



# MPL Market Update

Casualty Loss Reserve Seminar

September 14, 2021

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# BRIEF OVERVIEW ON COVID-19

# Impacts to Date of Covid-19 on MPL Industry

## According to year-end 2020 reports...

- Key word is “uncertainty”
- Premium refunds/discounts/credits due to fewer patients and/or procedures
- Some litigation against nursing homes, but overall, very little in the way of reported loss activity
- Increased physician retirements?
- “Cancellation of elective procedures and non-urgent care could result in a reduction in exposure to loss, but the associated delay in care could lead to additional medical malpractice claims.”
- Will immunities stick?
  - *NY Senate Bill S5177 repeals the extra protections from liability granted to nursing homes, hospitals, and other healthcare facilities for treating patients during the Covid-19 pandemic*
  - *Signed by Governor on April 6, 2021*
- Impact on paid loss development patterns

# Slowdown in Loss Payments in 2020

## Medical Professional Liability

*Paid Age-to-Age Factor*

Year	Year 1-2	Year 2-3	Year 3-4	Year 4-5	Year 5-6
2011	5.085	2.122	1.453	1.263	1.132
2012	5.599	2.050	1.469	1.239	1.128
2013	5.293	2.105	1.424	1.230	1.137
2014	4.881	2.093	1.432	1.253	1.139
2015	5.483	2.158	1.472	1.224	1.131
2016	5.127	2.186	1.463	1.223	
2017	5.740	2.061	1.364		
2018	5.437	1.896			
2019	4.588				
2020					

## Other Liability

*Paid Age-to-Age Factor*

Year	Year 1-2	Year 2-3	Year 3-4	Year 4-5	Year 5-6
2011	2.994	1.731	1.366	1.250	1.140
2012	2.965	1.729	1.450	1.223	1.151
2013	3.439	1.872	1.425	1.233	1.125
2014	2.947	1.810	1.415	1.219	1.124
2015	3.165	1.768	1.416	1.220	1.107
2016	3.054	1.766	1.401	1.193	
2017	3.076	1.731	1.448		
2018	3.231	1.701			
2019	2.764				
2020					

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# OVERVIEW OF MPL MARKET

# MPL Headlines

## Since January 2021...

- *“Continued Uncertainty Clouds the Horizon for MPL Insurers”*  
**(AM Best)**
- *“Sharp reminders of the need to watch out for dangerous doctors”*  
**(JDSupra)**
- *“Medical Professional Liability Market Facing Difficult Time”*  
**(Insurance Journal)**
- *“On the Cusp of the Next Medical Malpractice Insurance Crisis”* **(School of Law, University of Missouri)**
- *“MPLI Providers Underwriting Losses Mount Despite Pricing Improvement”*  
**(FitchRatings)**
- *“Filing Suit for Wrongful Life”*  
**(NY Times)**
- *“New Illinois Law Allows Prejudgment Interest on Damages in Certain Lawsuits”* **(The National Law Review)**
- *“COVID-19 brings new malpractice risks”*  
**(Medical Economics)**

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# MPL FINANCIAL RESULTS

# How many years have you worked in the MPL industry?

**A. Less than 5**

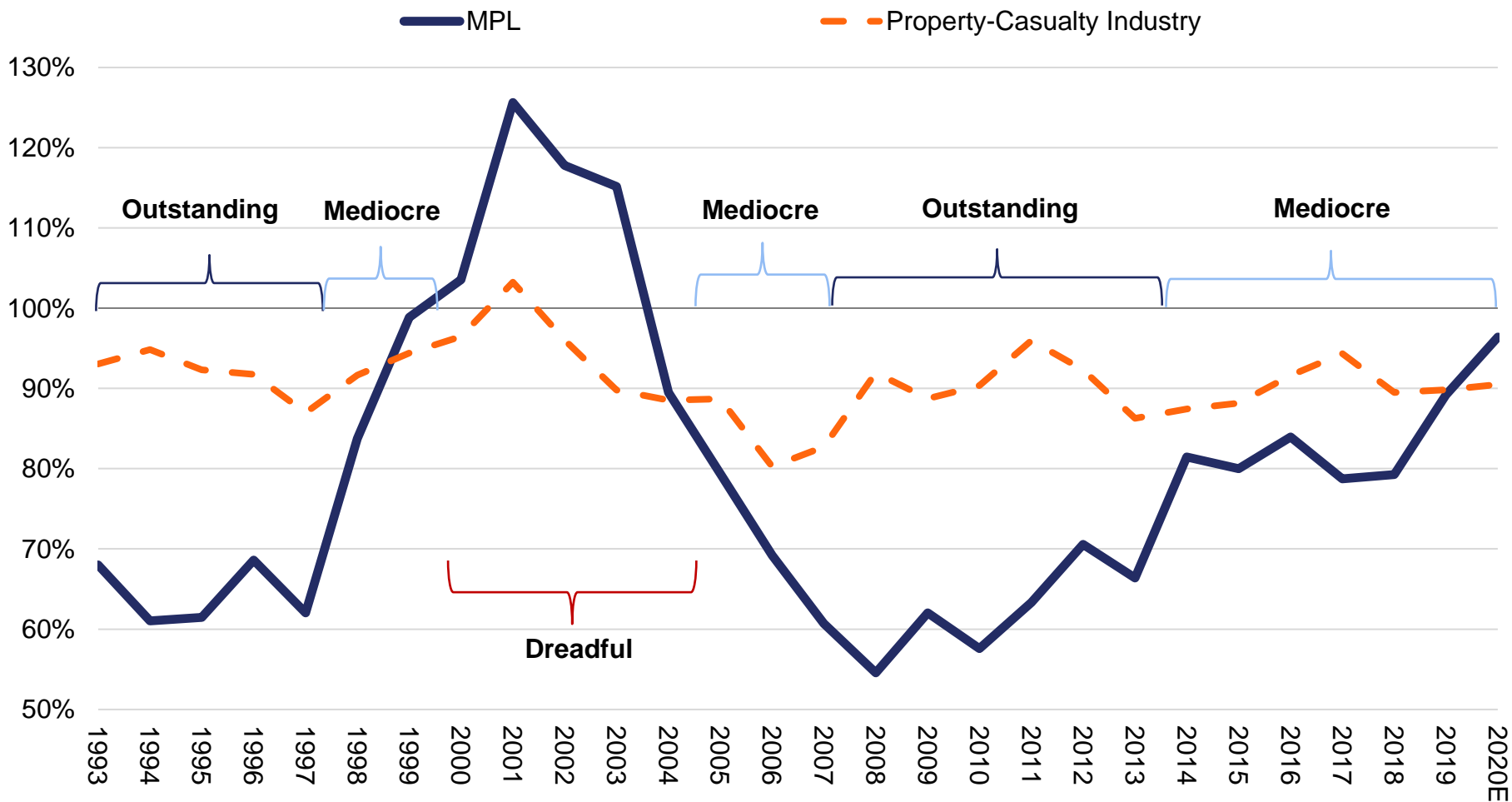
**B. 5 to 15**

**C. More than 15**



# Profitability Has Been Deteriorating

## Operating Ratio for MPL... approaching dreadful



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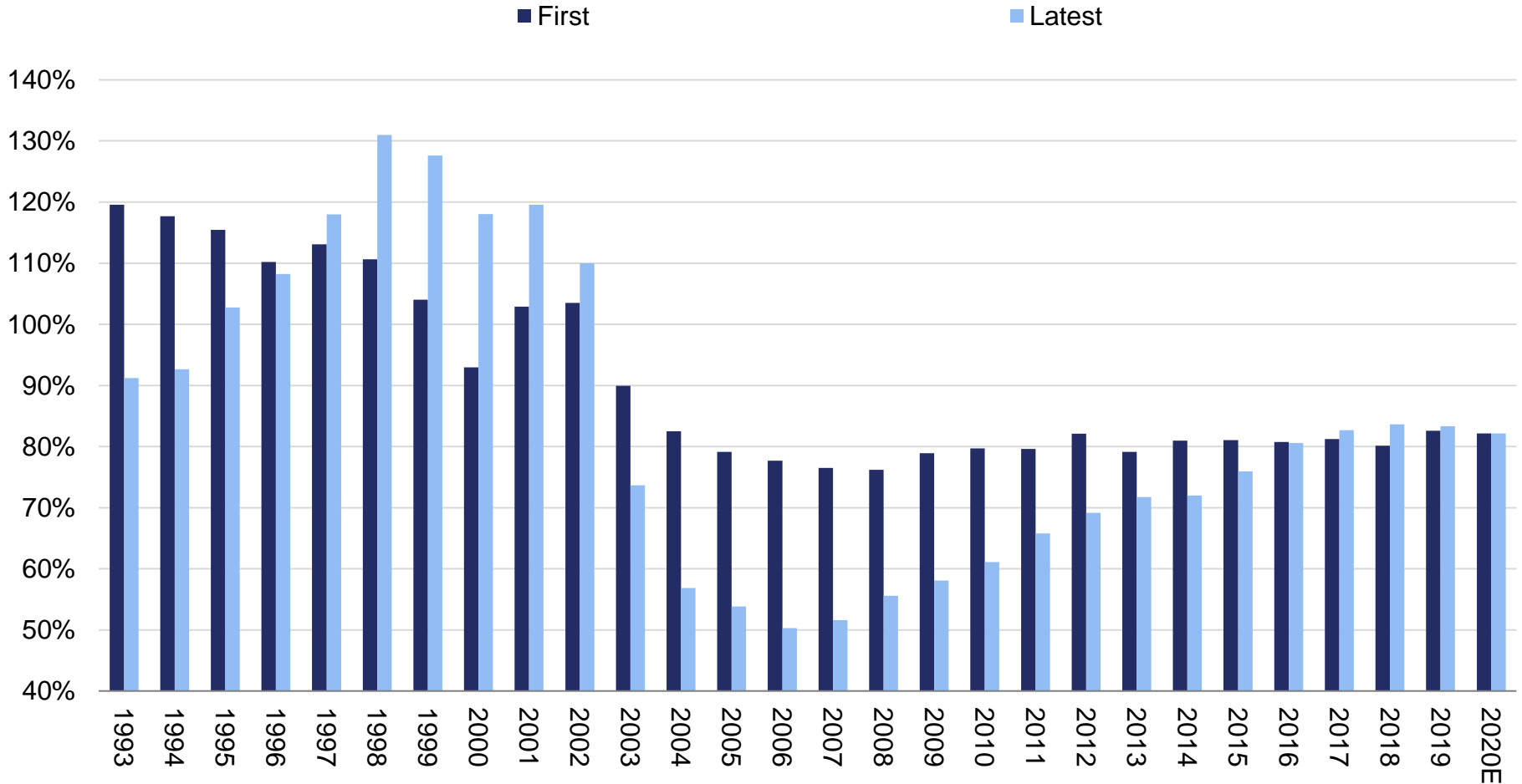
# What Driving the Operating Ratio?

