# Pandemics, Politics & Economics:
## *P/C Insurance in an Era of Uncertainty*

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# Pandemics & P/C Insurance: Outline

- **P/C Insurers: Overcoming Uncertainty With Strength**
  - Financial Overview: The Industry's Financial Position Amid the COVID-19 Pandemic
- **COVID-19:  Potential Coronavirus Impacts on Key Lines**
- **Investment Market Issues: Volatility Rules, Low Interest Rates are Back**
- **The Economy and COVID-19: Overview & Outlook**
- **Commercial Lines Rate Trends & Reinsurance Market Developments**
- **Litigation/Tort Trends**
- **Federal & State COVID-19 Initiatives Impacting Commercial Insurers**
- **Summary and Conclusions**

# P/C Insurance Industry: Financial Overview Amid the COVID-19 Pandemic

## The P/C Insurance Industry Entered the COVID-19 Pandemic from a Position of Financial Strength

## *Economic, Financial Market, Regulatory and Tort Risks Are Major Challenges Going Forward*



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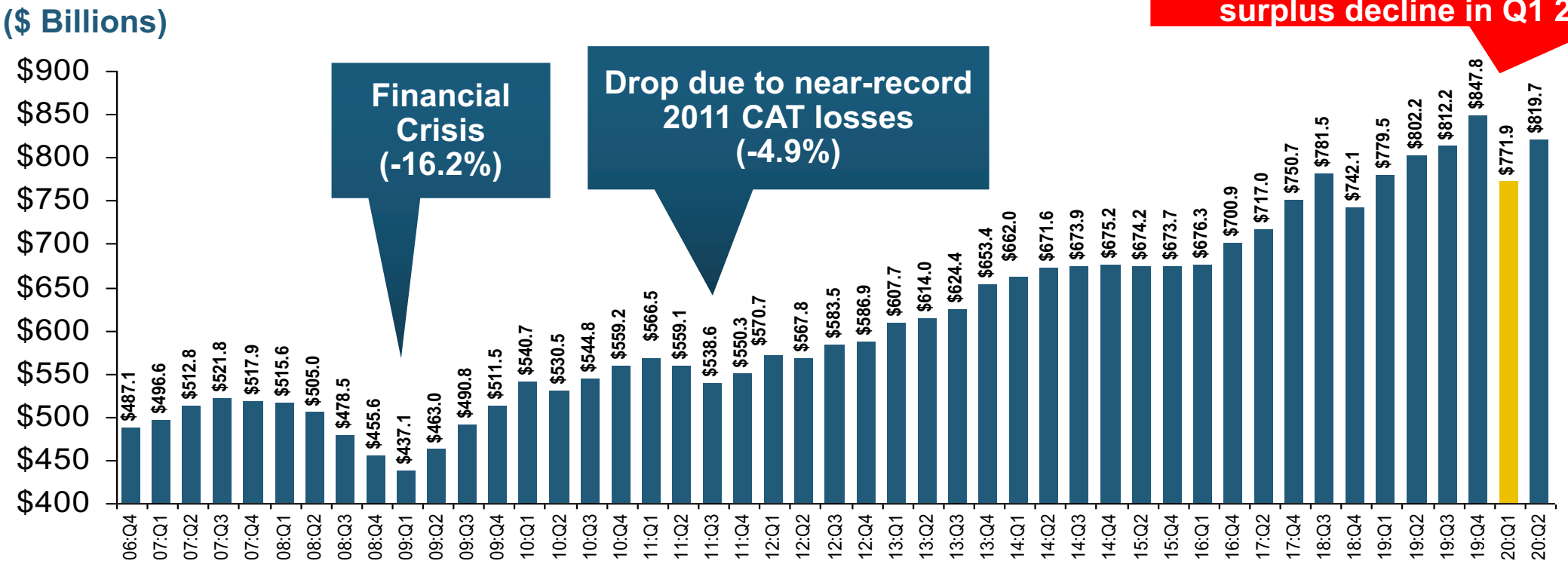
# Policyholder Surplus (Capacity), 2006:Q4–2020:H1

The P/C insurance industry entered the COVID-19 pandemic from a position strength and was able to withstand the 9.0% surplus decline in Q1 2020

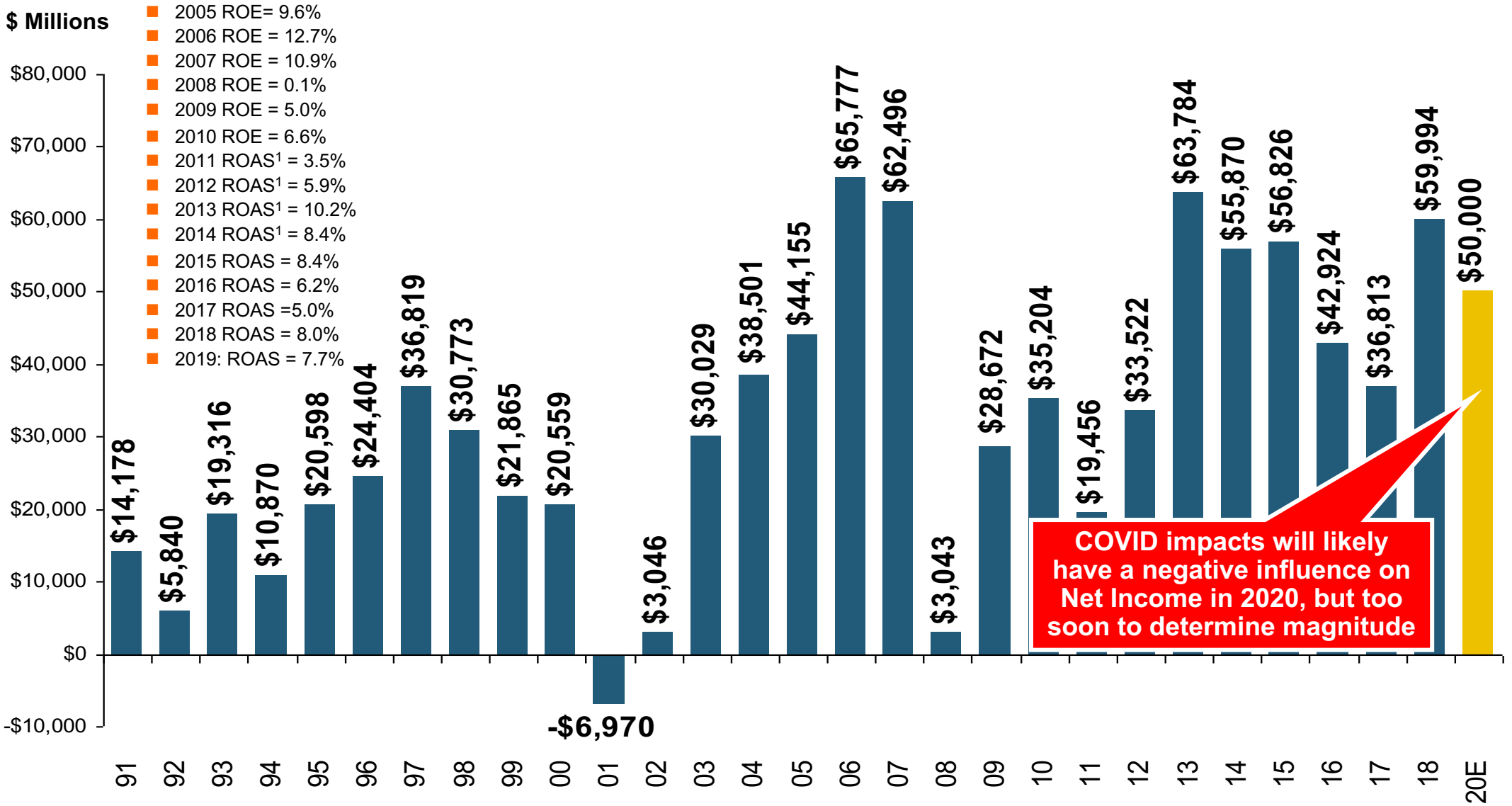



2010:Q1 data includes $22.5B of paid-in capital from a holding company parent for one insurer's investment in a non-insurance business.

