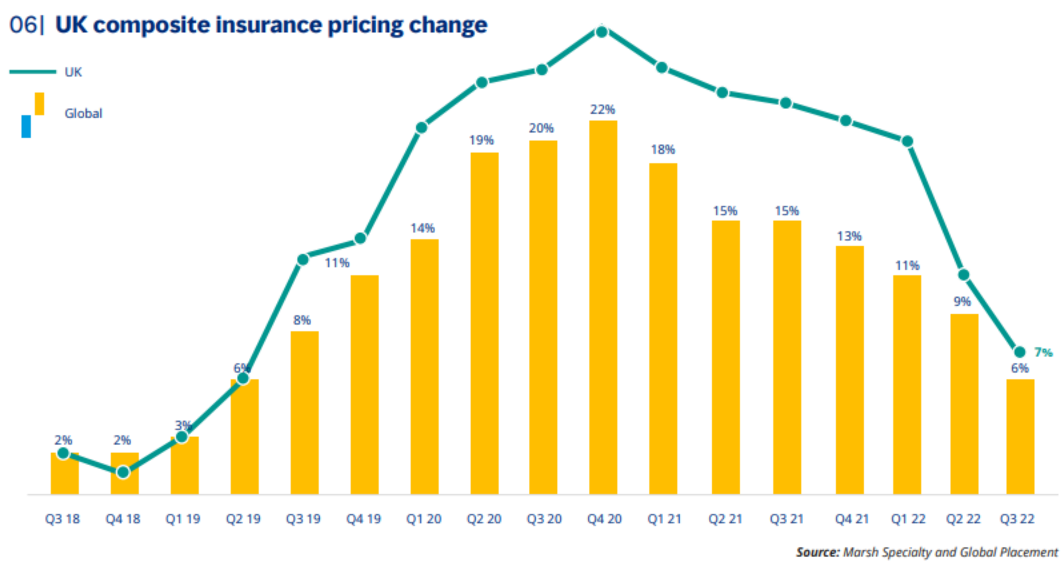
The United Kingdom

Similar to the US, the UK also experienced an improvement from hard commercial market conditions over the past three years. In 2022, the market remained competitive and there do not appear to be substantial capacity challenges. Regardless, many of the same macroeconomic factors impacting other jurisdictions, such as inflation, supply challenges and a tightening labour market, as well as the effects of Brexit, continue to influence commercial insurance pricing.

In discussions with IBC, UK insurance experts noted that the prevalence of flooding and fire risks for personal and commercial property are the primary pressures that have driven up the cost of insurance in the region. The government recently made changes to building standards, influenced by the ongoing public inquiry into the residential Grenfell Tower fire in 2017 where 72 people died and several were injured.[10] The inquiry's initial report flagged several areas where the existing building code could be improved and highlighted potential root causes for the major fire, including the types of materials being used during construction. The final report is expected in 2023.

UK insurance experts further added that as a result of the inquiry, many insurers were forced to raise their prices to ensure that losses caused by future fire and water events in high-rise buildings (especially older buildings) are adequately covered because the total costs of such events have been increasing dramatically. This in turn has caused the cost of insurance to go up for some other properties with water and fire risk. Consequently, reinsurance rates for these types of high-rise buildings have also increased.

Figure 4: UK Insurance Price Changes



As evidenced by Marsh's Q3 2022 report, the composite insurance pricing change in the UK shows that rate increases are also slowing down after peaking in Q4 2020. While the 7% increase observed in Q3 2022 is less than the UK's substantial inflation rate of 11%, it is higher than the global average of 6%.

