



# Talking Points Newsletter *Volume #36*

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

- Insurance Market
- Construction Industry
- Claims
- Trends

This newsletter is a guide to assist you on the most important current events. We share insight on each topic and how it can affect you directly.

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



## Property Catastrophe Reinsurance Rates Set To Fall 5%

Reinsurance rates are expected to fall on average of 5% after significant increases in 2022 and 2023. This rate drop is due to the influx of more capital in the sector.

This softening in the property CAT rates seems to be a little counterproductive to the expectation of a very active hurricane season.

**TSIB Talking Point:** The reinsurance market is reacting to increased capacity and the recovery of dedicated capital. However, as we saw with Hurricane Ida in 2021, one major storm is enough to stress the property market. For now, the money that is coming into the market is enough to reduce the rates.

[Click here](#) to read more.

## Insurers Achieve Record Investment Income In 2023

In 2023, Property & Casualty insurers in the U.S. made \$73.9B in net investment income, the highest recorded amount. This is due mostly to the high interest rate environment. In the aggregate, net underwriting income has been volatile over the last 10 years, showing mostly negative returns. This makes income from investments more important to insurers.

Property & Casualty insurers invested a total of \$2.7T in assets. The majority of these investments are in:

- bonds (54.7%)
- common & preferred stocks (27.9%)

Bond yields were at their highest level in a decade and the insurers' share of total stocks increased from \$660B in 2022 to \$667B in 2023.

**TSIB Talking Point:** Insurance companies have two ways to report income: investment income and underwriting profit/loss. Although losses remain high due to climate related claims for property and nuclear verdicts on the casualty side, insurers are still getting rate increases. With the increase in investment income, insurance companies are poised for record profits if they can maintain their underwriting discipline.

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## Nuclear Verdicts Surged to \$14.5B in 2023

A recent report by [Marathon Strategies](#) indicated that Nuclear verdicts of more than \$10M increased by over 27% and reached a 15-year high in 2023.

The median verdict rose from \$21M in 2020 to \$44M in 2023. Product liability was the largest category, driven by verdicts against Bayer AG's Roundup Weedkiller and Mitsubishi/Suzuki car maker suits. Intellectual Property suits and antitrust suits rounded out the top three categories.

Real Estate and Development was the industry that had the highest total with \$2.7B in total verdicts.

**TSIB Talking Point:** Generation X and Millennial voters seem to be influencing these verdicts which is being attributed to:

- corporate mistrust
- social pessimism
- erosion of tort reform
- a general desensitization to large numbers

These verdicts are the result of a shifting jury demographic and ultimately driving the increase in excess liability pricing.

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## Survey Reveals Biggest Construction Projects & Disputes

An international survey of in-house counsel in construction, infrastructure, and engineering industries indicated that the biggest source of disputes on construction projects are project delays, payment issues, and scope of work.

Some survey results showed:

- 61% of the respondents stated they are currently in a delay
- 66% expect future delays
- 52% currently have a payment dispute
- 54% expect a future dispute

The report highlighted a key metric that shows there is an escalating concern around Environmental, Social, and Governance (ESG) disputes. The survey showed 54% of respondents are concerned about the risk around the reporting requirements associated with sustainability.

In addition, construction project stakeholders are more disposed to solving issues separately, during the course of the project, rather than when the project ends.

**TSIB Talking Point:** The increasing concern around ESG means that this is an issue to watch within the industry. Contractors should address these concerns when negotiating their contracts.

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## OSHA Moves Closer To Worker Heat Protection Rule

The U.S. Occupational Safety and Health Administration (OSHA) recently announced that it's Advisory Committee on Construction Safety published a draft rule to offer increased workplace heat protection to employees for indoor and outdoor activities.

The Assistant OSHA Secretary, Doug Parker said, "OSHA is working aggressively to develop a new regulation that keeps workers safe from the dangers of heat".

OSHA will continue to focus on reminding employers of OSHA's general duty clause, which is used to cite employers for various violations, including heat exposures.

**TSIB Talking Point:** OSHA is moving forward with this rule as summertime temperatures continue to climb across the U.S. This federal rule has become more important as states like Florida and Texas have passed legislation preventing cities from enacting their own heat safety regulations.

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## Do Sublimits in Your Insurance Policies Expand or Reduce Coverage?

In the case cited as [Rivera v. Starstone Specialty Ins. Co.](#), the insured carried a Commercial General Liability policy with a \$1M primary limit. The policy also contained a \$50,000 sublimit for assault and battery claims.

A declaratory action (an action filed to ask a court to opine on the validity of a carrier's position with regard to coverage) was filed against the excess insurance carrier demanding that the excess policy step down and pay claims above the \$50,000 sublimit. The court ruled in favor of the excess carrier stating that the "applicable underlying limit" was specifically defined and applied to the \$1M underlying policy limit.

Sublimits can often provide limited coverage for claims that would not have ordinarily been available. They can reduce limits that are otherwise typically available.

**TSIB Talking Point:** If additional limits of insurance are needed above a coverage subject to a sublimit – it is best to speak to your broker about your options. Perhaps a different insurance product is required, including the possibility of purchasing a buffer policy or DIC (Difference in Conditions policy) that may apply above that sublimit.

In the event that a sublimit reduces coverage, it is important to understand the overall impact and risk associated with the reduction. Speak with your broker to understand the best risk management approach.

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## Company Cyber Risks Related to Proliferation of IoT

The Internet of Things (IoT) is being called the [Fourth Industrial Revolution](#). There are countless new products being introduced that are internet enabled devices. These products include wearables, or devices imbedded into vehicles or buildings like industrial sensors which are cameras that allow the collection & transmission of data. The problem is that these devices are internet enabled, opening them to cyberattacks. Unfortunately, the industry is moving forward without any controls for security.

The Federal Government's Cybersecurity and Infrastructure Security Agency's (CISA) top security priority is protecting critical infrastructure. It is very costly to design the proper security into these devices and the companies that are putting these products on the market are using older software that is vulnerable to attacks.

It is estimated that in 2030, there will be over 24B devices thanks to the influx of smart meters and wearable health technology.

In addition, there are concerns for consumer based IoT devices that extend to concerns for data theft. The Healthcare industry is already facing a surge in data handling related lawsuits. Even though many of these lawsuits were not created by an IoT breach, there is no question that the risks created by a weak security environment will only exacerbate the situation.

**TSIB Talking Point:** Changing passwords and being cognizant of what data is being transmitted or accepted is a good place to start. The bottom line is that these devices are not designed to be secure. Understanding the risks of using these IoT devices is key in managing exposure.

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## Johns Hopkins Assessing Bridges After Deadly Baltimore Collapse

The lessons of the Key Bridge collapse are being assessed to understand the likelihood of another bridge disaster occurring. Researchers at Johns Hopkins are working on a report that focuses on large bridges near major ports to understand the extent of the vulnerabilities.

The Key Bridge collapsed when a mega freight ship bypassed a safety measure that was in place and collided with a supporting column. The research team is looking at other bridges and the factors in this accident to assess the risks.

**TSIB Talking Point:** The security measures that are in place on most bridges were put in place many years ago. In that time, the shipping industry has changed drastically with ships becoming so big, that the safety measures are no longer appropriate. This situation is a reminder that our infrastructure is out of date and is in serious need of upgrades and enhancements.

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