**Policyholder Surplus is the industry's financial cushion against large insured events, periods of economic stress and financial market volatility. It is also a source of capital to underwrite new risks.**

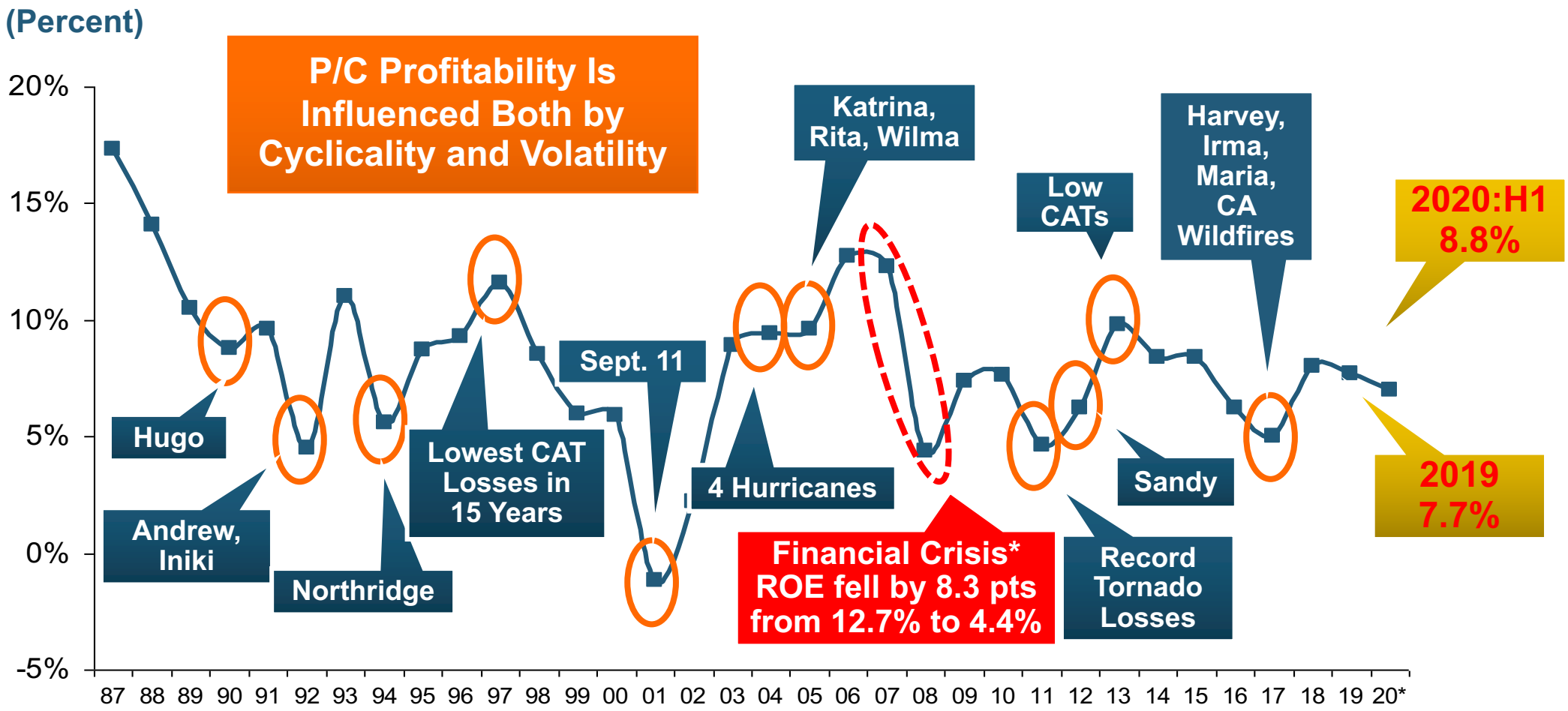
Sources: ISO, A.M .Best; Risk and Uncertainty Management Center, University of South Carolina.

# P/C Industry Net Income After Taxes, 1991–2020E*




*2020 estimate based on annualized actual 1H:20 figure of $25.0B. ROE figures are GAAP; [1]Return on avg. surplus. Excludes Mortgage & Financial Guaranty insurers for years (2009-2014).
Sources: A.M. Best, ISO.

# ROE: Property/Casualty Insurance by Major Event, 1987–2020:H1* (est.)




*Excludes Mortgage & Financial Guarantee in 2008 – 2014. 2020:H1 estimate is based on actual Q1 2020 figure of 8.8%.
Sources: ISO, *Fortune*; USC RUM Center.

# Percentage Point Change in P/C ROEs During Past Economic Downturns: 1971 - Present

**Change in P/C ROE During Past Economic Downturns**

**Avg.: -4.5% (-4.0% ex. 2000-01)**

**Median: -5.0% (-3.0% ex. 2000-01)**

**Although the COVID-19 economic downturn will be sharp, it's expected to be brief with a rapid "V-Shaped" recovery**

*2000-2001 decline impacted by 9/11 losses.

Source: USC Center for Risk and Uncertainty Management.

# Profitability & Politics

***How Is Profitability Affected by the President's Political Party?***

# QUIZ 1:  Politics, Presidents, Pandemics & P/C Insurance

- **Using data going back to 1950, is the P/C insurance industry more profitable, on average, (as measured by ROE) when the President of the United States is a Republican or a Democrat?**