## Five ingredients go into the Operating Ratio:

- Current accident-year loss ratio
- Loss reserve development from prior accident years
- Current-year expense ratio
- Current-year dividend ratio
- Current-year investment income ratio

# Accident-Year Results Are the Cornerstone

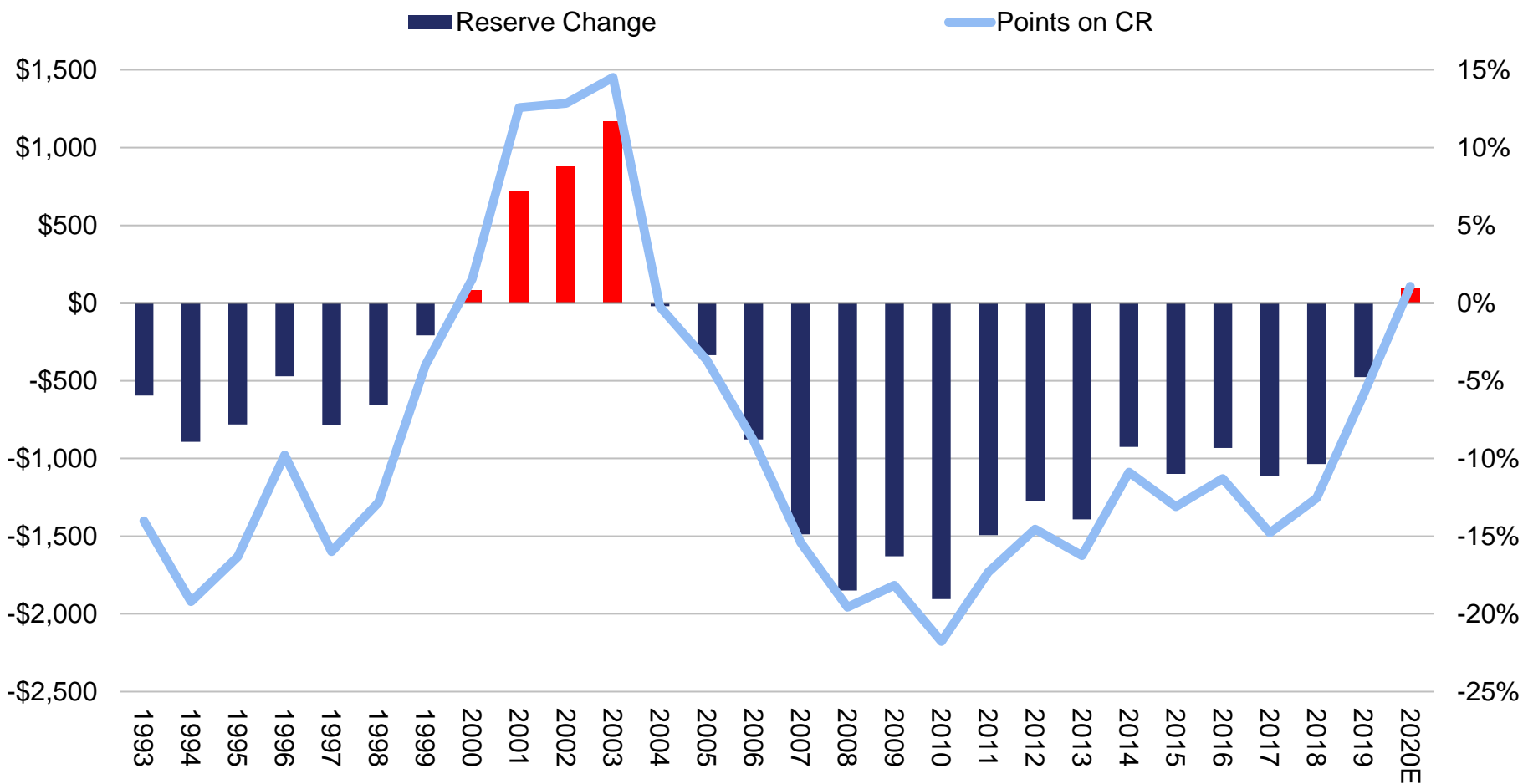
## Accident-Year Loss Ratios: First Report vs. Latest Report



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# Have Loss Reserve Redundancies Finally Run Out?

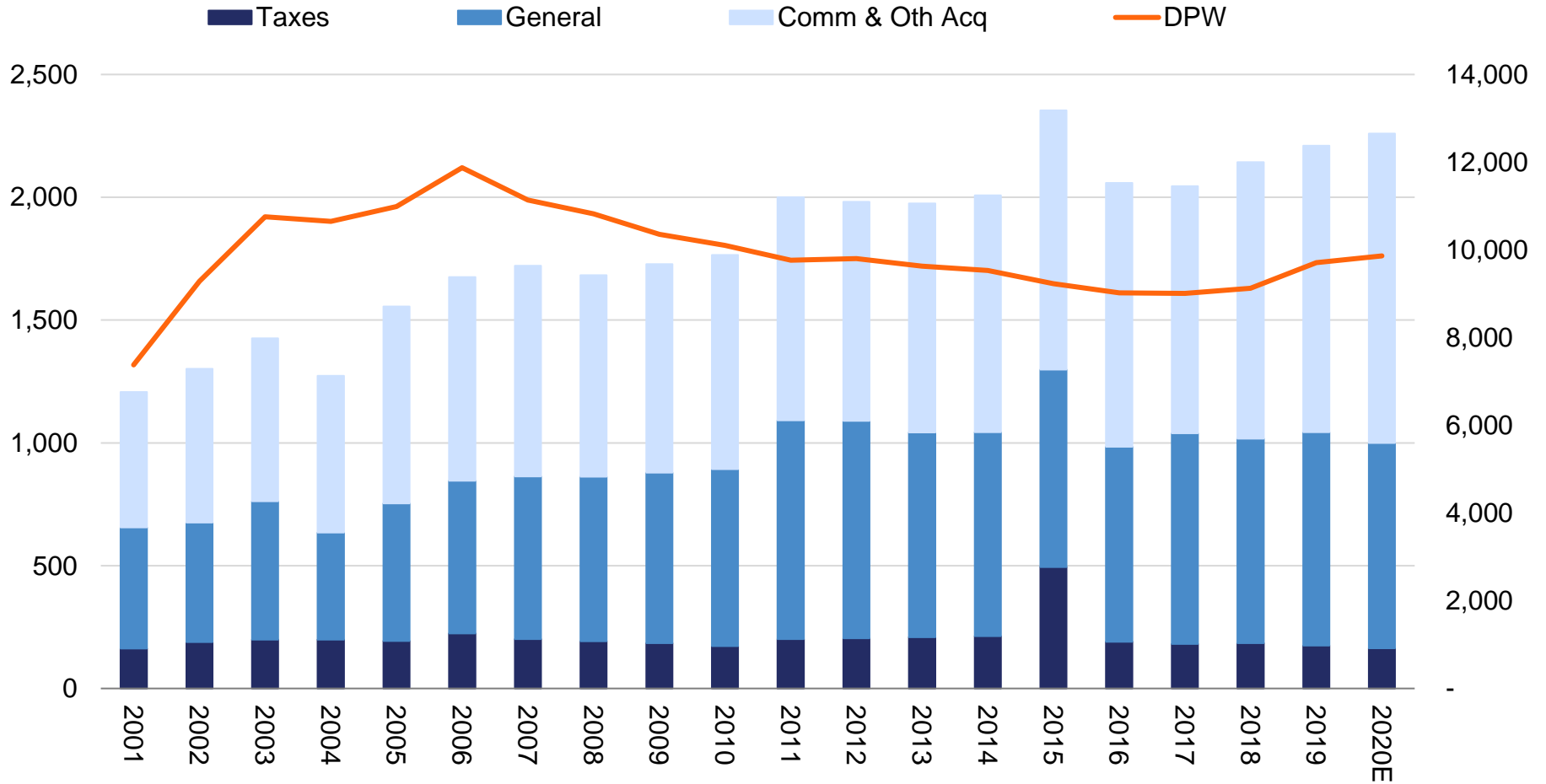
## MPL Loss Reserve Development by Calendar Year



Prepared by Conning, Inc. Data : ©2021 S&P Capital IQ Pro

# Expense Creep Over the Past 15 Years

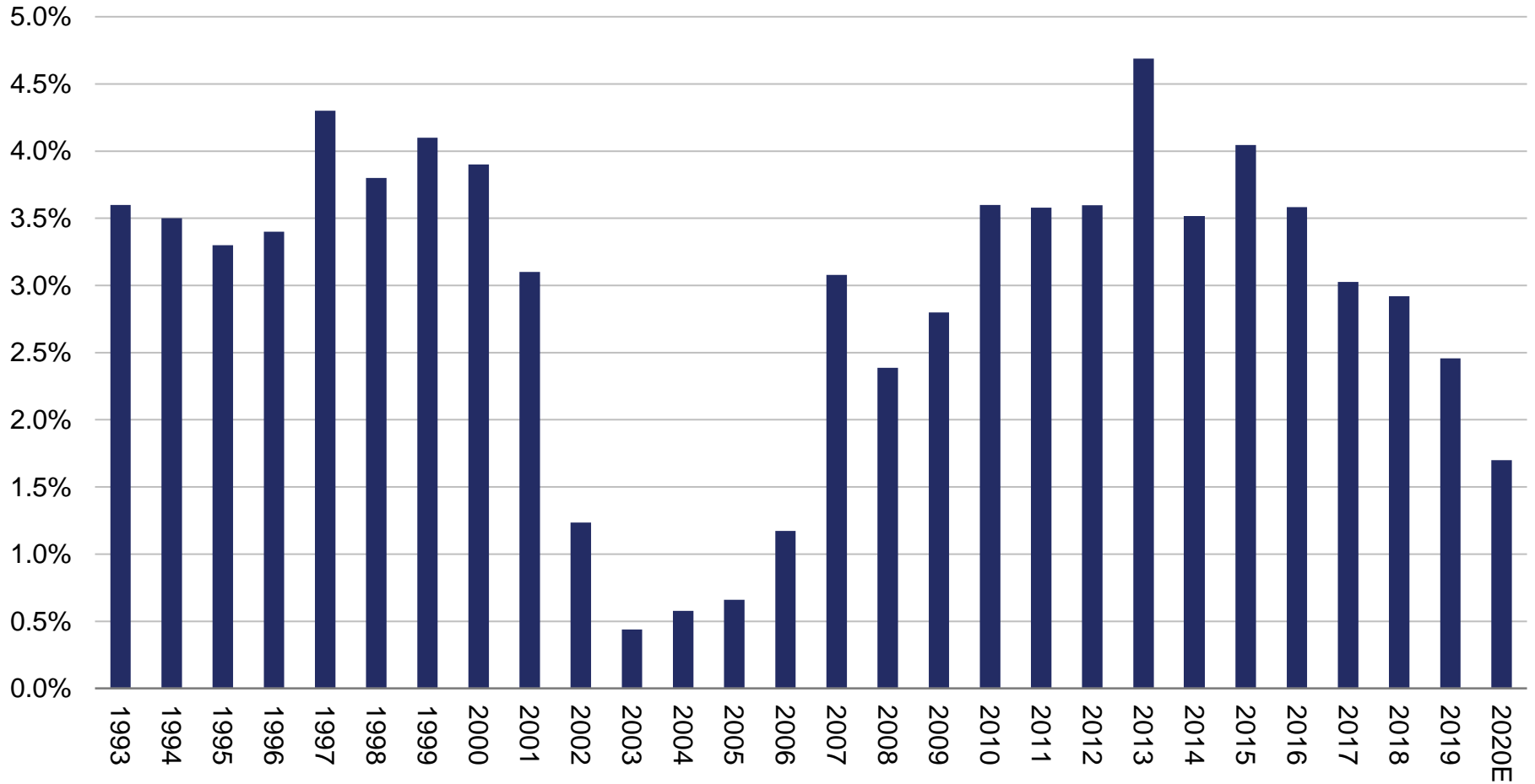
## MPL Expenses (excluding Dividends)



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# Dividends—Going Away Shortly?