[10] Grenfell Tower Inquiry – Phase 1 Report, https://www.grenfelltowerinquiry.org.uk/

Australia

As is the case in the US and the UK, Australia has seen challenges with its commercial insurance market. Australian insurance experts report that insurance is generally available, although some high-risk sectors have been experiencing challenges. For example, at the height of the COVID-19 pandemic lockdowns, some insurers opted not to underwrite property and liability insurance for businesses such as amusement parks, tourist events and trailer parks following several years of high combined loss ratios experienced by insurers. Capacity was also reduced due to the withdrawal of foreign-based insurers who provide a significant proportion of insurance to these sectors. Additionally, as is the case in the UK and the US, cyber insurance is a line of business that continues to see rate increases.[11]

Risks related to climate change, such as wildfires, floods and cyclones, continue to be a top issue for the country's insurers. According to a 2022 report by Taylor Fry, an Australian insurance analytics firm, a combination of natural catastrophe events and high repair costs means that 2022 will likely be an unprofitable year for the country's insurers. Due to experiencing several years of losses for both personal and commercial property lines, a number of insurers are closely reviewing their exposure to natural perils and are evaluating whether this business continues to be viable in high-risk regions in the country.[12]

Another key consideration is reinsurance. In Australia, commercial lines insurers tend to place more reliance on reinsurance (spending approximately double what personal lines insurers do on a per-dollar-of-premium basis), according to Finity's Optima 2022 General Insurance Insights Report.[13] It is therefore expected that, as is happening in other regions, reinsurance will be a key driver of higher rates in 2023 in Australia.

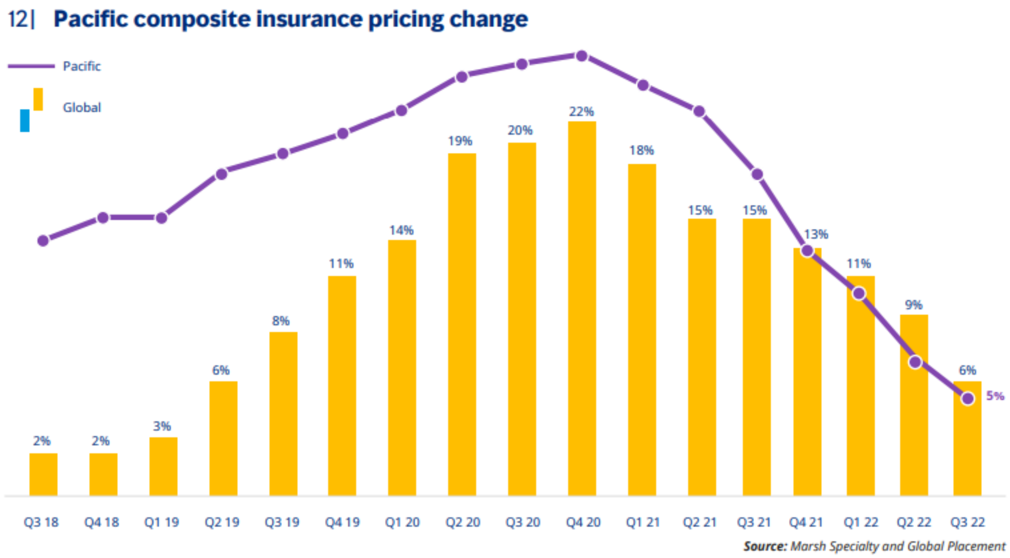
According to Marsh, premium changes in the Pacific region, which includes Australia, are following a similar trend to those in other regions. See Figure 5 below.

[11] University of New South Wales, Australia – Newsroom (Sept 14, 2022), https://newsroom.unsw.edu.au/news/business-law/why-are-insurance-costs-going-right-now

[12] Taylor Fry Radar, FY 2022 Report (Nov 9, 2022), https://taylorfry.com/wp-content/uploads/2022/09/RADARFY22.pdf

[13] Finity: Optima 2022 General Insurance Insights Report (2022), https://finitydownload.blob.core.windows.net/optima/2022/Optima_2022.pdf?se=2024-10-25T09%3A06%3A16Z&sig=1bU3mwE8tGehaPQjCFfr5CUtm1p35DG9GsrIZuLXpRU%3D&sp=r&spr=https&sr=b&st=2022-10-25T01%3A06%3A16Z&sv=2021-06-08

Figure 5: Pacific Region Insurance Price Changes



For the Pacific region, which is heavily skewed toward the Australian market,[14] the composite commercial insurance pricing change in the year to Q3 2022 was 5%, roughly in line with the global average of 6%.