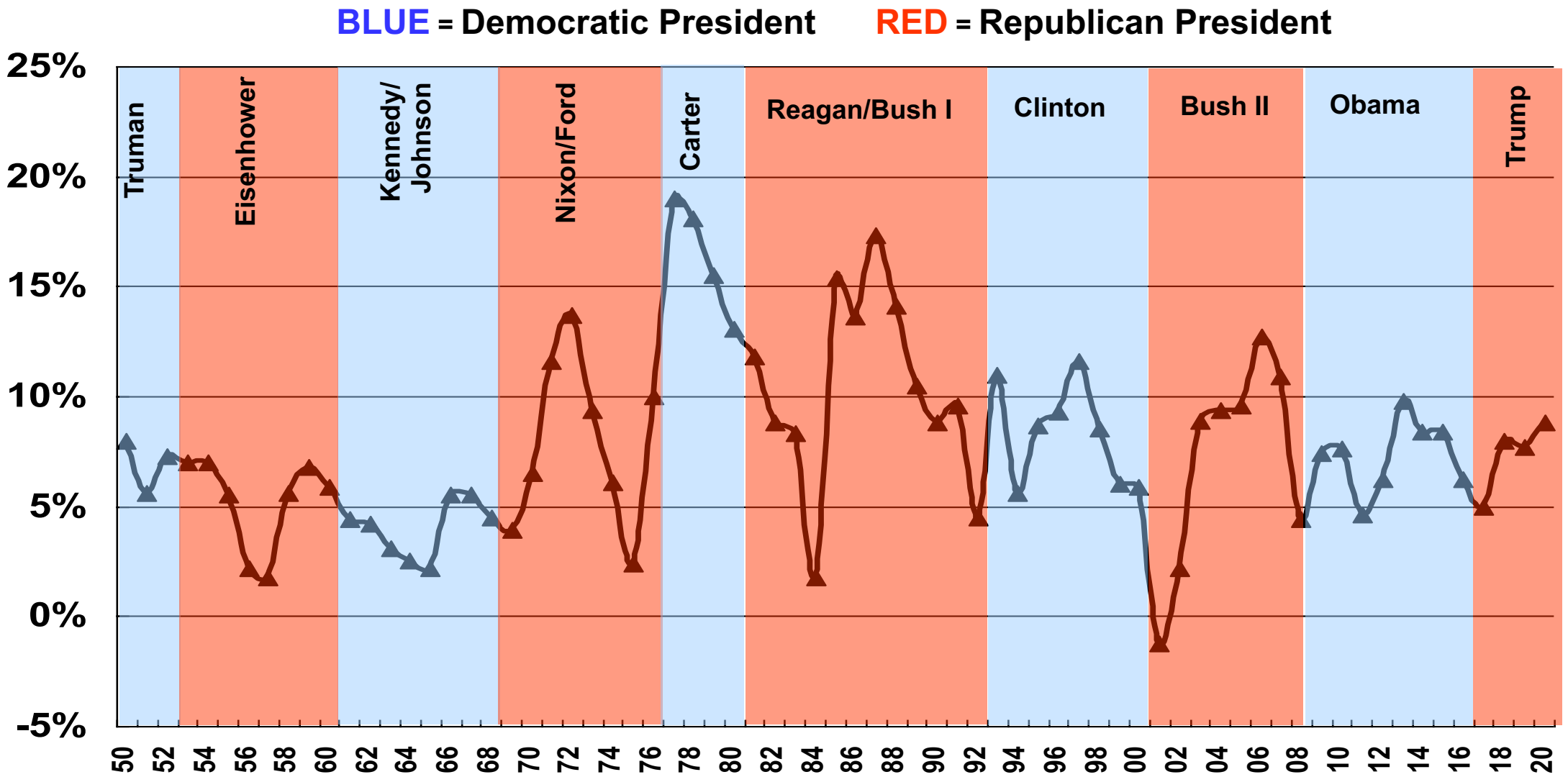
  A. Republican

  B. Democrat

# QUIZ 2: Politics, Presidents, Pandemics & P/C Insurance

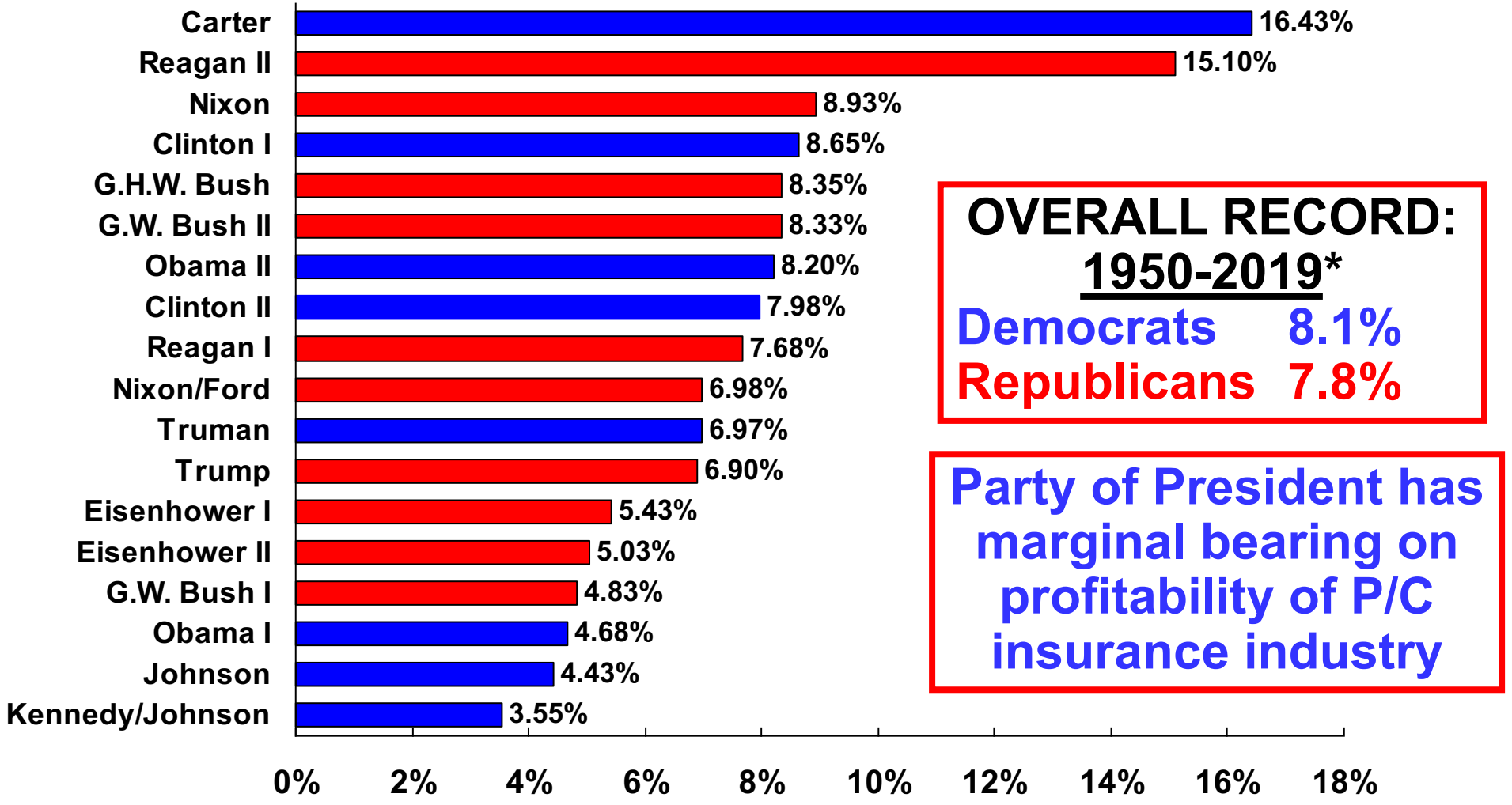
- **Under which presidential administration was the P/C insurance industry most profitable, as measured by ROE, going back to 1950?**
  - A. Trump
  - B. Clinton
  - C. Bush II
  - D. Reagan
  - E. Carter
  - F. Nixon
  - G. Johnson
  - H. Kennedy
  - I. Truman

# P/C insurance Industry ROE by Presidential Party Affiliation, 1950- 2020*




*2020 figure is for Q1 only. ROEs for the years 2008-2014 exclude mortgage and financial guaranty segments.
Source: Risk and Uncertainty Management Center, University of South Carolina.

# P/C Insurance Industry ROE by Presidential Administration, 1950-2019*

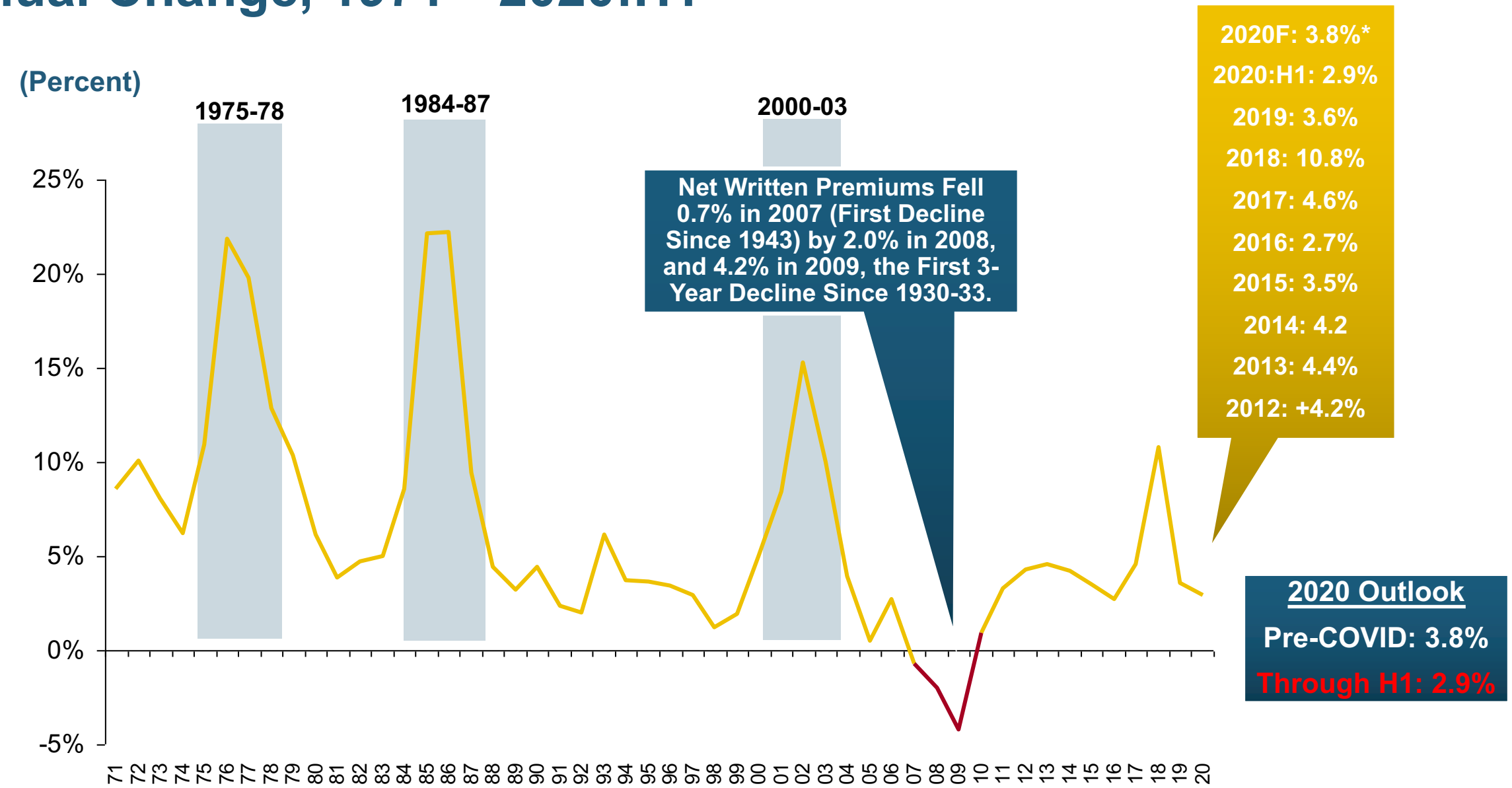



**OVERALL RECORD:**
**1950-2019***
**Democrats 8.1%**
**Republicans 7.8%**

**Party of President has marginal bearing on profitability of P/C insurance industry**

*Trump figure is 2017-2019 average. ROEs for the years 2008-2014 exclude mortgage and financial guaranty segments.
Source: Risk and Uncertainty Management Center, University of South Carolina.