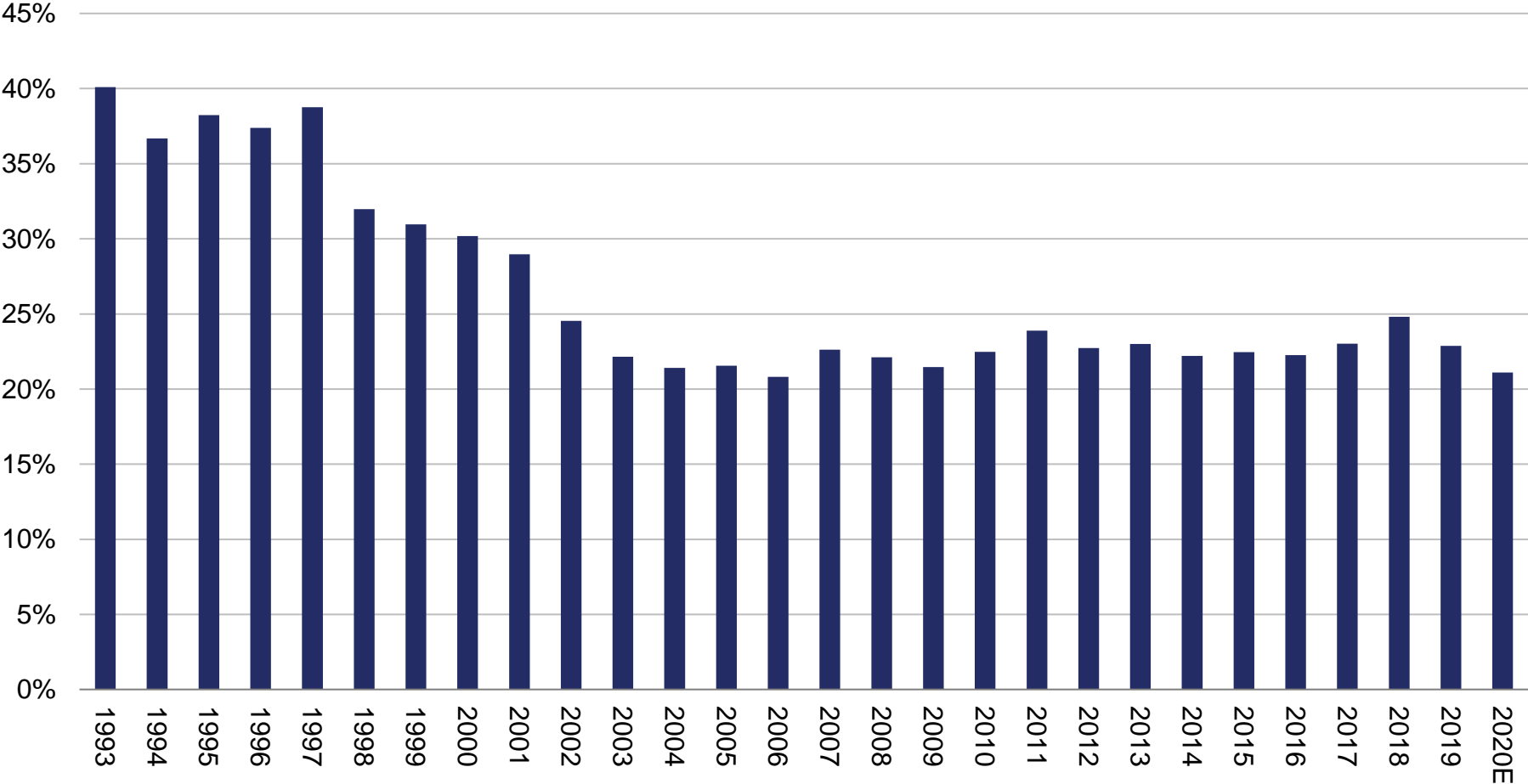
## MPL Dividend Ratio



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# The Halcyon Days of Investment Income Are Long Gone

## Investment Income Ratios



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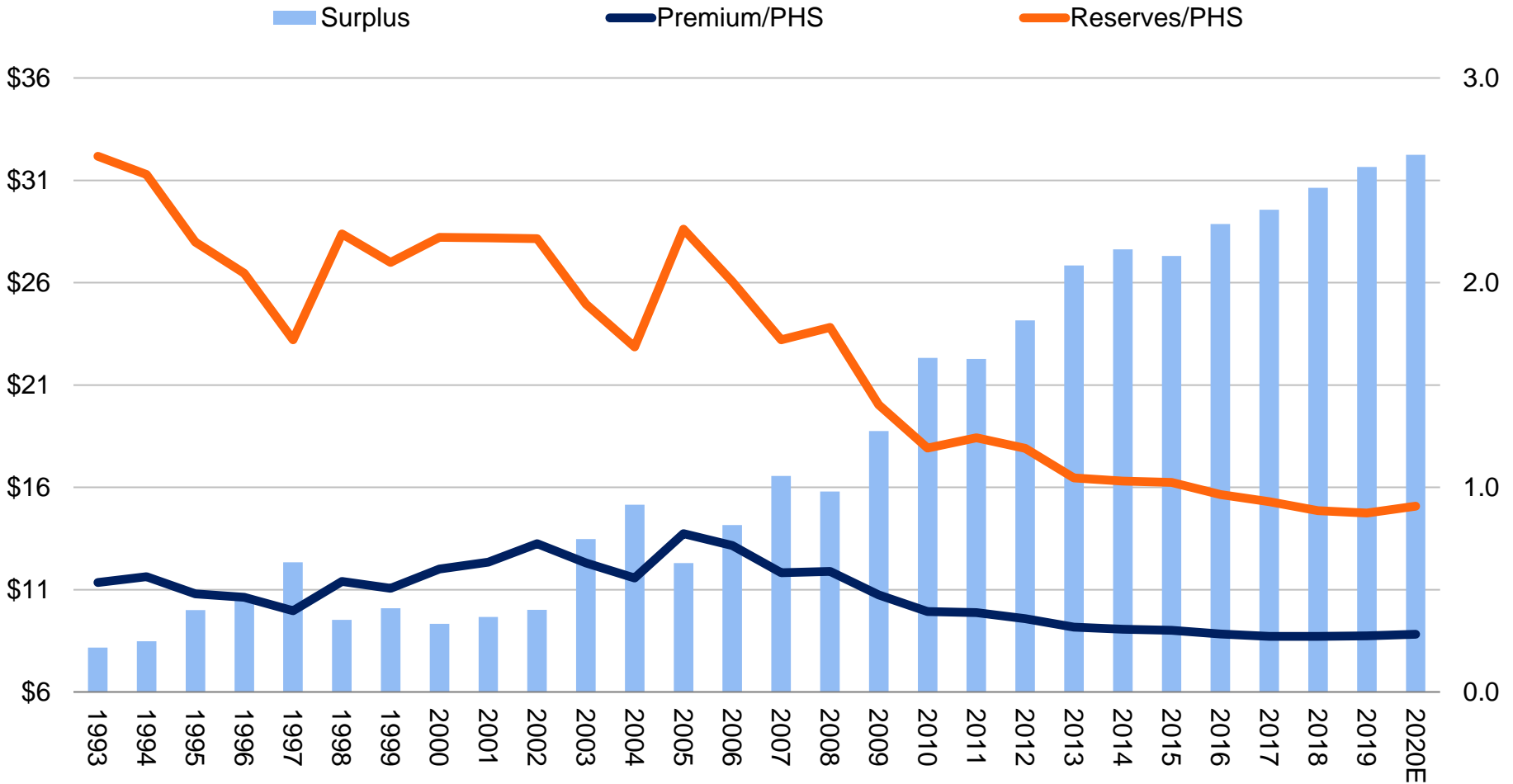


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# Note That Surplus Is High and Leverage Is Low

