



THE BETTERLEY REPORT

EMPLOYMENT PRACTICES LIABILITY INSURANCE MARKET SURVEY—2023

Increased Attention to Wage and Hour and Immigration Act Coverages

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Highlights of this Issue

Rate Increases Are Minor to Flat for Most Classes

Wage and Hour (W&H) as Well as Immigration Act Coverages Expanded

21 Insurers Tell Us How They Are Responding to the Risk Selection and Pricing Challenge

o Trend Reveals Continuing Increased Attention to Insured's Practices, Extra Care in Specific Classes, and Higher Rates

27 Leading Insurers Included—Ategrity Specialty and Executive Perils Added, Great American Returns

Hiscox Removed from Survey (Unable To Respond); Berkshire Also Removed (No Response)

Next Issue

February
Technology E&O Market Survey

The Betterley Report

Editor's Note: *In this issue of The Betterley Report, we present our annual review and evaluation of the changing employment practices liability insurance (EPLI) market. We identify the leading insurers and key differences in their offerings, as well as evaluate the state of the market—how healthy the line is, whether it is growing, and what is the claims experience. In particular, we focus on rate trends.*

This issue reviews products from 27 insurers that form the core of this market. We have added Ategrity and ExecutivePerils, as well as the returning Great American, and removed Berkshire Hathaway Specialty (did not respond) and Hiscox (unable to respond due to staff changes).

EPLI coverage can also be found in management liability insurance packages. Readers may wish to read our "[Private Company Management Liability Insurance Market Survey—2023](#)," which reviews so-called management liability products

that can, and usually do, include EPLI. For a few insurers, the only way they offer EPLI is as a part of such management liability products.

In this issue of "Employment Practices Liability Insurance Market Survey—2023," we continue to delve deeply into insurers' reactions to discrimination and harassment exposures, captured in our tables labelled #MeToo. While we have promised not to attribute the responses to individual insurers, we think reading those responses is helpful in understanding the mood of the market.

We have updated that section for 2023 and included the responses of the 23 who shared their knowledge. Please see the responses beginning on [page 5](#).

Again, this year, we have included commentary on the size and growth prospects of EPLI by insurance demographics and economic experts at [ISO MarketStance](#). Their data is consistent with ours, so it is a real benefit to our reports to include their insight.

While each insurer was contacted in order to obtain this information, we have tested their responses against our own experience and knowledge. Where they conflict, we have reviewed the inconsistencies with the insurers. However, the evaluation and conclusions are our own.

Of course, the insurance policies govern the coverage provided, and the insurers are not responsible for our interpretation of their policies or survey responses.

In using this material, the reader should understand that the information applies to the standard products of the insurers and that special arrangements of coverage, cost, and other variables may be available on a negotiated basis. Professional coverage

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counsel should be sought before any action or decision is made in the use of this information.

Introduction

We have been closely following the EPLI market since 1991. In the beginning, there were five insurers; now, it is rare to find an insurer that offers specialty lines products but not EPLI. Also, add-on coverage to package products (business-owners-type policies) is available. However, add-on coverage appears to be limited to smaller employers as insurers recognize the importance of underwriting and claims expertise as vital to EPLI success.

For our survey, we focus on the most prominent insurers writing the most business or offering some unique product or service. While this omits some insurers, we believe it makes the information more valuable to our readers.

We are glad to consider all significant insurers who wish to participate in our reports. By significant, we mean market share, market focus (such as size or type of insured), or a special approach to coverage or services.

State of the Market

Rates and Retentions

Of our participating insurers, 19 shared their views on rates and retentions. They are summarized in the table at the beginning of the [next page](#). Note that this table includes information as to the size of the insurer (based on EPLI premium volume) and their market focus (based on employer size).

Rates are definitely continuing their trend upward for select classes of businesses and locales. For the rest of the market, rates are generally flat to single-digit increases. Compared to 2021, the market has definitely stabilized.

We asked the participating insurers to share their approach to the changed environment of #MeToo. In the tables beginning on [page 5](#) are the questions that we asked of our participating insurers and their responses in their own words.

Our takeaway from reading the responses is that most insurers are much further into implementing underwriting or pricing changes due to the wave of allegations than they seemed to be last year.

Also, we note the potential impact of claims for nonemployment relationships. Coverage for these claims via third-party coverage is often overlooked by insureds and is, perhaps, not generating much premium for the insurer.

Companies in this Survey

The full report includes a list of 27 markets for employment practices liability insurance, along with underwriter contact information, and gives you a detailed analysis of distinctive features of each insurer's offerings.

Learn more about [The Betterley Report—Employment Practices Liability Insurance](#)

Sample Insurer Responses When Asked about EPLI Rate and Retention Trends

| Insurer Position in the EPLI Market (i.e., Premium Volume) | Insurer Market Focus (Employer Size) | Rate Trend | | Deductible or SIR Trend | |
|--|--------------------------------------|-------------------|--|-------------------------|---|
| | | Market in General | Own Rates | Market in General | Own Deductible/SIR |
| Large | Large | 0–5% | Risk dependent for higher risk industry groups, those with claims volatility and W&H | Flat | Flat |
| Large | Large | No Response | 5% | No Response | No Response |
| Large | All | Flat to -5% | No response | Flat | Flat other than CA/ NY/NJ, where we can see a slight increase |
| Medium | Small–Medium | Flat | Flat | Flat | Flat |
| Medium | Small–Medium | 5–10% | 5–10% | Flat | Flat |
| Medium | Medium | Flat to -5% | No Response | +5–10% | No Response |
| Medium | Small–Medium | 3–10% | No Response | 10% | No Response |
| Medium | Small–Medium | 5% | 5% | 10–15% | Flat |
| Medium | All | 5% | Flat to Moderate Increase | Flat | Flat |
| Medium | Medium | -15–20% | -3–5% | -10% | Flat |
| Medium | Small–Medium | Flat | Flat | Flat to Increase | Flat to Increase |
| ... | | | | | |

Like what you see in this executive summary?

By purchasing the full report, you can learn more about how 27 insurers address the changing employment practices liability insurance markets.

Learn more about [The Betterley Report—Employment Practices Liability Insurance](#)