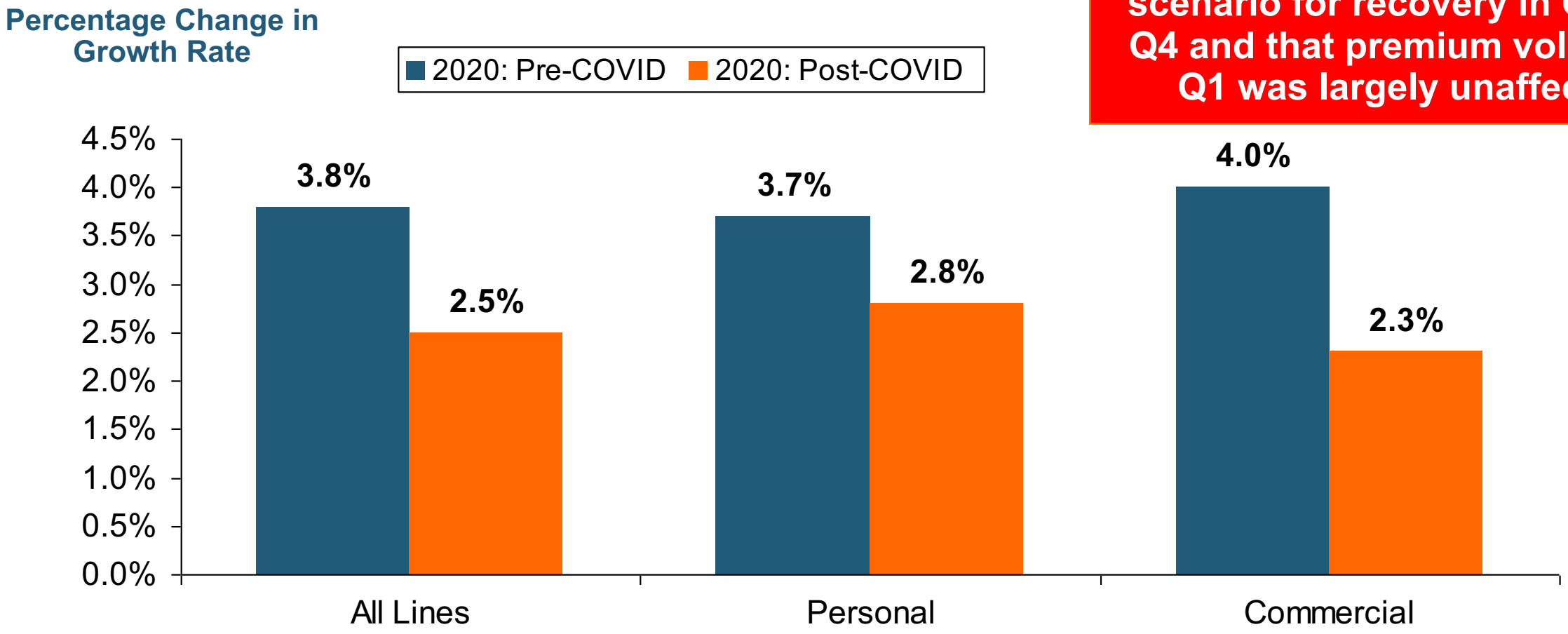
# Net Premium Growth (All P/C Lines): Annual Change, 1971—2020:H1




*Pre-COVID-19 forecast from A.M. Best Review & Preview (Feb. 2020). NOTE: Shaded areas denote "hard market" periods
Sources: A.M. Best (1971-2013, 2020F), ISO (2014-19); Risk & Uncertainty Management Center, Univ. of South Carolina .

# 2020 Pre- vs. Post-COVID Growth Expectations for P/C Insurance: From Modest to Miserly

**Note: 2020 expectations are based on a modestly optimistic scenario for recovery in Q3 and Q4 and that premium volume in Q1 was largely unaffected**




Source: 2020 Pre-COVID-19 figures from Best's Review & Preview (Feb. 2020); Post-COVID estimates from USC Center for Risk and Uncertainty Management.

# Potential Impacts of COVID-19 on *Written Premium* in 2020, by Key Line

| Line | Estimated Premium Impact |
|---|---|
| Workers Compensation | 12.5% to 25% reduction in premium written in 2020 ***(equates to $5.9B to $11.75B DWP)*** |
| Business Interruption & Contingency | 7% to 13% reduction in premium volume (US & UK) |
| General Liability* | $1.5B to $6.3B premium reduction in US |
| Personal Auto | ~$10B in refunds, rebates (equates to ~4% of DWP) |
| Personal Travel Insurance | 29% to 78% reduction in premium written (US & UK) |
| Personal/Comm. Motor | ~10% reduction in US; 0% to 11% reduction in UK |
| Marine/Aviation/Transport | $0.7B-$1.5B (US); $0.6 - $1.2B (UK) |

*Includes nursing home professional liability.

Source: Derived from Willis Towers Watson, *Scenario Analysis of COVID-19 Pandemic* (Fig.11, 14), May 2020. and other sources; Risk and Uncertainty Management Center, University of South Carolina.

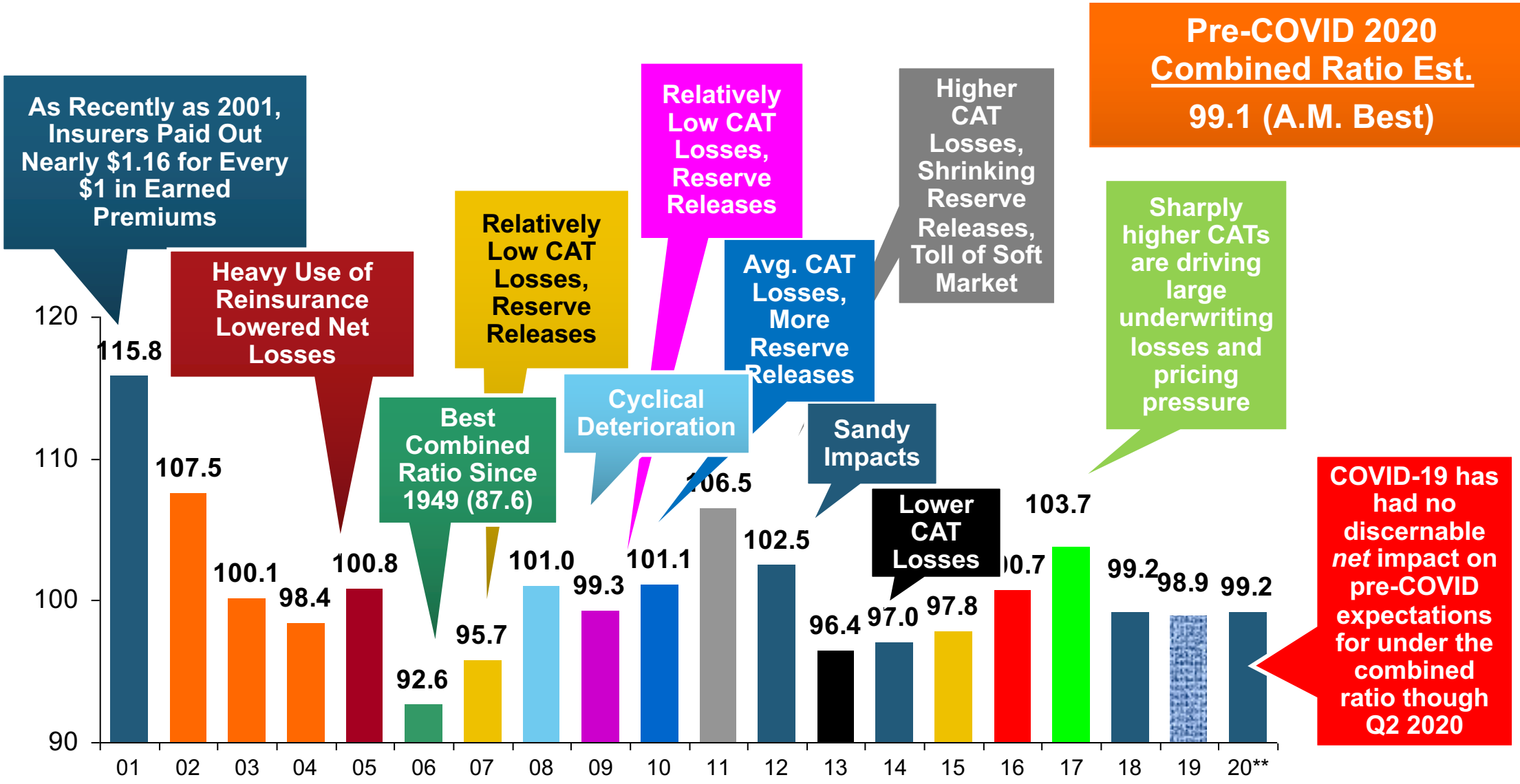
# Potential Impacts of COVID-19 on *LOSSES* in 2020, by Key Line

| Line | Estimated Loss Impact |
|---|---|
| Workers Compensation | $0.2B - $92B ***(depends on severity of pandemic and "presumption" determination)*** |
| Business Interruption & Contingency | $2B - $22B (US); $1.1B - $13.9B (UK) |
| General Liability* | $0.7B to $27B loss across US & Bermuda markets |
| Personal/Comm. Motor | $26B - $57B reduction in personal auto and $4.2B - $9.4B commercial (US); $1 - $7B overall reduction in UK |
| Mortgage | $0 - $1.7B loss across US & Bermuda markets |
| D&O | $0.6 - $4.0 loss across US & Bermuda markets |
| Marine/Aviation/Transport | $0.3B-$1.3B reduction (US); $0.6 - $1.1B (UK) |

*Includes nursing home professional liability.