## MPL Surplus, Premium, and Reserve Leverage

\$ in billions



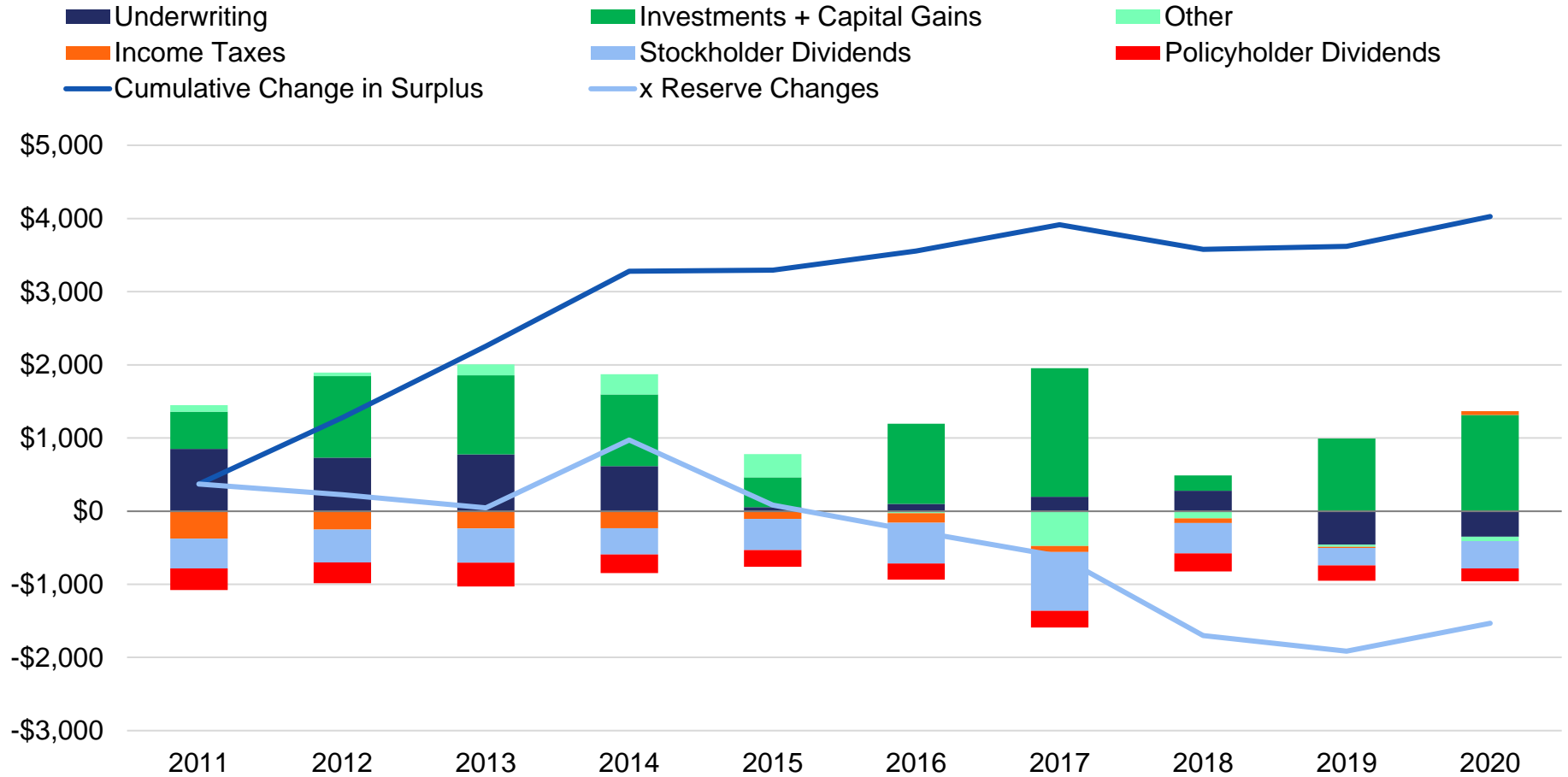
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# But Where Has the Growth in Surplus Come From?

Hint: Not from underwriting...

\$ in billions



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# To Summarize

## State of the Industry's Operating Ratio...

- Current accident-year loss ratio: **flat to increasing**
- Favorable loss reserve development from prior accident years: **decreasing**
- Expense ratio: **flat to increasing**
- Dividend ratio: **decreasing to flat**
- Investment income ratio: **decreasing to flat**

## FURTHER...

- Surplus: **increasing (but not because of underwriting)**
- Leverage ratios: **flat to decreasing (depending on magnitude of price increases)**

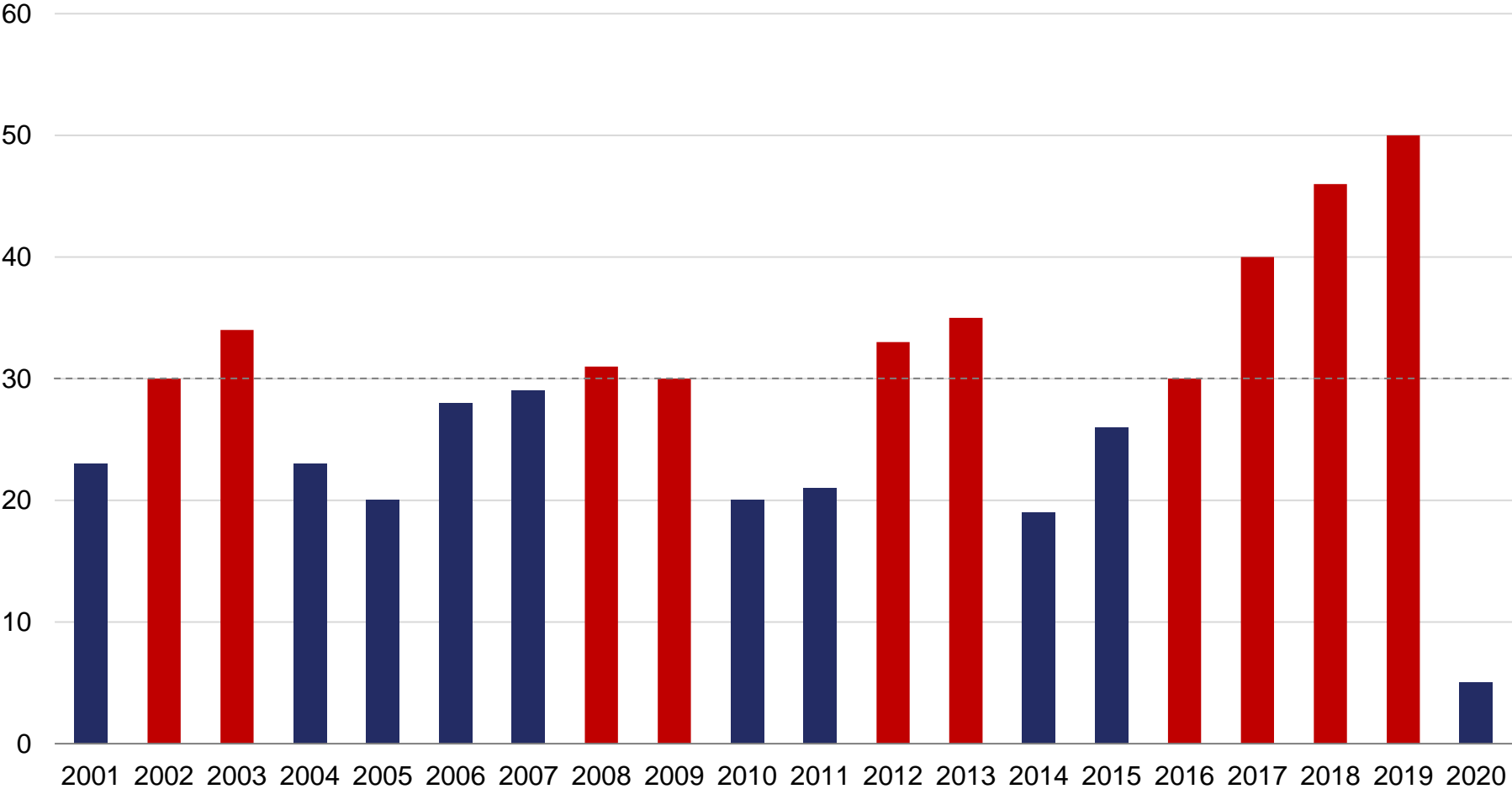
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# LOSSES—ONE SIDE OF THE COIN

# Trend in Large MPL Verdicts Was Interrupted in 2020

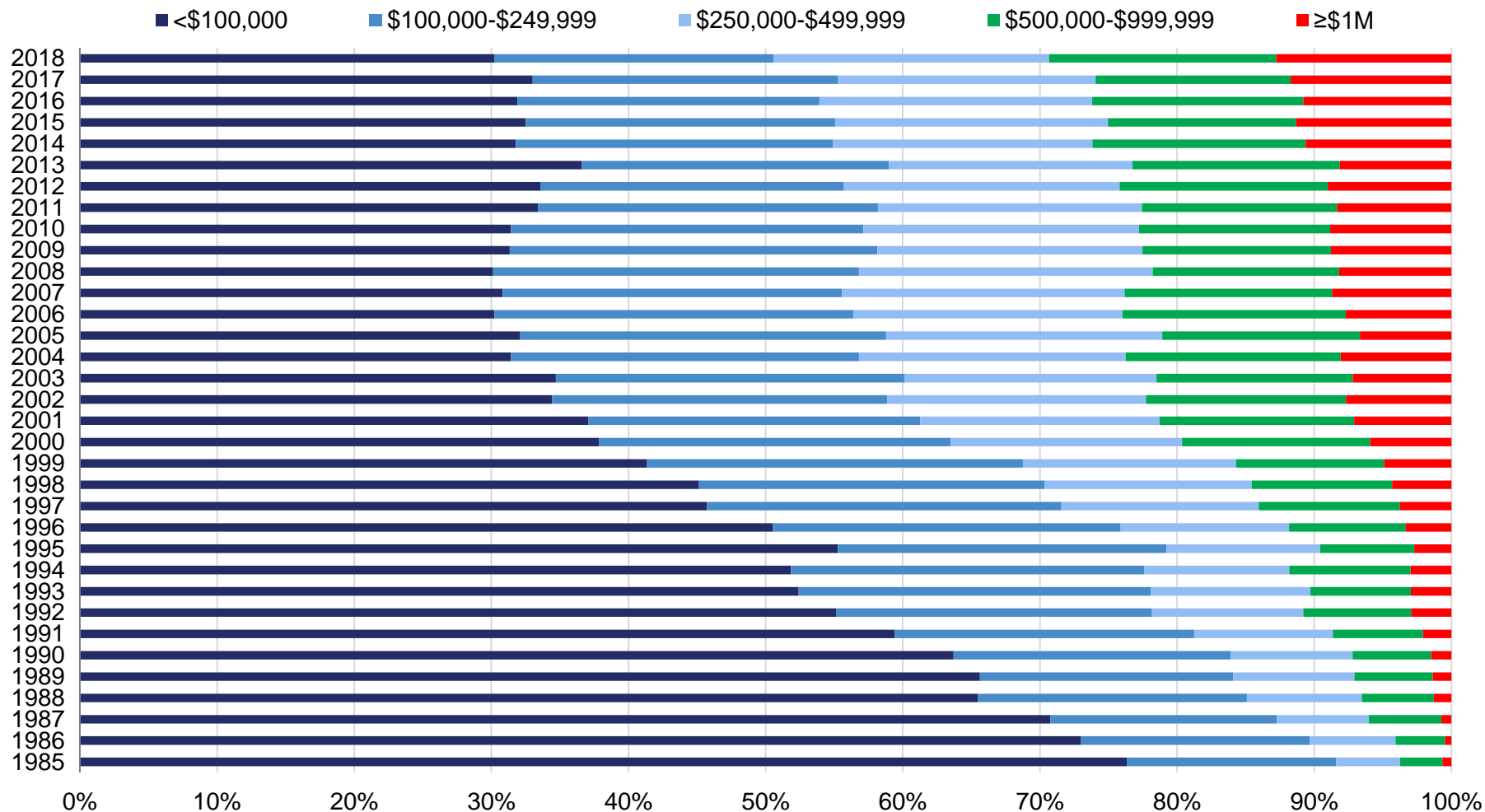
## \$10Mn+ Verdicts



Prepared by Conning, Inc. Source: Transatlantic Reinsurance Co.

