Hardening Management Liability Market for Privately-Held, California-Domiciled Companies - Fact or Fiction?

The past 12 months have seen several management liability insurance ("MLI") carriers shift their underwriting appetite/guidelines for their privately-held California insureds. These changes include some combination of one or more of the following:

- Increased rates
- Increased retentions
- Reductions in coverage
- Reductions in total limits offered
- Reductions or removal of wage and hour defense cost sub-limits
- Non-renewal of certain insureds, typically based upon industry or asset size of the risk

For the past few years, there has been a surplus of capacity from hungry MLI carriers to "pick up the slack" and write these accounts at attractive rates and terms.

While there are still numerous other MLI carriers with significant capacity that will entertain MLI accounts in California, the marketplace appears to be reaching a point where this capacity will no longer be utilized to offer terms we have been accustomed to seeing in recent years.

All of this begs the question, "Why is this happening?" Based on our conversations with many of the MLI carriers in this niche, here are a few of the reasons given:

- Poor economic conditions over the past 2 - 3 years leading to a significant spike in the numbers of EPL related claims
- EPL claims expenses rising dramatically year over year (remember these policies cover defense costs)
- Wage and Hour claims being far more prevalent than initially anticipated
- Significant uptick in D&O claims from assorted types of allegations (such as: bankruptcy-related allegations, breach of contract, intellectual property and restraint of trade type allegations)
- Duty to defend nature of the policies forcing carries to provide defense costs coverage for otherwise excluded allegations

So- what can our current (and new) California-domiciled privately-held management liability insureds expect as a result of all of the above commentary? Our recommendation is to set expectations as follows:

- Expect increases in retentions and premiums.
    - Smaller clients may need to absorb bigger increases (percentage wise) in premium and retention, although in many situations, their incumbent carrier will still be the best option if the increases are not significant.
    - Expect a reasonable degree of competition/capacity to still be available for the larger management liability clients, which can help mitigate increases in premium and retention
- Defense costs coverage for wage and hour claims will be even more difficult to obtain, and when available, possibly more expensive to purchase and with possibly higher retentions.
- Non-renewals by some carriers, based primarily upon class of business. Some of these classes of business include:
    - Real estate accounts
    - Healthcare accounts
    - Restaurant / retail

While we are not yet ready to label the California MLI marketplace as "hard," it certainly seems to be in transition, and that transition can be accurately described as "firming." We'll have to see how things develop during the coming months, but as mentioned above, we strongly recommend preparing your clients, as many will begin seeing changes to their MLI programs at renewal in the near term.

As always, please don't hesitate to contact your local Socius representative for further details related to appetite changes of any specific management liability markets.