[14] Asian Insurance Review, "Pacific: Insurance prices rise by 5% in 3Q 2022" (Oct 31 2022), https://www.asiainsurancereview.com/News/View-NewsLetter-Article/id/82757/type/eDaily/Pacific-Insurance-prices-rise-by-5-in-3Q2022

Part 2: State of the Canadian Commercial Insurance Market

Deloitte Market Analysis

To gain a broader understanding of how challenging market conditions continue to impact Canadian insurers, intermediaries and commercial consumers, IBC commissioned a new report by Deloitte. This report is a follow-up to one that was developed in November 2020, entitled State of the Canadian Commercial Property & Casualty Insurance Market.

The report confirms that while the commercial market has shifted to more stable conditions, underwriting discipline is unlikely to lessen any time soon. So even as the P&C industry turns to growth, emerging issues like inflation, supply chain disruptions, cyber risks and the increase in catastrophic weather events will keep insurers focused on risk quality.

Deloitte noted that in past Canadian hard markets, recovery has often been complicated by a number of factors that are likely to result in higher claims. For 2022, the most likely among these factors has been climate change (e.g. $2 billion in annual insured natural catastrophe losses have become the new normal), inflation and increased cyber exposure. All of these will drive increased costs for insurers despite preliminary signs that the market may be starting to soften. Given that reinsurers have experienced higher catastrophe losses from Canada recently, they are now not always offering the same capacity or are offering the same product offerings but at higher price points for primary insurers. As a result, the availability and pricing of reinsurance in the Canadian commercial market is expected to have a cascading effect on primary insurers’ pricing for providing domestic commercial insurance coverage.

Part 3: Industry Support Measures for Commercial Insurance Customers

As hard market conditions have persisted, the P&C insurance industry has continued to provide supports to help commercial insurance consumers manage the related challenges.

- At the height of the COVID-19 pandemic, IBC member companies provided premium relief and deferrals totaling more than $900 million for commercial insurance customers.
- IBC expanded its Condominium Action Team (CAT), created in early 2020, which provides support for the condominium sector across the country (except in Quebec). This team provides one-on-one assistance for condominium corporations and stratas. To date, CAT has assisted 120 consumers.
- IBC has invested in additional experts and trained risk managers to work directly with commercial clients across Canada (except in Quebec) to get the information and support they need to find affordable insurance. IBC's risk managers provide free risk management consultations to any business experiencing insurance availability issues. To date, this service has provided one-on-one assistance to roughly 300 businesses and has delivered an 80% success rate.
- In November 2020, the industry came together to create a new Ontario-based Business Insurance Action Team (BIAT) program to help small business owners find the insurance they needed to continue operating. BIAT was initially developed in response to the province's hospitality sector having insurance affordability and availability issues due to challenges with their risk profiles. The BIAT program was able to:
    - Find insurance for 19% of applicants
    - Provide quotes for 31% of applicants
    - Help resolve 50% of the files prior to getting a quote due to support provided by IBC's risk manager services which offered advice to: help the consumer improve the risk, improve the risk finance strategy, improve the risk presentation, find new markets, manage claims information, and add risk controls after the claim, as well as advised on the previously quoted rate from their insurer/broker.

Due to the success of the initiative and a declining need for the program, IBC members agreed to close the BIAT program in June 2022.

- IBC has a commercial support team that meets with businesses and organizations to understand issues that specific sectors may be facing. This team works with the insurance industry to help find solutions.
- IBC maintains a Business Insurance Helpline that is accessible through 1-844-2ask-IBC. Since 2020, the helpline has taken more than 3,100 calls. Coupled with commercial-specific websites, up-to-date information is provided for businesses and organizations wanting to learn more about their commercial insurance policy.
    - In 2020, the total call volume to IBC's Business Insurance Helpline was 1,483. By the end of 2021, the call volume was 1,113 – a reduction of 25%. In 2022, there was a further reduction in commercial insurance calls to the helpline, with only 643 as of December 1, 2022.