# Payments Greater Than \$1 Million Have Been Increasing

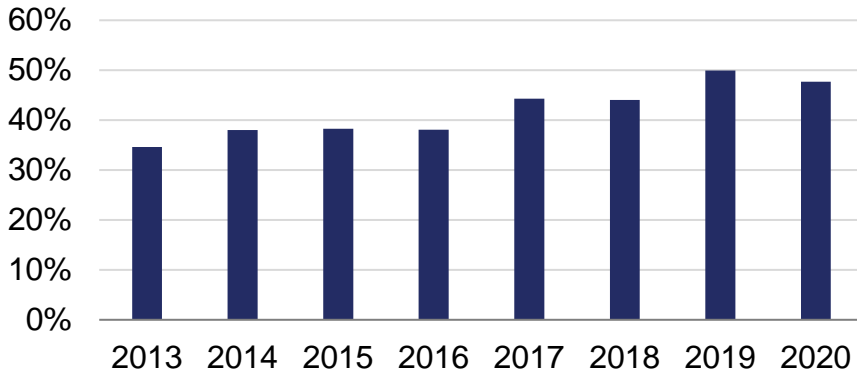
## Percentage of Paid Claims by Indemnity Payment Threshold



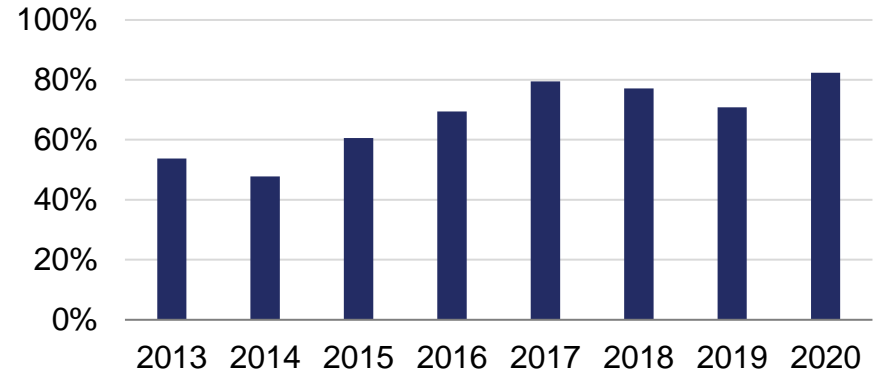
Prepared by Conning, Inc. Source: Medical Professional Liability Association—with permission

# Calendar-Year Loss Ratios by Segment

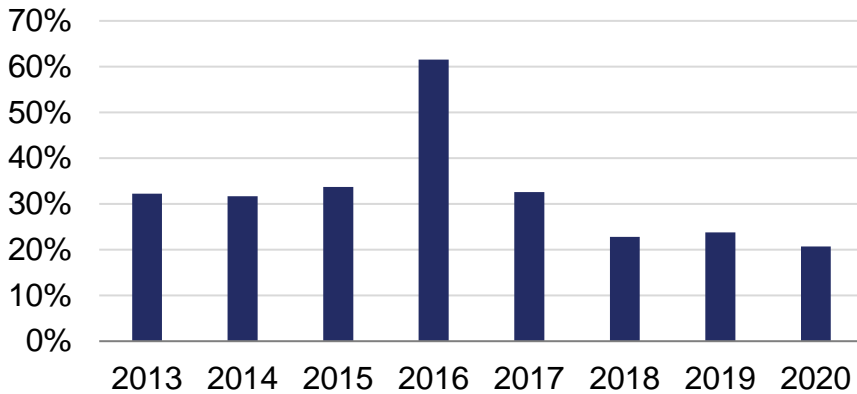
## Physicians & Surgeons (50%)



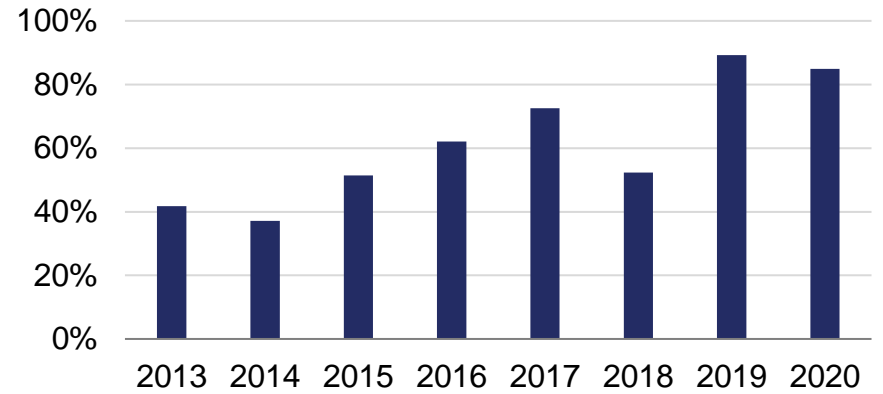
## Hospitals (21%)



## Other Professionals (13%)



## Other Facilities (16%)



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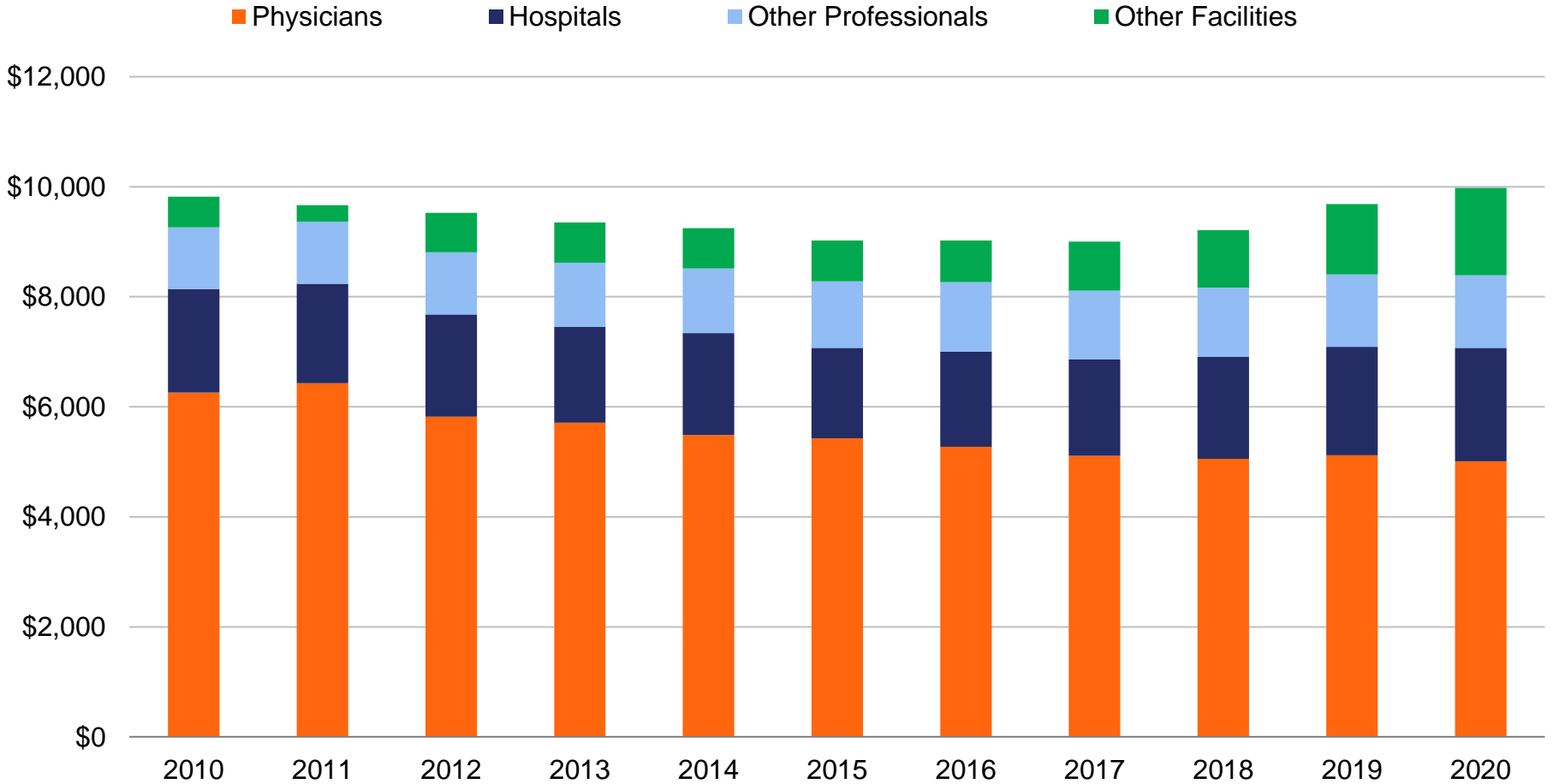
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# PREMIUMS—THE FLIP SIDE OF THE COIN

# Premiums Have Been Growing, but Mostly in Facilities

## Total MPL Market Direct Premiums Written

\$ in millions



Note: 2020 data are not complete; with 98% reported, the missing companies will not change our conclusions