Source: Derived from Willis Towers Watson, *Scenario Analysis of COVID-19 Pandemic* (Fig.11, 14), May 2020. and other sources; Risk and Uncertainty Management Center, University of South Carolina.

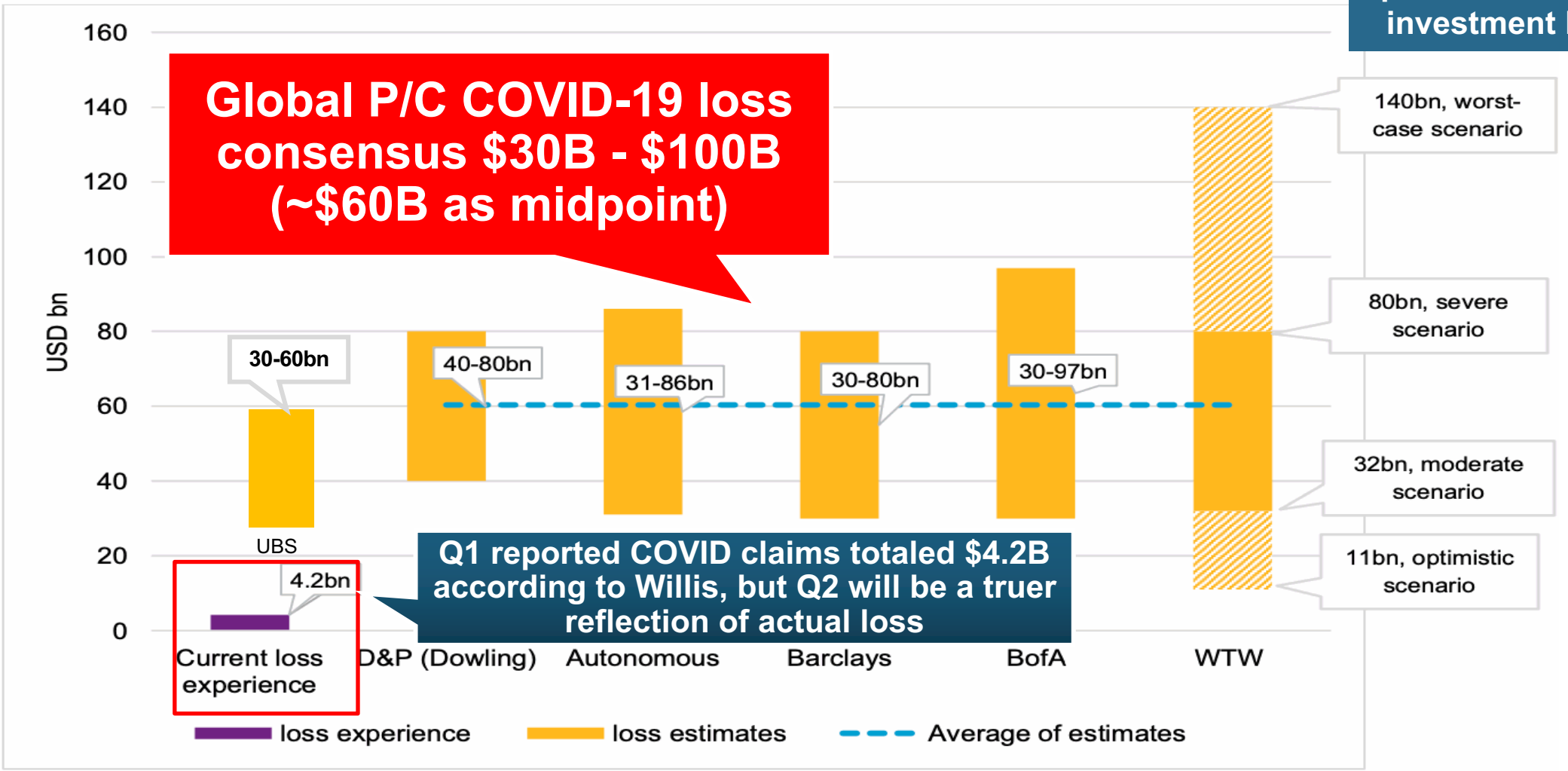
# P/C Insurance Industry Combined Ratio, 2001–2020:H1*




*Excludes Mortgage & Financial Guaranty insurers 2008--2014.
*First Half 2020.
Sources: A.M. Best, ISO (2014-2019).

# COVID-19 Announced Losses vs. Top-Down Industry Estimates (as of May 12, 2020)

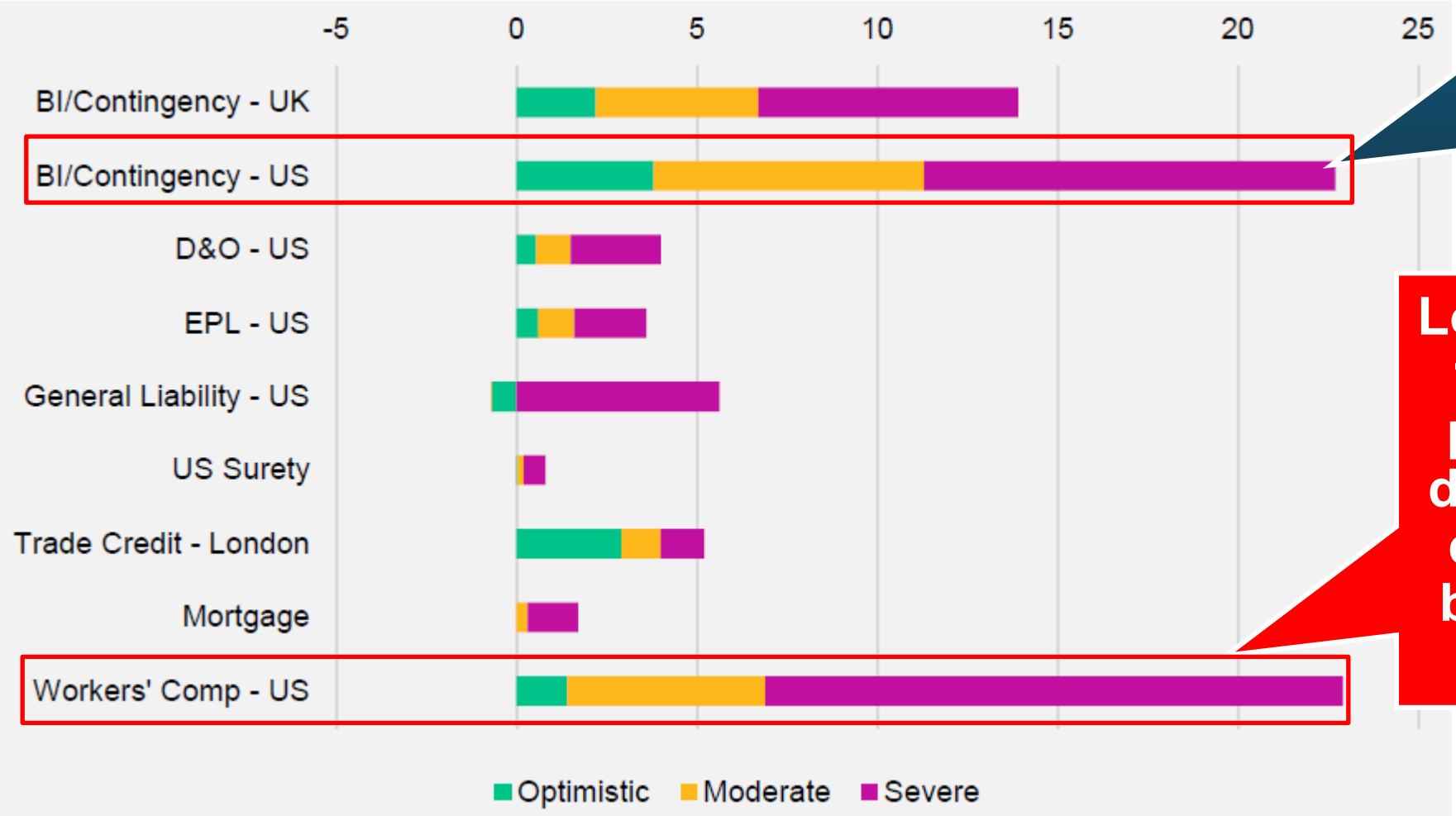
**Lloyd's: Says its own p/c claims could reach $4.3B by June 30. Estimates global p/c losses at $107B; Global investment losses = $96B***




*Lloyd's CEO John Neil appearance on CNBC, May 14, 2020: https://www.cnbc.com/2020/05/14/lloyds-of-london-coronavirus-will-be-largest-loss-on-record-for-insurers.html

Sources: Company disclosures, Dowling & Partners, Barclays Research, Autonomous Research, BofA Global Research, UBS Securities, Willis Towers Watson from Artemis.bm accessed at https://www.artemis.bm/news/consensus-emerging-on-30bn-to-100bn-covid-19-industry-loss-willis-re/; Risk and Uncertainty Management Center, University of South Carolina.