Success Stories: How the Insurance Industry Helped the Commercial Sector Weather the Storm

IBC's risk management services continue to provide support to those businesses needing it, and has resolved insurance issues for a number of clients. Here are a few examples from across Canada.

An Outdoor School with a New Daycare

An outdoor school had diversified its business to include a daycare operation. The original policy for the outdoor school was affordable, but when the business added the daycare to its coverage, the premium rose substantially with no coverage for abuse. Working with IBC's risk manager, the business was advised to create two separate business entities and reapply for insurance for each. Each business entity was able to secure insurance, including abuse coverage for the new daycare operation, at an affordable premium.

An Event Space with a Recent Fire Loss

An event space was unable to find commercial insurance after a recent fire-related claim. The new owner undertook mitigation efforts to address issues related to the fire loss, and IBC worked with the managing general agents, created through IBC's BIAT program, to get a quote for the business that provided better coverage with only a moderate increase in premium compared to the prior year.

A Condominium Board with a High Premium at Renewal

A condominium building was facing a large premium increase due, in part, to two recent claims totalling millions of dollars. Previously, the condominium board had attempted to shop around for lower quotes, but had not had any success. The chair of the board subsequently contacted and met with IBC's risk manager and invited them to participate in their board's annual general meeting and to meet with the building's property manager. The risk manager advised the board to take control of the policy procurement process and provided education on securing commercial insurance, as well as advice on the need to manage claims before sending them to the property management company.

Part 4: The Path Ahead – Fostering the Conditions for a Sustainable Commercial Insurance Market

In addition to promoting risk management services and offering direct supports for commercial insureds, IBC and industry stakeholders have spent considerable effort over the last two years working collaboratively with governments to advocate for legislative changes that would improve the commercial insurance market in the short, medium and long term. Governments have taken a number of helpful actions, including the introduction of the following:

> **Condominium manager licensing in Alberta**. IBC had recommended improved education for those who manage and govern condominium/strata associations. The Real Estate Council of Alberta (RECA) began regulating condominium managers as of December 1, 2021. Amendments were made to the Exemption Regulation pertaining to condominium management, which were approved on November 10, 2021, and took effect on December 1, 2021. They include licensing requirements for building managers and help support better governance and accountability, which, in turn, can help support better risk management.
>
> **Protection measures for hospitality businesses in British Columbia, New Brunswick, Ontario and Saskatchewan**.[15] IBC recommended liability immunity reforms to help support businesses as they worked to recover from the impacts of the COVID-19 pandemic. The liability immunity reforms that were introduced reflected a requirement for businesses to make a good faith effort to respect public health guidance which is designed to protect consumers while protecting businesses from frivolous lawsuits.

The full list of recommendations from the 2021 National Commercial Insurance Task Force report is listed in Appendix A.

Lingering pain points and the need to continue working together to advance solutions

Over the course of 2022, IBC reconnected with key stakeholders in various sectors of the economy (Appendix B) to better understand commercial insurance-related challenges that their members or stakeholders may be experiencing, and how those challenges have evolved since the onset of the hard commercial market.

The majority of stakeholders noted that despite the current market conditions, there is far less concern related to commercial insurance availability issues than there was a few years ago. However, some

[15] Other changes were made in Alberta (health services facilities only) and Nova Scotia (licenced homes for special care only) as well.

businesses continue to experience commercial insurance affordability challenges, and insurance is consistently cited as a key cost constraint in the CFIB's monthly Business Barometer reports. New pressures from macroeconomic variables, such as inflation, high interest rates, ongoing international supply chain issues, and a potential recession in Canada, continue to create headwinds for businesses and organizations across all sectors.