Prepared by Conning, Inc. Source: ©2021 S&P Capital IQ Pro



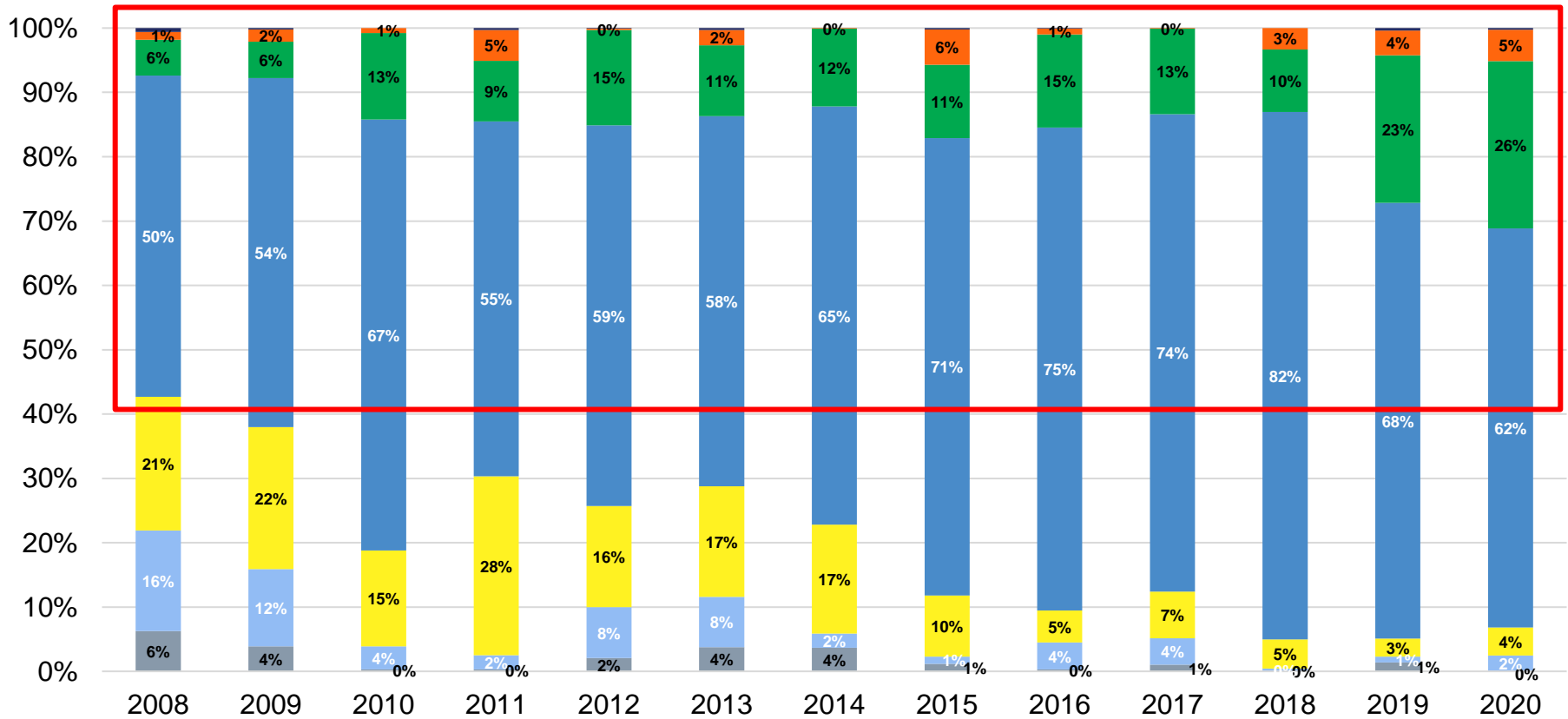
# And the Market is Becoming More Concentrated

Post ProAssurance/NORCAL marriage, highest concentration in top 3 companies since 2002

Rank	2012	% Total	2020	% Total
1	MLMIC	12.4%	Berkshire Hathaway	17.1%
2	Employers Re	8.3%	The Doctors Co.	9.6%
3	AIG	6.5%	CNA	6.1%
4	TDC	5.4%	Coverys	5.2%
5	ProAssurance	4.9%	<b>ProAssurance</b>	<b>4.4%</b>
6	HCI	4.3%	MCIC	4.2%
7	Medical Group Holdings	3.0%	MagMutual	3.7%
8	ISMIE	2.9%	<b>NORCAL</b>	<b>3.6%</b>
9	Fireman's Fund	2.6%	Liberty Mutual	2.6%
10	CNA	2.4%	Constellation	1.7%

# Poor Results Are Leading to an (Inevitable) Firming of the Market

■ <-20.0%  
 ■ -19.9% to -10.0%  
 ■ -9.9% to -0.1%  
 ■ 0%  
 ■ +0.1% to +9.9%  
 ■ +10.0% to +24.9%  
 ■ >+25.0%

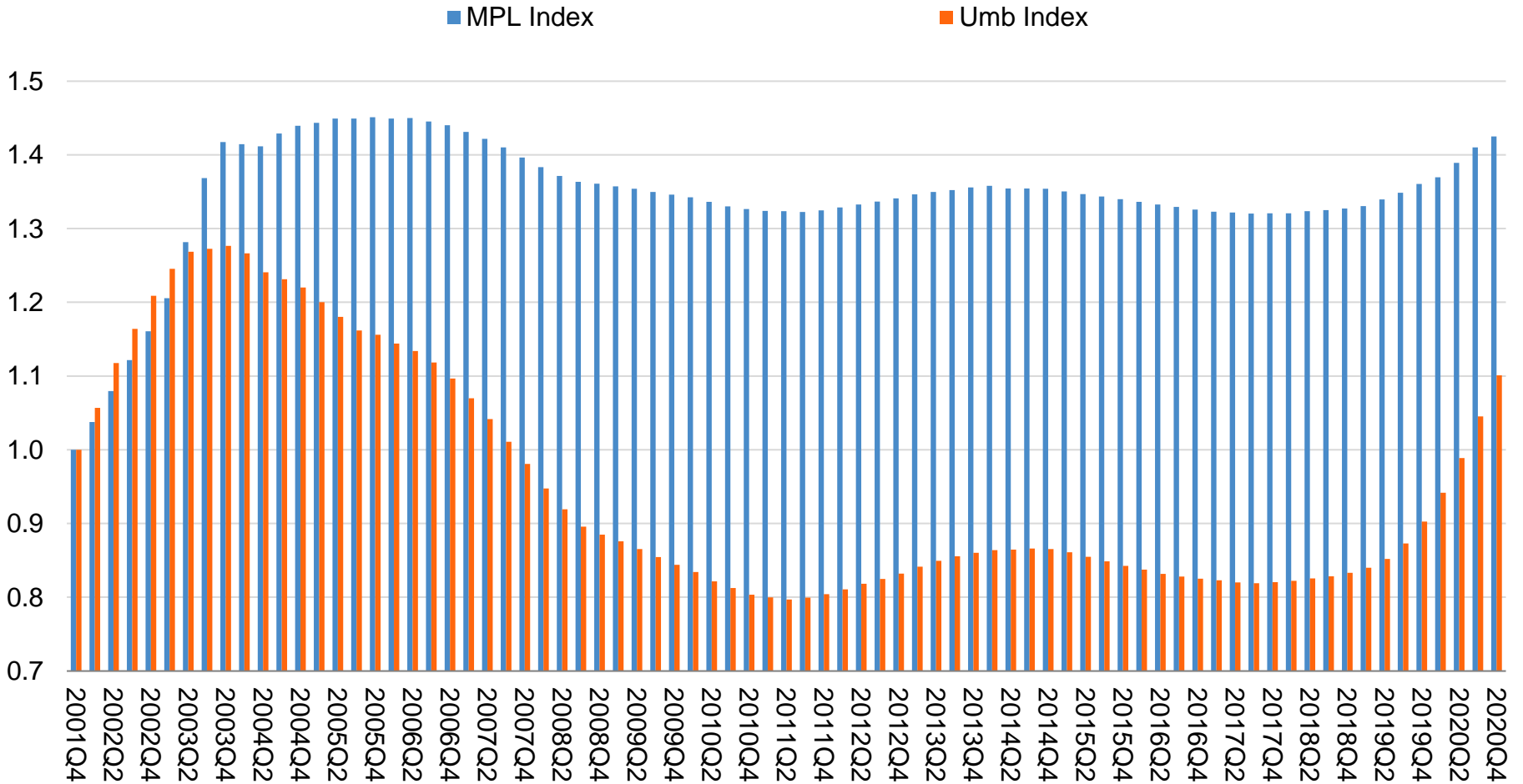


Prepared by Conning, Inc. Source: Medical Liability Monitor Rate Survey

# But MPL Rates Are Just Getting Back to 2005 Levels

## MPL vs. Umbrella

Indexed to 2001Q4



Prepared by Conning, Inc. Source: Council of Insurance Agents & Brokers

# Are the Increases Sufficient?

## Sample Rate Filing Activity (since April 2020)

<b>Class</b>	<b>Indicated</b>	<b>Requested/Approved</b>
Dentists	+9.9%	+3.7%
Chiropractors	+13.4%	+8.0%
Hospitals	+51.2%	+33.1%
Phys/Surg	+26.8%	+5.0%
Phys/Surg	+15.9%	+8.5%
Phys/Surg	+18.7%	+3.0%
Phys/Surg	+24.6%	+5.0%
Podiatrists	+24.8%	+12.0%
Professional Nurses	+9.4%	+9.3%

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# REINSURANCE MARKET CONDITIONS

In order, which companies provide the most reinsurance capacity to the worldwide MPL market?

- A. Lloyds, US reinsurers, Hannover**
- B. US reinsurers, Hannover, Lloyds**
- C. Hannover, Lloyds, US reinsurers**

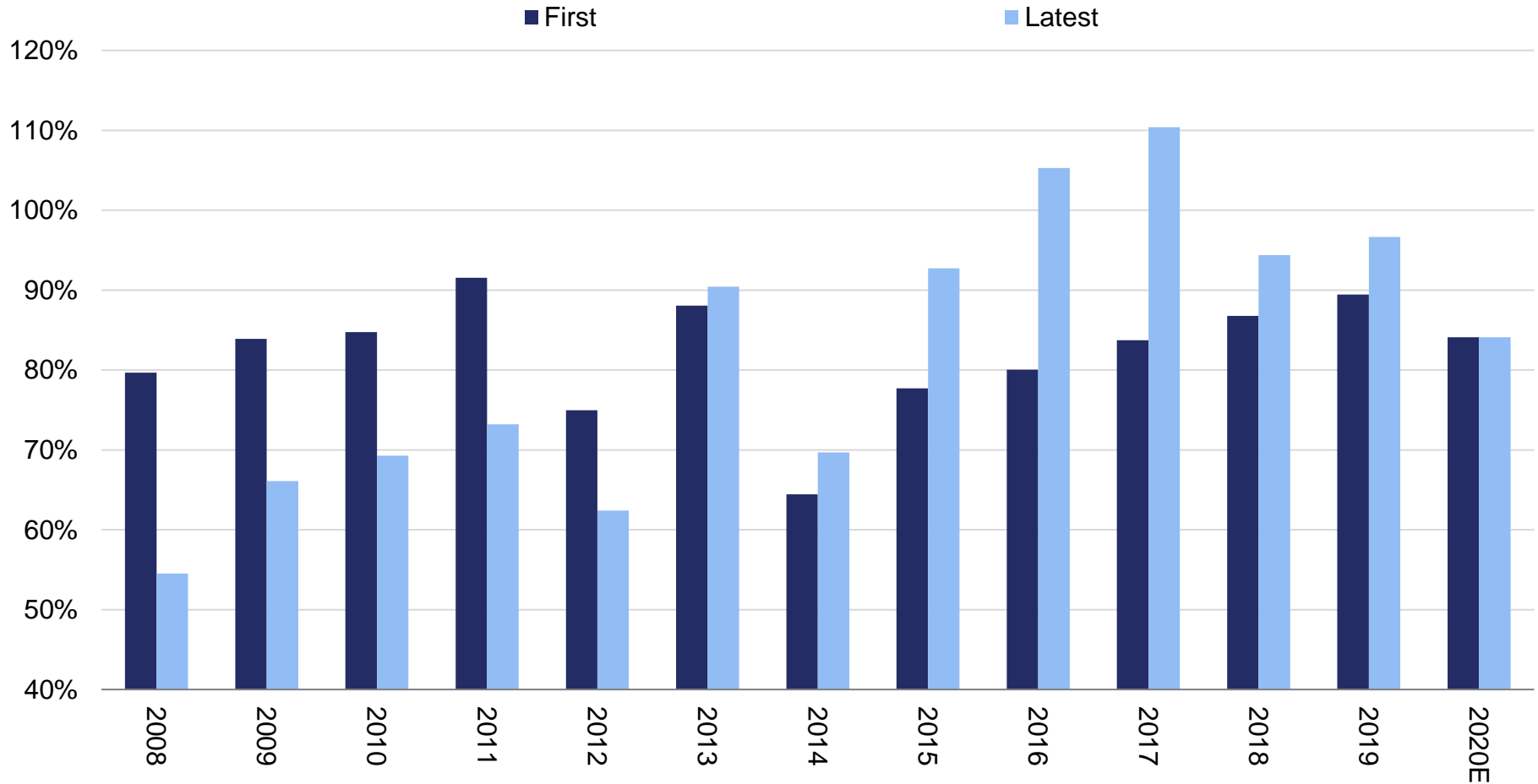
# MPL Reinsurance Market Conditions

## From what we are hearing...

- Prices are up
- Capacity is down
- Carriers are reducing limits
- Tightening terms and conditions (batch claims, sexual abuse/molestation)
- Uncertainty regarding Covid-19 and health care providers (especially metro hospitals)

