



# *Social Inflation*

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# ***Social Inflation – Broad P&C Industry Issue***

***Social Inflation is a broad P&C Industry issue that refers to factors not related to general inflation in the economy that underlie rising court awards.***

- Some of the Insurance Products/Classes directly impacted are
  - Auto Liability (especially Commercial Auto/Trucking)
  - Professional Lines / D&O Liability
  - General Liability, Excess Liability/Casualty incl. Marine and Energy Liability
  - Product Liability
  - Medical malpractice

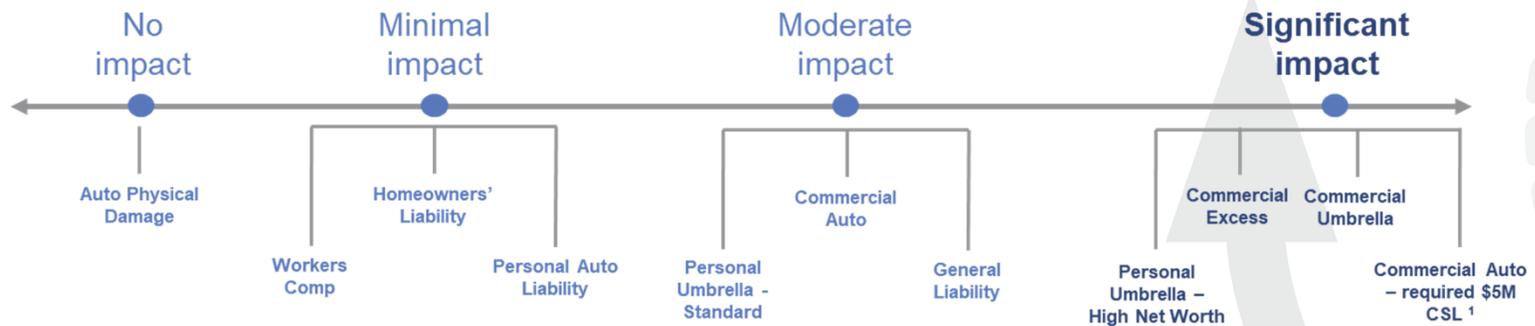


Chart From: Munich Re US  
Effects of Inflation Feb 2022

<sup>1</sup> FMCSA Financial Responsibility Regulations require For-Hire Passenger Carriers (Seating Capacity > 15) and For-Hire and Private Carriers of Hazardous Substances to carry \$5M primary commercial auto limits  
Source: Munich Re US Data

***Social Inflation is a broad P&C Industry issue that refers to factors not related to general inflation in the economy that underlie rising court awards.***

- Social inflation does not discriminate; it impacts both long-tail and shorter tail casualty lines
  - D&O and Auto liability in relation as examples
- Social inflation is and will remain a significant driver of loss costs in the US insurance market;
  - firms continue to attempt to recoup loss cost rises with rate
  - quantifying the loss trend for rating/reserving purposes is extremely difficult
- Not transitory
  - expected to continue to weigh heavily on future LR projections
  - remains the thesis for future rate growth expectations

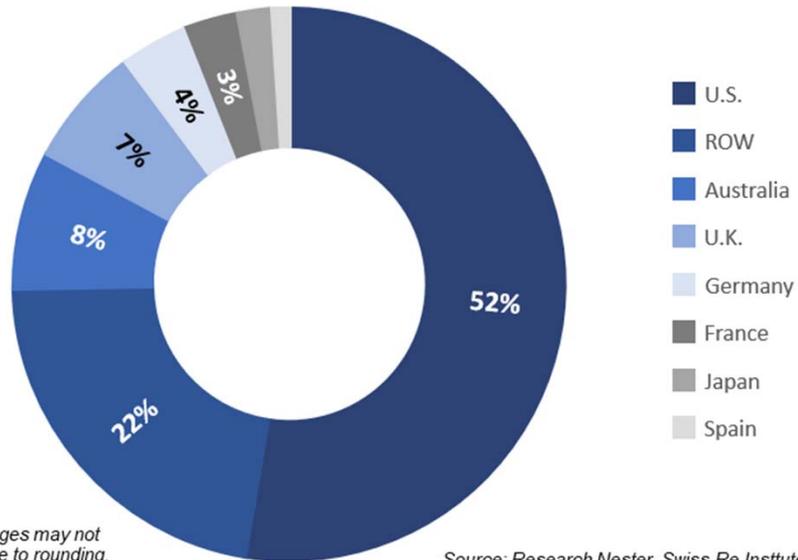
## ***Social Inflation – Meaningful Drivers***

### Meaningful Drivers

- *Third party Litigation Funding (TPLF)*
  - investment groups continue to pour \$ to fund litigation; why?
    - they receive a % return for share of award
    - they are making a significant ROI
    - has contributed to increasing number of “outsize” settlements and awards
    - has increased in accordance with appetite increase for litigation option vs settlement

## Social Inflation – Meaningful Drivers

Third Party Litigation Funding Market



Note: The sum of percentages may not add up to exactly 100% due to rounding.