Some sectors appear to be experiencing more acute challenges than others. Conversations with sector associations and IBC's research have revealed pressures among:

- Commercial trucking drivers, in particular, those operating single vehicles or small fleets
- Condominium corporations, such as those with complex claims histories
- Businesses with high liability exposure, including many in the tourism and/or hospitality sectors
- Small businesses, some of which have fewer resources to invest in risk mitigation (including cyber risk mitigation)

Some of the lingering challenges can be abated through risk management, while others can be addressed partially through legislative and regulatory change. It's likely that some of the challenges will begin to ease when market conditions stabilize.

There are a number of public policy changes that would address sector-specific pain points, as well as recommendations that would generally benefit businesses and organizations.

Creating a more sustainable commercial trucking sector

The issue of affordability of commercial trucking insurance has been slowly simmering for years, and insurers continue to see a significant increase in the size and cost of collisions. Across Canada, and for consecutive years, many insurers have been experiencing losses that exceed premiums. This is unsustainable and has led to premium increases, particularly for those operating single vehicles or small fleets.

There are a number of factors contributing to cost increases, including a high turnover of experienced and retiring drivers, new drivers who lack experience and access to adequate training and road safety programs, significant fraud in the marketplace and a dramatic increase in the size of liability claims, particularly for trucking businesses with exposure to the United States.

To improve the commercial trucking insurance market, IBC and its members have been advocating for an improved mandatory training framework for drivers. The industry is also advocating for the creation of a centralized database to verify the critical insurance information that's needed for more accurate underwriting – the current system is rife with fraudulent applications. A database with relevant information (e.g., employment histories, driving records) would help root out fraud.

Finally, IBC is calling on governments to mandate trucking operators to provide truck drivers with their driving and employment history, when requested. As it stands, some operators prevent drivers from finding new employers by refusing to provide their record of employment and driving history. This can also create insurance complications, particularly if a driver cannot prove their level of experience.

Improving the risk profile of condominium/strata corporations

Discussions with key stakeholders in the condominium/strata sector point to ongoing insurance affordability challenges for strata and condominium corporations. While the situation has improved since 2019, when insurers began to adjust to several years of growing claim losses and deteriorating loss ratios, condominium corporations continue to experience insurance challenges.

While the entire Canadian commercial property insurance market has experienced hard market conditions since 2019, condominium corporation insurance has faced additional pressures. These pressures include significant catastrophic loss events, from wildfires to flooding as well as the rising cost of labour and materials. These costs existed prior to 2020 but are now compounded by inflationary pressures. Meanwhile, a condominium corporation's claims history (e.g., repeated water damage claims) can have a significant impact on the condominium corporation's premium. The quality of building materials and a condominium corporation's approach to maintenance can also directly affect premiums.

IBC has had a dual focus on condominium corporations: (1) emphasizing condominium corporation education and (2) advocating for legislative changes in some provinces that would help improve the risk profile of condominium corporations. IBC's Business Insurance Helpline includes resources for both condominium board members and condominium owners, including tips for owners/board members on how to manage their strata or condominium's insurance policy.

IBC has also been advocating for legislative changes that would improve the risk profile of condominium corporations. There have been modest, positive developments over the last few years, including the introduction of condominium manager licensing in Alberta. However, much work remains, and IBC continues to seek opportunities to advance reforms with provincial governments, including, but not limited to:

- Defining a standard unit in legislation
- Amending building codes to reduce risk
- Amending land-use planning to reduce risk
- Making risk management education for condominium/strata board members mandatory
- Mandating depreciation reports and enhancing regulations governing the use of reserve funds.

Creating a more proportionate joint and several liability framework

IBC has heard about the lingering impact of commercial insurance premiums from a number of small businesses and the associations that represent them. The CFIB's most recent Business Barometer surveys, which measure business confidence, consistently point to insurance as a top cost input that is causing difficulties for businesses. Similarly, IBC has heard from a number of businesses in the hospitality and tourism sectors about the ongoing challenges related to insurance affordability.

While there is no silver bullet solution for businesses experiencing increased commercial insurance costs, there is a legislative proposal that in certain jurisdictions can alleviate some cost pressures in the commercial insurance market; namely, reforms to joint and several liability provisions in provincial Negligence Acts.