# How Have Ceded Loss Ratios Been Running?

## Accident-Year Ceded Loss Ratios: First Report vs. Latest Report (excl MLMIC 2018)



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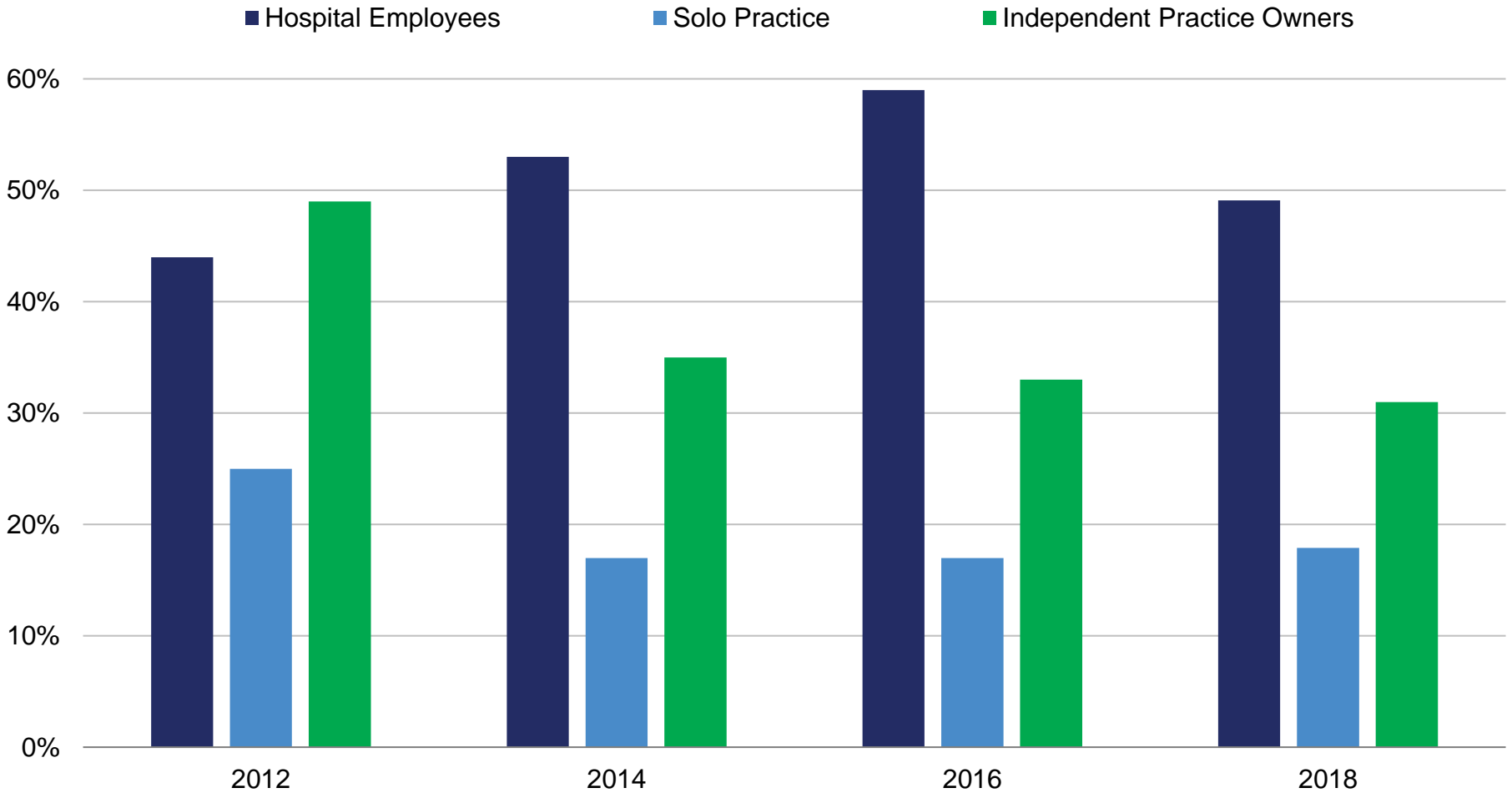


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# EMERGING RISKS/EXOGENOUS RISK FACTORS

# The Independent Physician Policyholder Base Continues to Shrink...

## Physician Employment Trends



Prepared by Conning, Inc. Source: Physicians Foundation Survey of America's Physicians

On average, a physician working for a hospital earns \$114,000 more per year than a physician in a private practice. But how much does a physician contribute to the net revenue of their affiliated hospital?

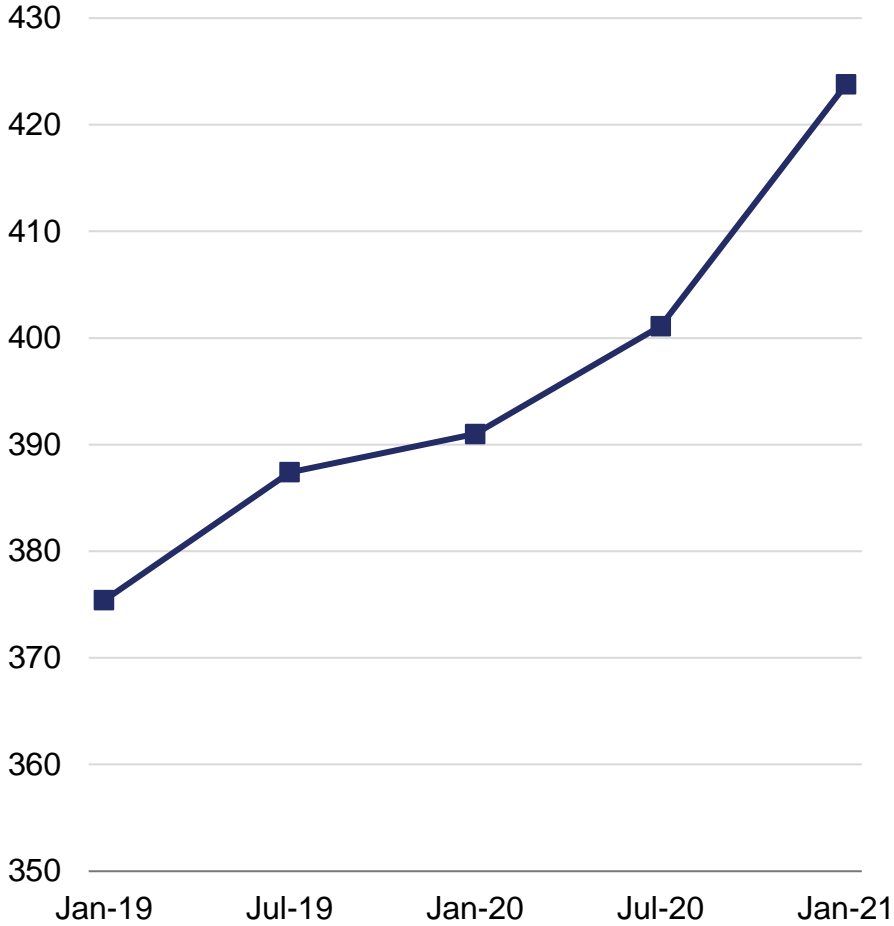
- A. \$150,000**
- B. \$500,000**
- C. \$1,000,000**
- D. \$1,500,000**

# “Sharp Uptick in Physician Employment Following Onset of Covid...”

## Number of U.S. Physicians Employed

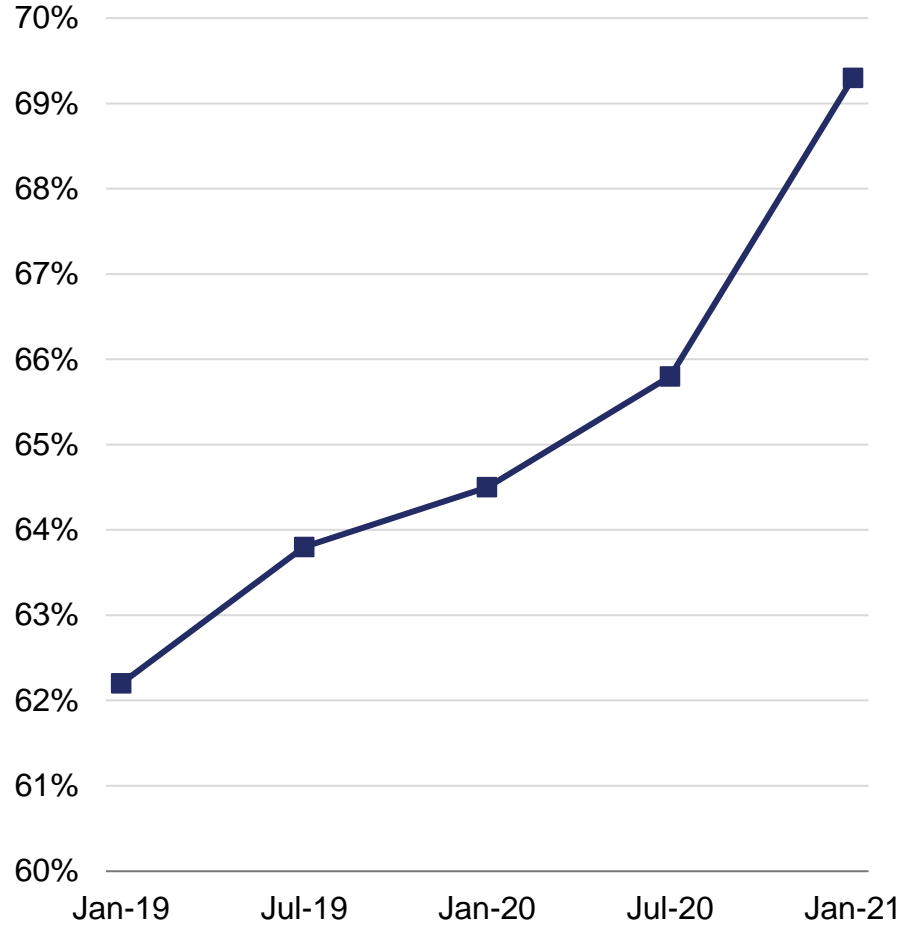
By Hospitals or Corporate Entities 2019-20