# Potential Impact of COVID-19 on Insured Losses by Line

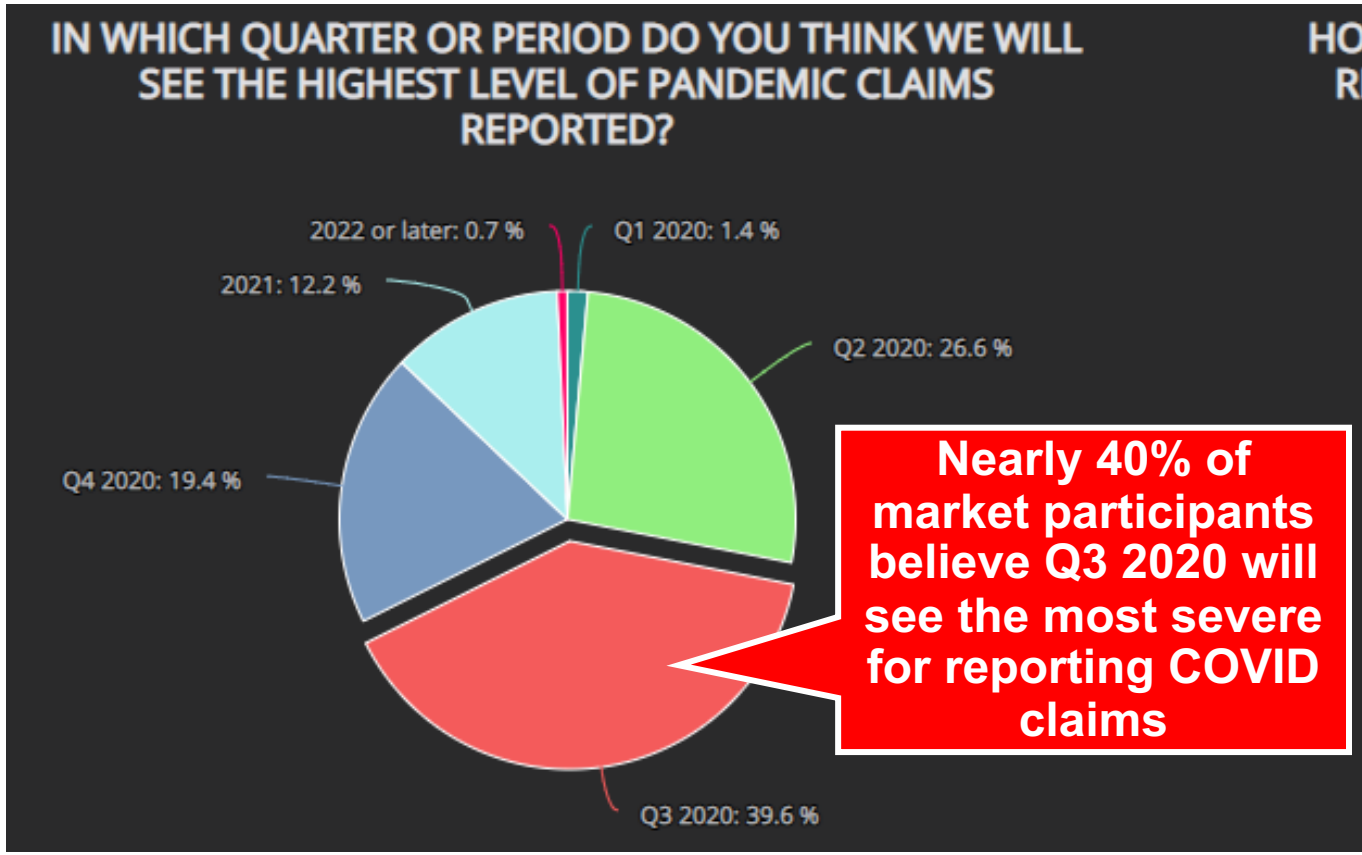


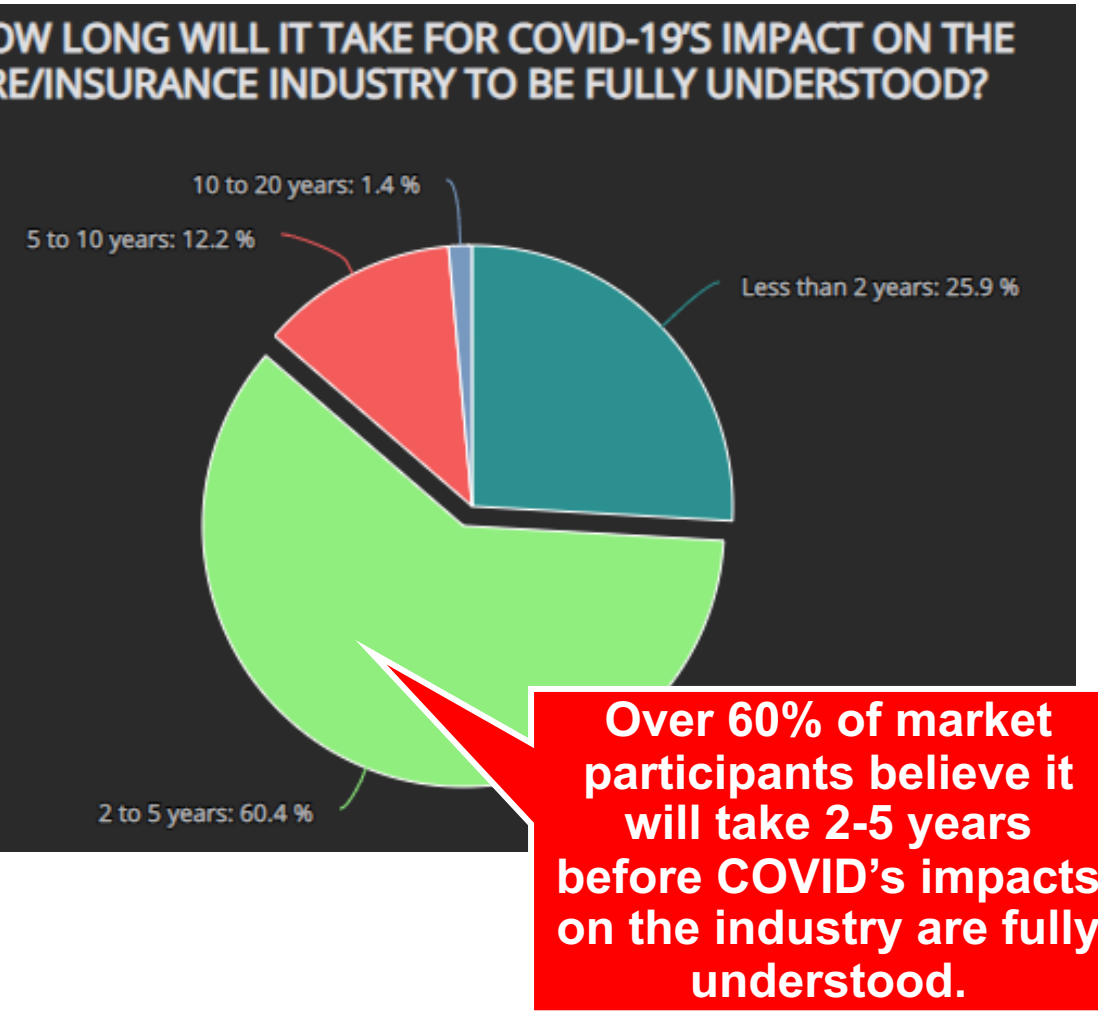

**Business Interruption losses are potentially material even under the moderate severity scenario**

**Loss impacts of COVID-19 on the WC line are potentially severe but depend not only on the course of the disease but state decisions on presumption**

Source: Willis Towers Watson, *Scenario Analysis of COVID-19 Pandemic* (Fig.10), May 2020; Risk and Uncertainty Management Center, University of South Carolina.