Joint and several liability may arise in a case in which there are two or more defendants each partially at fault for an injury or loss, the plaintiff or injured party can sue any or all of them for the full amount of the loss, regardless of the degree of fault. If a plaintiff sues two or more defendants in such a case, and only one defendant has the means to pay, the plaintiff can recover all their damages from that one defendant, regardless of that defendant's degree of fault. The result is that the defendant with the deepest pockets often pays a disproportionate amount of the compensation for damages.

The joint and several legislative framework affects the frequency and severity of claims that are brought against large organizations, municipalities, and hospitality establishments that have commercial liquor host liability exposure and many insureds that have high potential liability exposure. This legislation also affects the insurance premiums for these businesses as insurers have seen an increase in both the frequency of claims and size of claims over the past several years.

IBC continues to advocate for reforms that will apportion liability and any damages award in a way that matches the degree of negligence of the party. This will ensure that businesses do not pay more than their fair share – that is, the proportionate share attributable to their degree of fault. It could help manage claims over time against a business and mitigate insurance affordability challenges. In particular, changing rules around commercial host liability would be beneficial to the hospitality sector. Commercial host liability exposure creates substantial financial risk to any establishment licensed to sell alcohol. Given the challenges to these businesses which were compounded by the COVID-19 pandemic, reforms to the joint and several liability principles would allow small businesses and commercial hospitality establishments to recover and avoid unnecessary, unanticipated, inequitable financial obligations.

IBC continues to educate stakeholders on the impact of joint and several liability, and advance legislative changes to these frameworks.

Helping organizations become more cyber resilient

As cyber attacks become more common and impactful, cyber insurance claims costs have increased. Over the last several years, the combined loss ratio for standalone cyber insurance has averaged 240%. This means for every $1 that insurers collected in premiums, they paid out $2.40 in claims and operating costs. In response to rising cyber claims costs, some insurers are reconsidering their scope of coverage, tightening underwriting standards, and employing exclusions to better grapple with emerging cyber risks. This has created an environment in which insurers are expecting more from consumers when it comes to cyber controls.

In its conversations with stakeholders, IBC has learned that cyber threats are an increasing preoccupation for businesses, regardless of their size or sector. SMEs are particularly vulnerable to cyber attacks as they often lack the resources and expertise to build adequate cyber defences. A 2022 IBC survey found that there is significant room for improvement as it pertains to building greater cyber awareness in SMEs.

For the past several years, IBC has undertaken a concerted effort to help SMEs become more cyber resilient. In October 2022, IBC launched Cyber Savvy, its largest-to-date cyber public awareness campaign aimed at SMEs. The website welcomed over 160,000 visitors, who could visit the page to access resources aimed at helping businesses, organizations and individuals take the necessary steps to become more cyber secure. Additionally, IBC has assisted the CFIB by helping to sponsor a cyber helpline. CFIB's advisors will answer basic questions on cyber security or refer the caller to trusted, third-party resources on topics ranging from best practices in cyber risk mitigation to information on the latest cyber threats facing small businesses. IBC's funding also expands access to CFIB's helpline to all small business owners in Canada who have cyber security questions.

IBC is encouraging all businesses and organizations to take the necessary steps to shore up their cyber resilience. While cyber insurance is an important backstop for businesses in the event of a cyber breach, it should be viewed as only one component within a complete cyber risk mitigation strategy aimed at reducing an organization's vulnerability to online threats. Governments, stakeholders and the insurance industry all have a role to play in building a more cyber resilient Canada. To that end, IBC is encouraged by the federal government's Cyber Security Strategy, which outlines a clear roadmap for building a more cyber resilient Canada.

Conclusion

Overall, there is preliminary evidence that the hard commercial insurance market appears to be moderating, based on decreasing rates of price increases. This trend is seen both globally and in Canada. While reports show that many lines of business are "moderating," some commercial lines, particularly cyber and property insurance, continue to be problematic. The outlook remains uncertain due to the introduction of macroeconomic shocks caused by inflation, rising interest rates, increasing reinsurance costs, supply chain disruptions and other factors.