Source: Research Nester, Swiss Re Institute

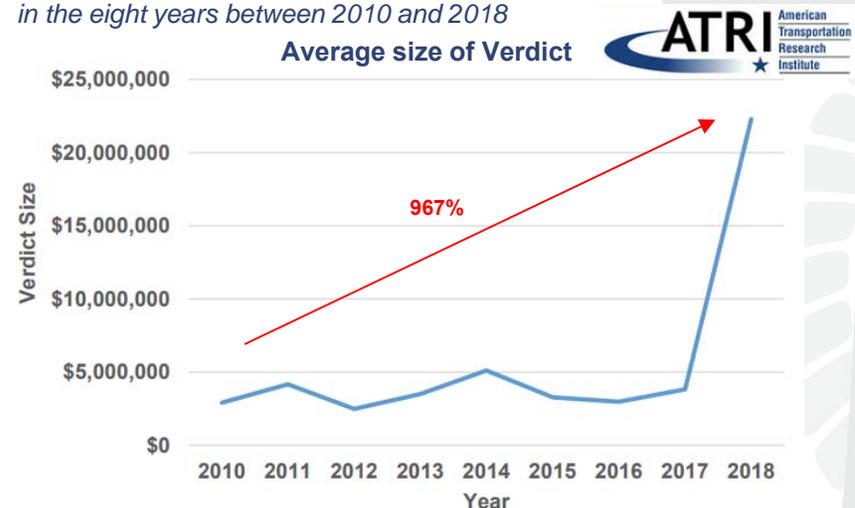
- The U.S. is the world's largest third-party litigation funding market, accounting for more than half (52%) of global activity.
- TPLF investment globally rose 16% year-on-year to \$17bn in 2021

## ***Social Inflation – Meaningful Drivers***

### **Meaningful Drivers Continued**

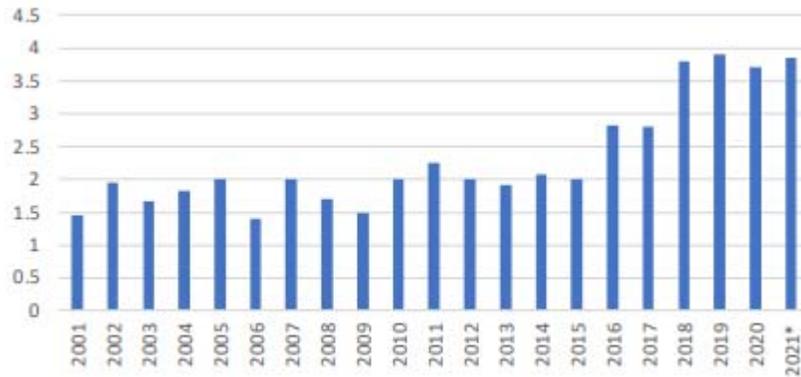
- ***Nuclear Verdicts***
  - # of outsized awards are increasing nationally; why?
    - sympathetic jurors
    - plaintiff attorneys using emotion-driven tactics – “reptile theory” as an example
    - distrust of large public corporations
    - public desensitization to large numbers
    - spread of these kind of verdicts from states like CA, FL, IL, GA, and TX to areas like KY & UT because size of the awards raise the bar for subsequent cases
    - More trials = more opportunity to ring the bell

*When evaluating verdicts in excess of \$1 million, the average size increased from \$2,305,736 to \$22,288,000 – an increase of 967% – in the eight years between 2010 and 2018*



## Social Inflation – Meaningful Drivers

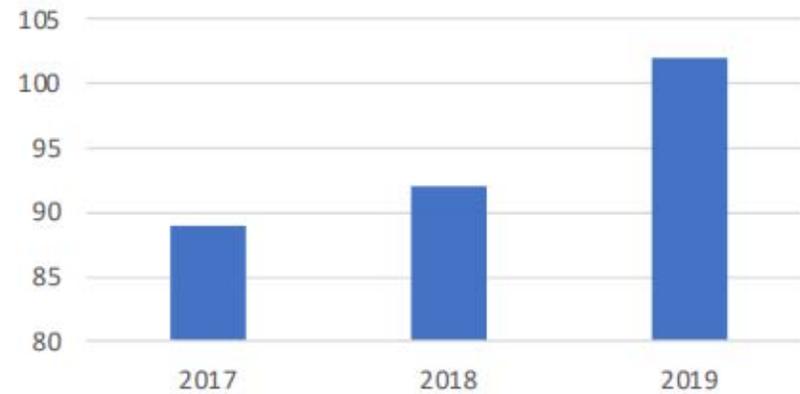
Median Cost, Single Fatality  
In US\$ Millions



\*through Q2 2021

Source: R Street Policy Study No. 247, December 2021. Data: [Advisen](#)

Number of Cass with Verdicts > US\$20 Million  
In US\$ Millions



Source: R Street Policy Study No. 247, December 2021. Data: [Advisen](#)

## Social Inflation – Meaningful Drivers

Large legal awards to plaintiffs are causing escalating claim losses to defendants’ insurers.