# Market Survey: COVID-19 Claims




Source: Artemis COVID-19 Market Survey (June 2020) accessed at: https://www.artemis.bm/coronavirus-survey-update/

# Viral Outbreaks Are Not An Insurable Risk

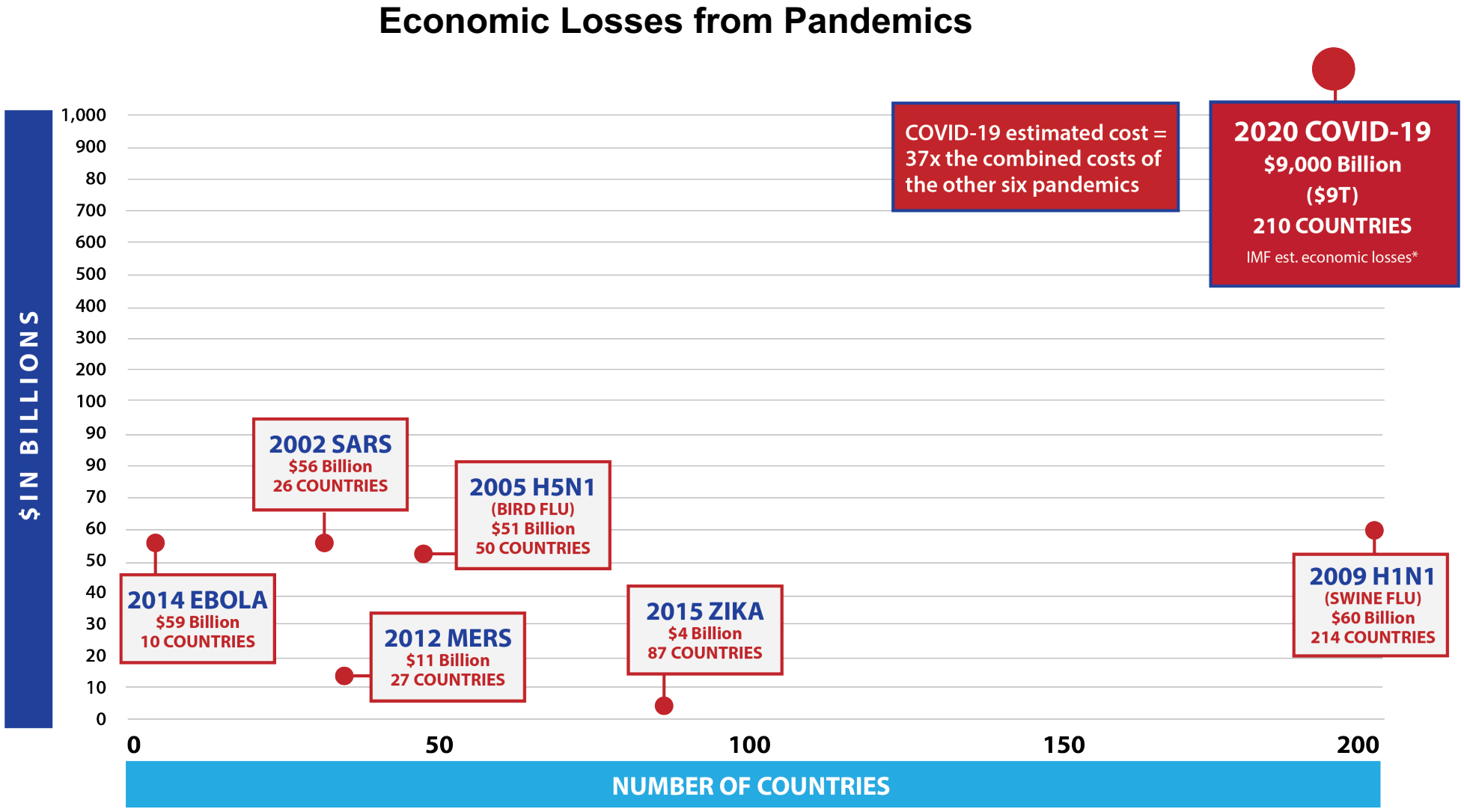
**Pandemics are frequent, severe, and widespread (7 pandemics with multi-billion$ economic losses in just the last 18 years)**

**For Reference**

**2005 Katrina $58 Billion**

**2001 9/11 $48 Billion**

(insured losses)

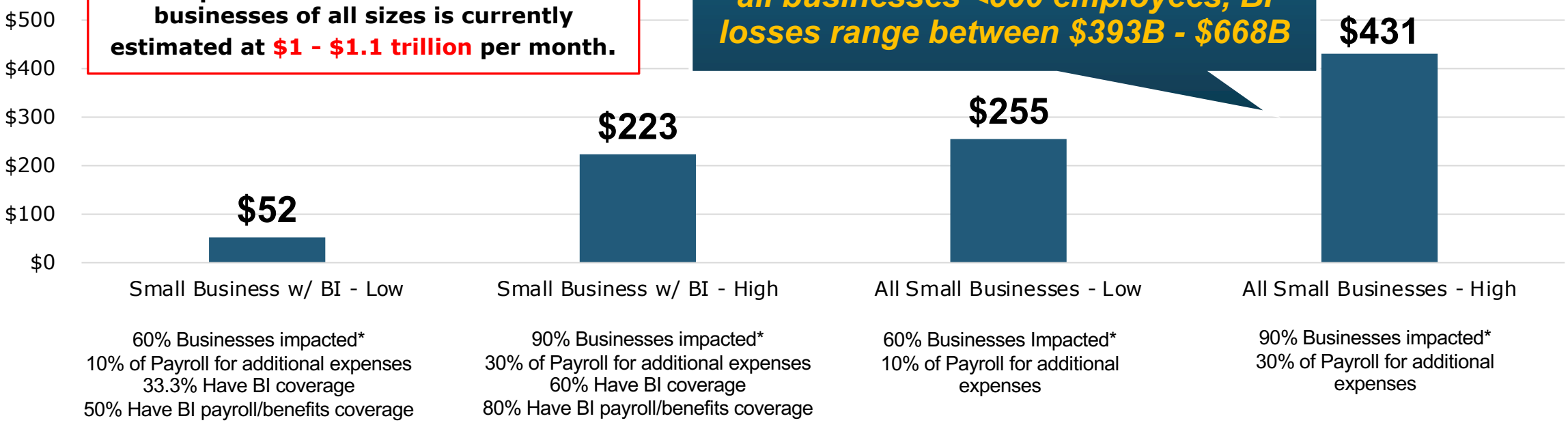



*Sources: APCIA using published reports, including IMF, World Bank, Learnbonds.com; APCIA adjustment to 2020 USD

# Estimated Monthly U.S. Business Interruption Coronavirus Losses for Small Business—Potential Range (<100 Employees; $Bill)

**The potential for such losses for all businesses of all sizes is currently estimated at $1 - $1.1 trillion per month.**

**Monthly BI losses for small business vary widely depending on underlying assumptions but expansive legislation would result in higher estimates; *For all businesses <500 employees, BI losses range between $393B - $668B***