The current feedback from stakeholders from key sectors impacted by the hard commercial market is that the problems observed during the peak of the hard market are less severe. However, the commercial insurance market could remain quite firm in 2023. A possible recession could further challenge businesses, as premiums rise and sales costs increase due to inflation. While some sectors continue to see some insurance affordability challenges, there do not appear to be insurance availability issues in Canada. The existing supports that IBC has in place – such as the ongoing risk management services and business helpline – continue to provide workable solutions for those experiencing insurability issues.

Appendix A: National Commercial Insurance Task Force Recommendations

A. Sector-Specific Recommendations

Condominium/Strata Sector Recommendations

For the Insurance Industry:

- Educate insurance representatives and condominium/strata associations about best practices in risk management.
- Share information and research with governments on risk and regulatory reform.
- Provide risk management support, when possible.
- Educate condominium boards/strata councils, unit owners and prospective owners about risk management and insurance pricing.

For Consumers and Strata Corporations:

- Work with their insurance representative.
- Undertake effective maintenance programs.
- Educate board members.
- Ensure there are adequate depreciation reports and reserve fund studies and implement other best practices to reduce risk and potential claims.

For Provincial/Territorial Governments:

- Define a standard unit in legislation.
- Amend building codes to reduce risk.
- Amend land-use planning to reduce risk.
- Make risk management education for condominium/strata board members mandatory.
- Mandate the licensing of condominium/strata managers.
- Mandate depreciation reports and enhance regulations governing the use of reserve funds.
- Cap loss assessments for strata lot owners.
- Speed up municipal permitting processes.

Hospitality

For the Insurance Industry:

- The insurance industry should continue looking for ways to help businesses unable to obtain insurance coverage.
- The insurance industry and hospitality stakeholders should advocate together for liability immunity protections for businesses that follow government protocols related to COVID-19.
- The insurance industry should continue to educate hospitality stakeholders on how to manage their risks and improve their risk profile. This effort should include providing sector-specific tools to help them manage their insurance costs.

For Consumers:

- Consumers should consider implementing a comprehensive risk management strategy to help reduce or mitigate the potential for loss or damage.
- Consumers should create and/or maintain a relationship with their insurance representative and engage regularly, especially when there are changes to their usual business activities.
- Consumers should understand their insurance policy and ask their insurance representative questions for clarification.

For Provincial/Territorial Governments:

- These governments should work with the insurance industry with the goal of implementing reforms to the principle of joint and several liability to help manage the claims against commercial consumers and, in turn, insurance costs.
- These governments should implement temporary tort reforms to provide liability immunity protections for businesses that follow government protocols related to COVID-19.

Non-Profit Sector Recommendations

For the Insurance Industry:

- The insurance industry and non-profit stakeholders should advocate together for liability immunity protections for businesses and organizations that follow government protocols related to COVID-19.
- The insurance industry should continue to educate non-profit stakeholders on how to manage their risks and improve their risk profiles, particularly those risks related to directors' and officers' liability. This effort should include providing sector-specific tools to help manage their insurance costs.

For Consumers:

- Consumers should consider implementing a comprehensive risk management strategy to help reduce or mitigate the potential for loss or damage.
- Consumers should create and/or maintain a relationship with their insurance representative and engage regularly, especially when there are changes to their usual business activities.
- Consumers should understand their insurance policy and ask questions for clarification.

For Provincial/Territorial Governments:

- These governments should reform the principle of joint and several liability to help manage the claims against commercial consumers and insurance costs.
- These governments should implement temporary tort reforms to provide liability immunity protections for businesses and organizations that follow government protocols related to COVID-19.