Conning, a US insurance asset manager, estimates the average combined ratio for US general liability in 2020 at 105.7% and for medical malpractice at 117.5%, the seventh consecutive year of underwriting losses for both lines. In response, insurers are increasing premium rates, limiting policy coverages, and in some cases exiting the market altogether.

US commercial insurance premium trends, 2010Q1-2021Q2 (year-on-year percentage change)



Source: Council of Insurance Agents & Brokers (CIAB), Swiss Re Institute

## ***Social Inflation – Meaningful Drivers***

### Meaningful Drivers Continued

- *Tort Reform Rollback*
  - e.g., statutory limits on non-economic damages have continuously been eroded
  - Tort law was originally created to compensate and not punish
- *Liberal expansion of coverage beyond the four corners of the policy*
  - How do you price for policy terms being expanded outside of intended coverage grant

### Factors that May Help Mitigate Impact

- Defense attorneys that are versed to offset plaintiffs' attorneys' tactics for garnering sympathy & anger
  - insurers may need to look beyond their approved panel to attorneys that have specific experience in defending potential high-value cases
- Rate needs to keep pace as verdicts & settlements amounts continue to rise
- Insurance companies/trade associations can actively support tort reform at both the state/federal levels

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## ***Social Inflation - Marine Insurance is not Immune***

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- Marine liability market is already dealing with this challenge due to impact of increases in loss costs
  - Recent Miller report stated – “2021 produced a number of large losses & deteriorations on prior-year claims, generating view that claims severity is increasing, influenced and driven in part by social inflation trends”
- Primary and excess marine liability lines have seen a substantial increase in both frequency and severity of losses
  - Jones Act awards have risen dramatically, outpacing normal claim inflation by wide margin
  - Third party injury claims that traditionally settled within primary limit now routinely result in awards and settlements that climb into the excess layers
  - Auto and general liability frequently scheduled as underliers in bumbershoot policies
    - outsized awards in these areas have driven CR’s north for many marine liability carriers

## ***Social Inflation - Marine Insurance Industry is not Immune***

### Example of Impact of Social Inflation on a well known highly reported case

Orion Group:

- Full-limit loss on the placement has raised alarm among marine liability underwriters as a stark example of the impact social inflation in the US is having on claims severity, underscoring the scope for such claims to impact specialty lines
  - Plaintiff lawyer in the lawsuit is understood to have stressed that the claimants would not settle for anything less than the full insurance limit available
  - This approach is more broadly being adopted by plaintiff lawyers posing serious concerns for the insurance market as follows;
    - the sustainability and profitability of the marine liability market on current trends
    - and should ring alarm bells in the marine market as it is for the wider casualty classes

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## ***Underwriting Considerations for Marine Liability Insurers***

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- Manage T&C and limit deployment to deflect potential impact
  - loose policy language and/or large limit deployment can lead to trouble
- Maintain a diversified book of customers
  - some risk types are more exposed than others
    - personal injury, auto, GL, pollution, umbrella/bumbershoots and contractual
  - geography of loss can play a big factor in nuclear awards
- Engage your claims, actuaries and legal teams
  - the cost of goods sold is rising
    - rate gain may not be offsetting SI loss cost trend
  - proactive update and manage your litigation strategy
  - Continue to engage your customers
    - Best in practice safety protocols reduce opportunities for bad outcomes!

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## ***Final Thoughts – Is it a Real P&C Industry problem?***

## *Final Thoughts – Is it a real problem? I'll let you decide*

“They’re awarding \$300mn for an auto claim that 10 years ago would have been \$500,000”

Expects “elevated social inflation trends to be ‘permanent’ and more likely to expand with the growing prevalence of litigation financing.”

“If we think social inflation is leveling off, we’re kidding ourselves”

“Underwriters are very concerned. These are actual settlements, not jury awards that could be overturned.”

“We continue to see judgments that are influencing appetite, pricing and risk selection.”... “a big factor in understanding if our products are rate adequate”

Has “more concerns over the impact of social inflation than climate change, because the firm has been modelling the latter for many years”

“...when you think about what’s happening in the world right now, we have to agree that the world – and by definition insurance and reinsurance – is in transition. These last five years have been really challenging – increased frequency of weather-related cats, Covid, social inflation, financial inflation, uncertainty of the war in Ukraine, cyber-attacks”

Social inflation has led to an explosion of court awards “out of proportion to actual damages sustained,” and insurers’ attorneys need to “step up” their efforts to combat the tactics of plaintiffs’ lawyers

Litigation funding has become a \$17b industry globally, with 52% of that money being spent in the U.S. TPLF is increasing the number of “outsize” legal awards & contributing to growing loss ratios for XS liability, commercial auto, medical malpractice & general liability.

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*Q & A*