Thousands



## Percent of U.S. Physicians Employed

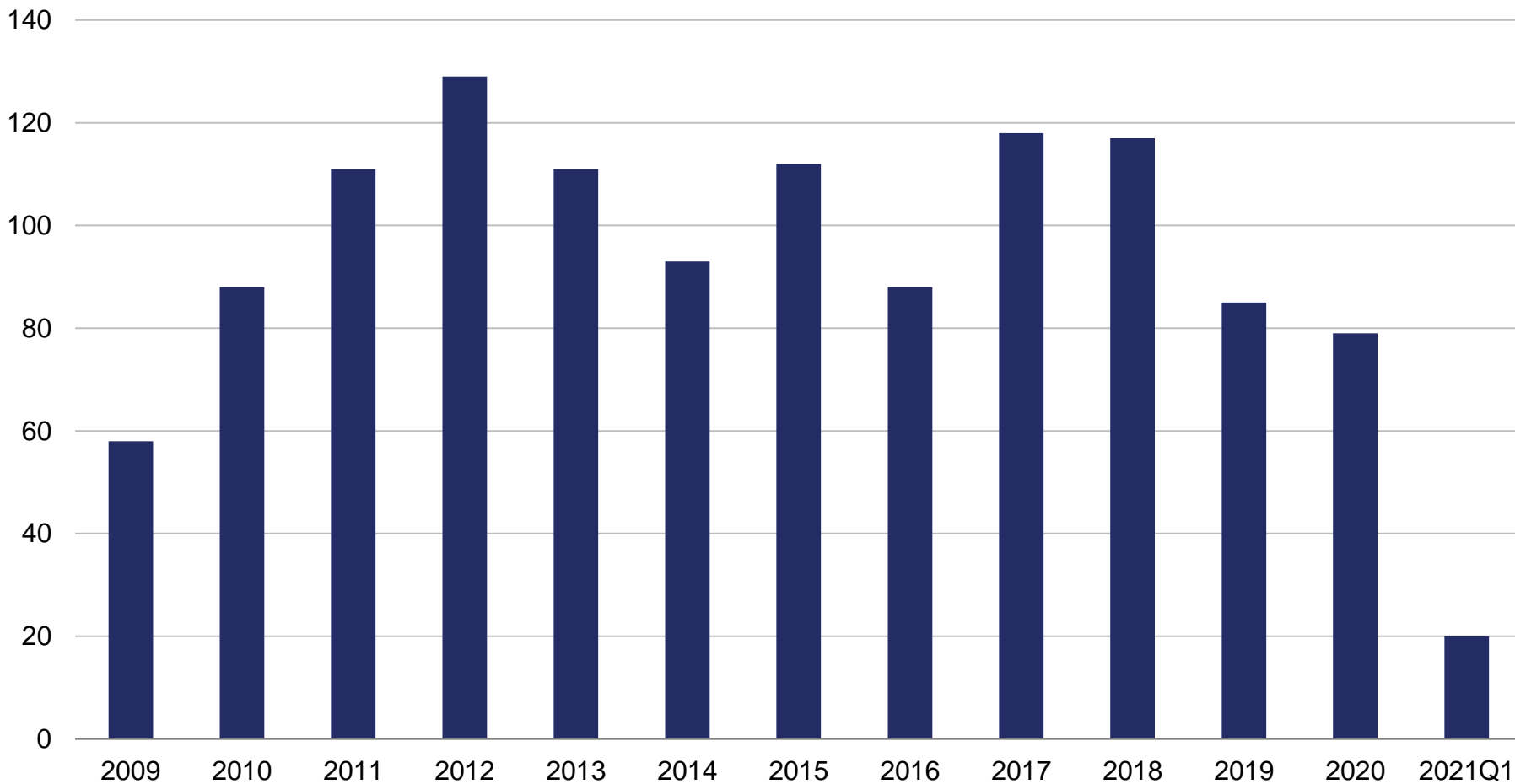
By Hospitals or Corporate Entities 2019-20



Prepared by Conning, Inc. Source: Physicians Advocacy Institute

# It's not just Physician Practices - Hospital Consolidation also Continues

## Number of Announced Hospital Change of Control Transactions



Note: 2015 figure is projected based on extrapolation from first three quarters.

Prepared by Conning, Inc. Source: Ponder & Co.

# Hospitals Risks Are Only Getting More Complex

## Not your parents' (or grandparents') hospital market

- Insureds used to be smaller, independent hospitals; not the large systems of today
- Buying habits have changed considerably
  - First-dollar coverage → large SIRs
  - \$5 million limits → \$50 million limits (or more)
- You must be very sick to be admitted to a U.S. hospital
- Length of stays are much shorter; more likely to miss something
  - 1970's: Postpartum stays – 10 days (vs. 48 hours today)
- Focus on profits
  - Shift from fee-for-service to reimbursement by procedure

# Other Facilities: Fastest-Growing MPL Segment

## Two distinct sectors

### Nursing homes

- Notoriously difficult business to underwrite
- Long-term target of plaintiff attorneys
- COVID-19 could decimate this market

### All other facilities

- Sector has been growing since the 1980s
- Changes in reimbursements
- Technological advances

# What's Behind the Results for Other Facilities?

## Why have results for facilities been worsening?

### Higher loss costs

- Nursing homes: the hits just keep on coming
- Other facilities
  - More complicated procedures being done in ASCs
  - Large verdicts are becoming commonplace (2018: DaVita - \$384Mn)

### Increased competition

- More companies keep entering the space
- Rates down more than 25%



# Inflation

## Impacts on every aspect of insurance operations:

### ✓ Liabilities

- Higher inflation will increase liabilities (loss reserves)

### ✓ Pricing

- Underestimating inflation could result in (further?) inadequate prices

### ✓ Investments

- Loss on sale of lower-yielding assets
- Possible mismatch of assets and liabilities

# Social Inflation

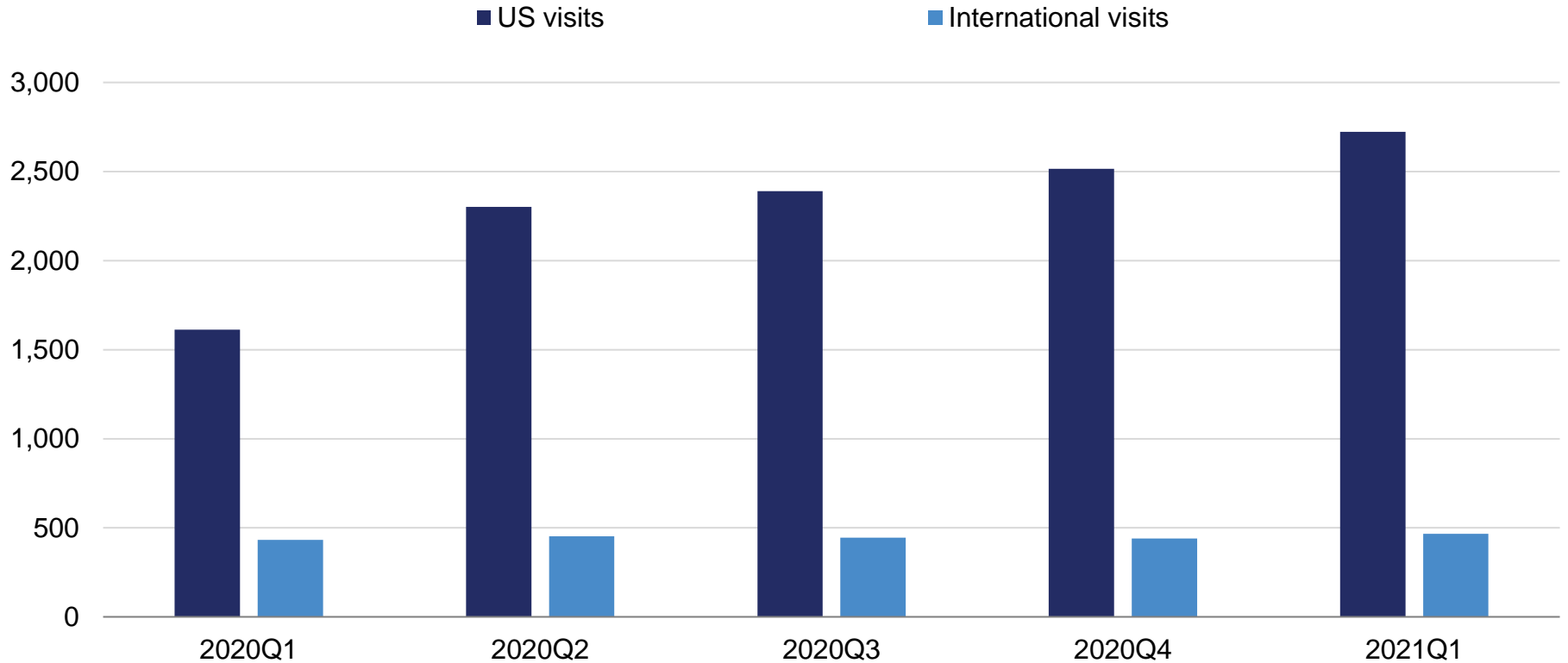
## No single definition

- For our purposes:
  - “Social inflation is the increase in insurance losses caused by such factors as higher jury awards, more liberal treatment of claims by workers’ compensation boards, legislated rises in compensation benefit levels, and new concepts of tort and negligence.” **(PartnerRe, November 2010)**
  - Refers to all ways in which insurers’ claims costs rise over and above general economic inflation **(The Geneva Association)**
- What are some of the (possible) drivers of social inflation in MPL?
  - Negative view of corporations (four of the top ten are related to health care, pharma)
  - Anger at health care system (rising deductibles, lack of transparency, lack of access to care, cost of drugs)
  - Legal environment

# Surge in Telemedicine – but Are the Risks Understood?

## One Company, 56% Growth in One Year

Teladoc health visits, in thousands



**Telehealth brings its own malpractice risks, including the risk of data breaches and the chance of misdiagnosis when examining patients via digital platforms vs. in-person.**

Prepared by Conning, Inc. Source: Teladoc Health Q1'21 Earnings Presentation

# Anything Else?

## Rounding out the discussion...

- Expanded use of captives
- Rising clam frequency?
  - One top physician writer shows an annual claim frequency trend of 2.6%
- Shift to value-base care
- Others?

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