Trucking Sector Recommendations

For the Insurance Industry:

- The insurance industry should consider further incentives for Canadian fleets that deploy safety technology; it should also share more information with commercial trucking stakeholders on the factors considered in determining insurance coverage.
- IBC and the Canadian Trucking Association (CTA) should continue discussing how to reduce fraud in the trucking sector. The Facility Association (FA), which is a non-profit insurance association that makes auto insurance available to those unable to secure coverage in the regular market, carried out a study of recent closed claims in its commercial trucking book of business. It found that a number of those claims included fraud, particularly trucking firms declaring that they operated in one province but were actually based in another. FA also saw a large decrease in its Ontario market share and a large increase in market share elsewhere. FA determined that some trucking insurance consumers were fraudulently declaring head offices in Atlantic Canada to achieve lower premiums. As a result, FA has tightened up its documentation requirements across Canada to be in line with private insurers. IBC and CTA should support FA as it implements its new standardized documentation requirements for the trucking sector across all provinces.
- Insurers should share information on their current insurance rating system with individual premium costs.
- IBC and CTA should host a focus group of CTA carriers and IBC representatives to review the challenges of insuring young drivers and look for training programs and any minimal training standards that could help increase the insurability of these drivers.

For Provincial/Territorial Governments:

- It has been noted that at the time of policy renewal, insurers may be provided with fraudulent or unverified information regarding insurance policies. Provincial governments should implement a database to verify the validity of a carrier’s insurance when issuing or renewing plates and advocate for all jurisdictions to carry out this validity check at renewal and in real time. IBC members have advocated for a government database to verify trucking insurance information. IBC and CTA will determine which jurisdictions do not check the validity of a carrier’s insurance when issuing or renewing plates to help support government advocacy efforts and promote the value of a government database.

For Consumers:

- IBC and CTA should create educational materials to inform CTA members on insurance issues, including risk management and factors that affect insurance policy pricing.

B. General Recommendations

For the Insurance Industry:

- The insurance industry, through IBC, should continue to hold forums for insurers, brokers, governments and consumers to learn about the challenges that commercial consumers face and to find innovative solutions to mitigate those challenges.
- In spring 2022, the insurance industry, through IBC, should provide a follow-up report. The follow-up report should include an update on engagement with governments and stakeholders on the commercial insurance challenges, the implementation of the Task Force's recommendations and any impact they may have had on availability and affordability for consumers.
- The insurance industry should continue to develop and promote consumer-friendly information to help commercial consumers better manage their risks and improve their risk profile.
- IBC should invite stakeholders to participate in regular reviews of the content and effectiveness of commercial insurance information on the IBC website.
- The insurance industry should continue to provide resources to brokers to help them communicate with their commercial insurance clients about insurance policies and finding insurance coverage.
- IBC should continue to facilitate meetings between insurers and representatives of sectors facing commercial insurance challenges.
- Insurers, insurance agents and brokers should continue building their knowledge about the insurance needs of their commercial clients, particularly those in specialized lines.
- Brokers and insurance agents should communicate insurance policy changes, particularly before renewals, in a more timely manner to give clients time to understand their insurance options and explore next steps.

For Consumers:

- Consumers should consider implementing a comprehensive risk management strategy to help reduce or mitigate the potential for loss or damage.
- Consumers should create and/or maintain a relationship with their insurance representative and engage regularly, especially when there are changes to their usual business activities.
- Consumers should understand their insurance policy and ask their insurance representative questions for clarification.

For Provincial/Territorial Governments:

- These governments should work with the insurance industry to identify factors that drive insurance costs and explore legislative reforms to manage these costs over the long term.

Appendix B: Associations IBC Consulted with in Drafting this Report

The organizations listed below were consulted by IBC in the drafting of this report – their inclusion in this list does not imply that they endorse the recommendations in this report.

- Canadian Condominium Institute
- Canadian Construction Association
- Canadian Federation of Independent Business
- Canadian Insurance Claims Managers Association
- Canadian Real Estate Association
- Canadian Trucking Alliance
- Insurance Brokers Association of Canada
- Risk and Insurance Management Society
- Tourism Industry Association of Canada.