



# Talking Points Newsletter *August Vol. #15*

TSiB's Talking Points Newsletter covers recent top industry articles in the following categories:

- Insurance Market
- Construction Industry
- Claims
- Trends

This newsletter is meant to be a guide to assist you on the most important current events that are going on. We share insight on the importance around each topic and how it can affect you directly.

If you have any questions about any of these articles, other Insurance & Surety concerns, or have specific topics you've like to learn more about, please reach out to us directly at [contact@tsibinc.com](mailto:contact@tsibinc.com) or visit [our website](#).



## Articles Discussing Key Insurers Profit Swings for Q2

As a resource, below is a list of articles that discuss the Q2 earnings for popular Insurance Carrier's:

### **Zurich Profit Leaps as European Insurers Rebound From COVID-19**

[Click here](#) to read more about this.

### **Chubb Posts Strong Profit on Double-Digit Global Premium Growth**

[Click here](#) to read more about this.

### **Axa Rebounds from Pandemic as XL Unit Swings to Profit**

[Click here](#) to read more about this.

### **Hartford's Q2 Profit Soars 94%**

[Click here](#) to read more about this.

### **Arch's Q2 Earnings Jump 54%**

[Click here](#) to read more about this.

### **AIG Profit Beats Estimates on General Insurance, Retirement Gains**

[Click here](#) to read more about this.

### **CNA Posts \$368 Million Second-Quarter Profit**

[Click here](#) to read more about this.

### **Tokio Marine's International Profits up by 213%**

[Click here](#) to read more about this.

**TSIB Talking Point:** Insurance companies are reporting strong quarterly results despite the higher exposure to CAT Losses due to Floods, Wildfires, and out of control liability judgements. The rate increases have been impacting the profitability across the board. Upward pressure on the rates will continue.



## Dems, GOP come together- For \$1T Infrastructure Bill

The Senate recently approved a \$1 Trillion infrastructure package in a rare bipartisan vote (69 – 30). All Democrats and 19 Republicans united around a \$1 Trillion proposal. Alaska Senator Lisa Murkowski said “... we moved out an infrastructure package, something that we have talked about doing for years.”

The bill proposes a \$550MM in new spending to current federal authorizations for public works. There is money earmarked for every state and will be used to rebuild failing bridges, roads, help coastal communities effected by climate change, aide in defenses against cyberattacks on public utilities, modernize the power grid, replace lead drinking water pipes, and upgrade public transportation, including airports and freight rail.

The package also consists of \$65B for broadband. The money will be used to expand broadband and make it more affordable. Senator Susan Collins from Maine stated that the COVID-19 pandemic showed that broadband is “no longer a luxury; it is a necessity.”

The bill now heading to the House, where Congress will consider both Biden infrastructure packages together. There is a general consensus is that the larger bill will have deeper opposition.

**TSIB Talking Point:** Politics aside, the Senate has come together on a bipartisan basis to pass a very important and desperately needed bill that addresses this country’s aging infrastructure. Although there is a larger fight coming, the success of this bill in the Senate is an encouraging sign.

[Click here](#) to read more.

## Top List of Costliest Construction Injuries

Liberty Mutual has been tracking the annual workers’ compensations costs and ranking serious non-fatal workplace injuries with more than five days of lost time. According to Liberty’s data the most recent data from 2018 totaled close to \$9B.

- Falls to a lower level was the costliest injury in at \$3.6B.
- Overexertion \$2.2B
- Struck by \$1.4B
- Falls on the same level \$990MM
- Other exertions \$670MM round out the top 5 categories of loss & make up 84% of the total.

**TSIB Talking Point:** Risk Managers know that it is important to understand where the claims are coming from so that they can use this data to develop additional safety procedures to better protect their employees and their company from loss.

[Click here](#) to read more.



## Fifth Circuit Finds Potential Coverage for Data Breach

In June's TSIB Talking Points, we shared a notable Cyber Liability case involving Krishna Tan. That case resulted in the courts allowing defense of biometric data breach under the CGL policy.

This edition highlights a new case finding entitled *Landrys' Inc v. The Insurance Company of the State of Pennsylvania*. In this case, Landry contracted with Paymentech to process credit card payments at restaurants, hotels, and casinos. Landry was subject to a data breach at 14 of its locations resulting in \$20MM loss of fraudulent credit card payments. Landry looked to their CGL carrier for defense under coverage B of the policy "personal and advertising injury." The trial court denied the motion and asserted that the plain language of the CGL was not intended to cover losses of this nature and the breach did not constitute a publication.

The matter was appealed and the 5<sup>th</sup> Circuit court found that publication must be interpreted in its broadest definition. The mere fact that the data was routed to hackers constitutes publication. Therefore, the case could proceed in the lower courts and the Insured was entitled to a defense.

**TSIB Talking Point:** It is inevitable that ISO will develop a new edition of the CGL form to limit unintentional claims being covered under personal and advertising injury. If the form is not updated, there is a potential exclusionary endorsement that will be developed by ISO to address this issue.

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## Recent NJ Laws Aim To Combat Worker Misclassification

NJ Governor signed 4 bills into law that will have a direct impact on employers/insureds:

- A-5890/S-3920 mandates that employers must pay employees for the first ten days of lost work as a result of a stop work order.
- A-5891/S-392 creates a new office entitled the Office of Strategic Enforcement and Compliance. This entity will enforce state wage, benefit and tax laws are complied with.
- Effective January 2022, A-5892/S-3922 is to streamline and identify employee misclassification. It will be a violation of NJ Insurance Fraud Prevention Act to misclassify employees for the purpose of evading insurance premium payments.
- Effective January 2022, A-1171-S-1260 creates a statewide, public database of payroll information that contractors are required to submit to bid on public works projects.

**TSIB Talking Point:** It's important to review insurance policies to ensure coverage is adequate in light of these new laws. It's reasonable to expect an uptick in wage & hour claims brought by employees. Clients should review their contract obligations in face of liabilities in the event of a stop work order. Class codes should be scrutinized when reporting and special attention should be given if the policy is auditable. With a new public designated database, cyber threats are certainly possible. Clients should review their policies for data breach coverage and other cyber liabilities.

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## 86% of Organizations Expect a Cyberattack in the Next 12 Months

A bi-annual report from Trend Micro, a multi-national cybersecurity software company, which surveyed over 3,600 businesses worldwide, indicated that 86% responded that it was “somewhat likely to very likely” that they would be hit by a serious cyber attack in the next 12 months.

This is a 3% increase over the last time the report was issued.

The report provided an index that shows the current risk level for cyberattacks and is based on a scale of -10 to 10 with -10 being the highest level of risk. The current risk level on a global basis is set at - 0.42.

However, the U.S. risk was the highest at -1.07 with Europe at -0.13 and Asia Pacific at -0.02. The top three data types at risk are financial information, confidential information, and consumer data.

**TSIB Talking Point:** Cyber risk continues to be a great concern for companies worldwide. There is not a lot of confidence that the current protections can/will stop the criminals.

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## Billionaires “Space Out” on Liability cover for Rocket Journeys

Jeff Bezos (Blue Origin) and Richard Branson (Virgin Galactic) recently flew separate missions to the edge of space in spaceships that they designed and funded with their own money. However, NY Times has reported that “Insurance Brokers” have not seen any evidence that either Blue Origin or Virgin Galactic purchased insurance for their trips.

Mr. Branson, Virgin Galactic, and Blue Origin have declined to comment or did not respond.

**TSIB Talking Point:** TSIB Talking Points also declines to comment, as insurance is clearly there for those who cannot afford to pay for their loss.

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