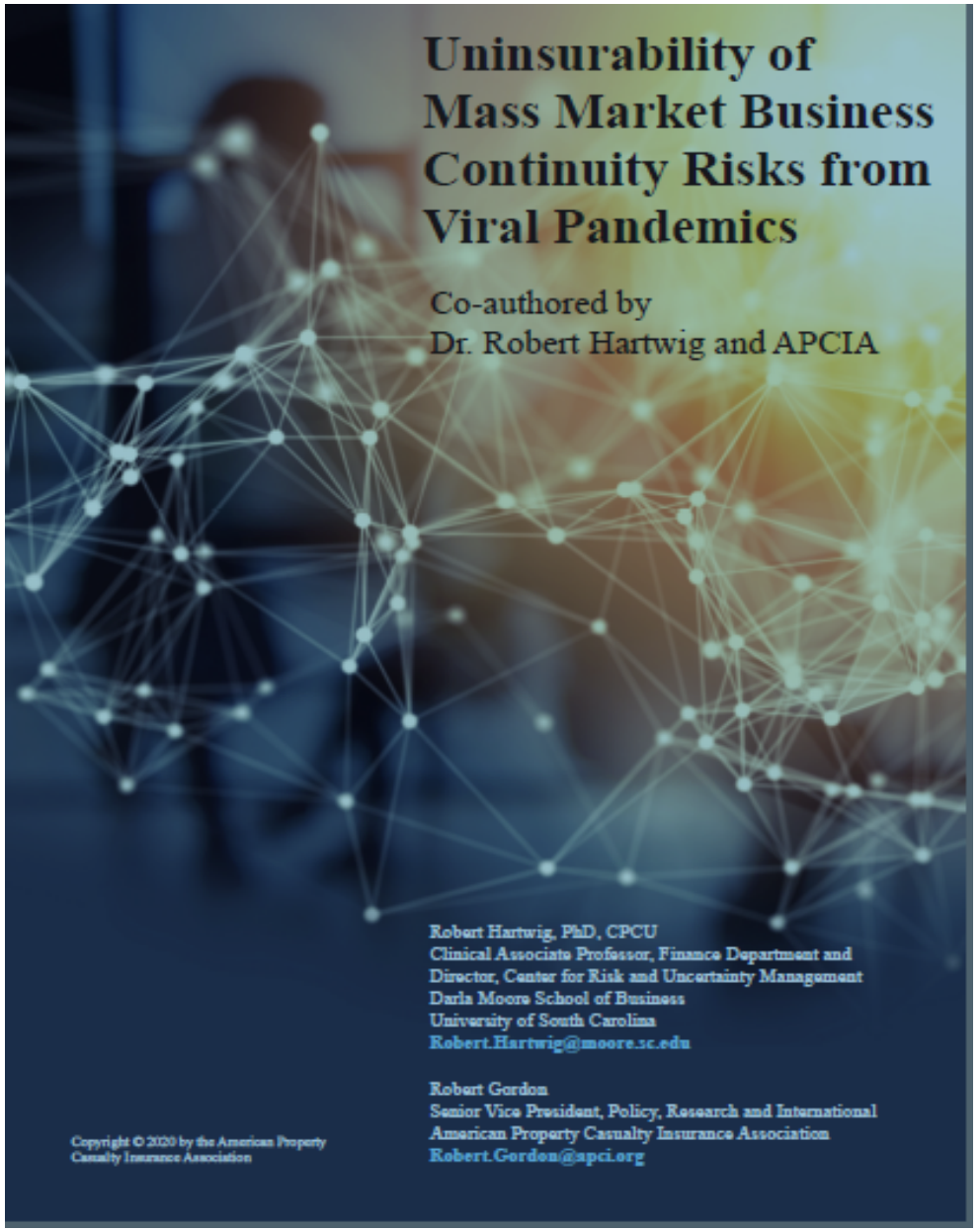



* Businesses impacted: Proportion of businesses completely or substantially closed related to coronavirus
Assumptions: Losses if standard insurance policy exclusions for viruses/pandemics are voided and physical loss/damage requirement is stricken; three main coverages - profit lost, payroll/benefits, additional expenses; average annual $2m revenue and 7% profit margin; non-wage benefits of small businesses are 25% less than that for average US businesses

Source: APCIA, April 2020.

# June Paper on Insurability of Pandemic Risk

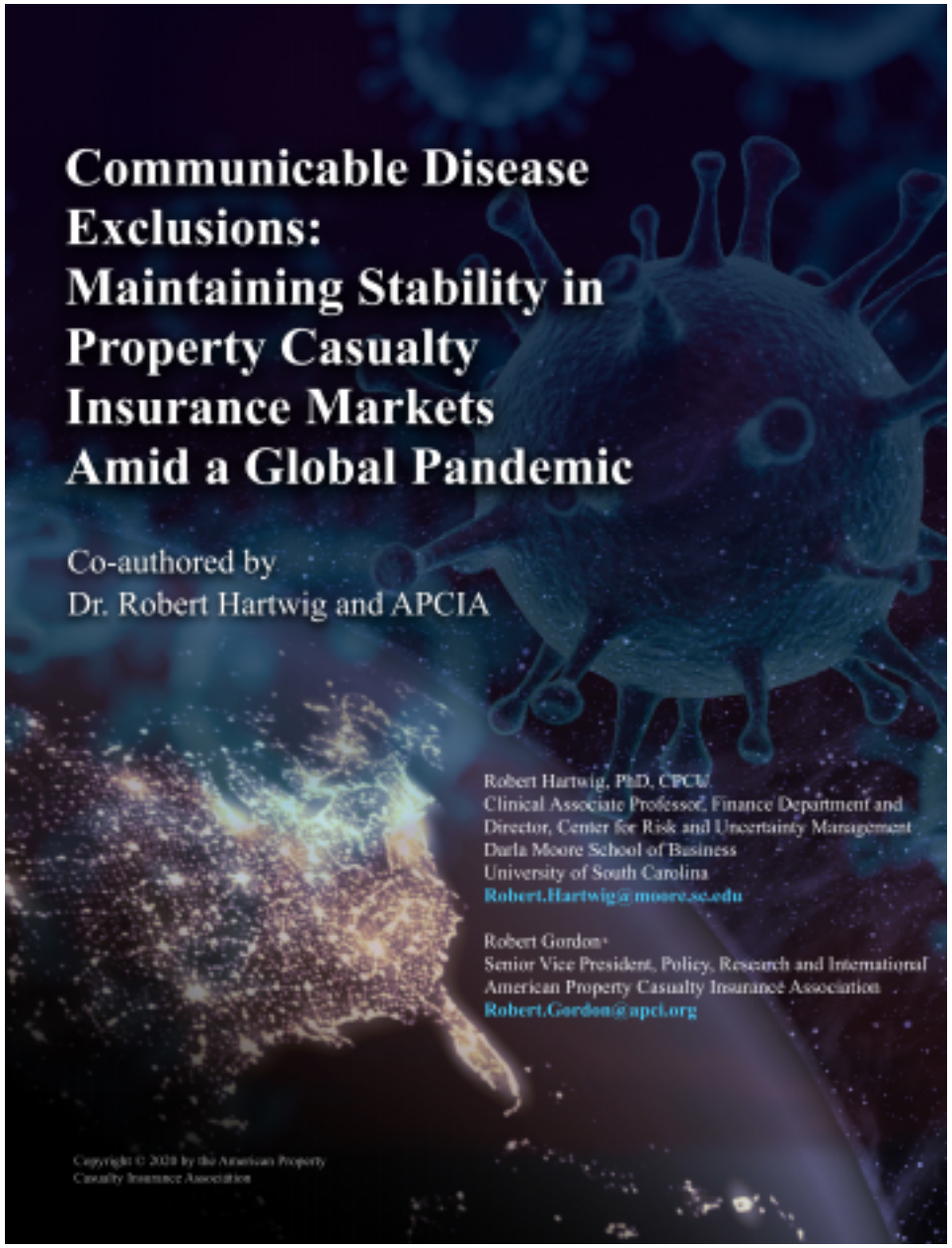
- Large scale business continuity risks from pandemics are generally note insurable in the private sector
- Business continuity risks are largely undiversifiable within private insurance markets and are highly correlated with other risks (e.g., investment risks)
- Large scale business continuity losses pose a potentially systemic risk to the industry and overall economy
- Import role for government




Download at: https://www.uscriskcenter.com/wp-content/uploads/2020/05/Uninsurability-of-Pandemic-Risk-White-Paper-Hartwig-APCIA-FINAL-WORD.pdf

# New Paper on Communicable Disease Exclusions and Market Stability

- CD exclusions are becoming more commonplace in reinsurance treaties
- Regulators are generally not approving primary insurers filings for exclusions in underlying primary policies
- Paper addresses the global factors (e.g., accumulation risk, risk aversion, uninsurability) driving the exclusions
- Also addresses market consequences if misalignment persists




Download at: https://www.uscriskcenter.com/wp-content/uploads/2020/08/CD_Exclusion_Whitepaper-Aug-2020-No-Typo.pdf

# Figure 1. Pandemic - An Insurable Risk?

| Requirements of an Insurable Risk | Requirement Met? Yes/No |
|---|---|
| **1. Large number of exposure units** | **No.** While millions of individual businesses suffered business continuity losses arising from the COVID-19 pandemic, the pandemic's effects were global in scale and nearly simultaneous in scope, effectively reducing the number of exposure units to one—the business sector collectively. |
| **2. Accidental/Random and unintentional loss** | **No.** Pandemics are natural phenomena but the decisions by thousands of policymakers at all levels of government to close millions of businesses and restrict the movement of people was intentional. |
| **3. Determinable and measurable loss** | **No.** For insurers to determine losses, the scale and scope of losses for any given risk must be estimable. Business continuity losses from COVID-19, estimates for which remain highly uncertain and range into the trillions of dollars, are indeterminable due to their dependence on decisions made by thousands of policymakers at all levels of government, the pace at which consumers and businesses reengage in the economy and epidemiological developments. |
| **4. No (ruinous) catastrophic loss** | **No.** Unlike traditional catastrophe risks, pandemics by definition threaten all or most or the members of the risk pool simultaneously. The rapid aggregation of losses is destabilizing and potentially ruinous, threatening the solvency of individual insurers and the industry as a whole. |
| **5. Calculable chance of loss** | **No.** Pandemics have occurred throughout history but the policy response to COVID-19 is without precedent. Insurers traditionally rely on historical loss information and trends to estimate the frequency and severity (cost) for risks they insure. No such historical data exists for the policy response associated with the COVID-19 pandemic, hence premiums cannot be determined. |
| **6. Economically feasible premium** | **No.** Because pandemics by definition threaten all or most or the members of the risk pool simultaneously, the probability of loss is close to certainty. The high probability of loss combined with high claim severities necessarily lead to premiums that can approach or even exceed the cost of the claim itself. |

# Catastrophe Loss Update: *Major Driver of Rate Pressure*

**CAT Losses for the Decade Just Ended Were Up Materially—Costliest Ever**

***Primary, Reinsurance and Retro Markets All Impacted and Are Pressuring Rates***

***COVID Pressure Kicks Off the New Decade***



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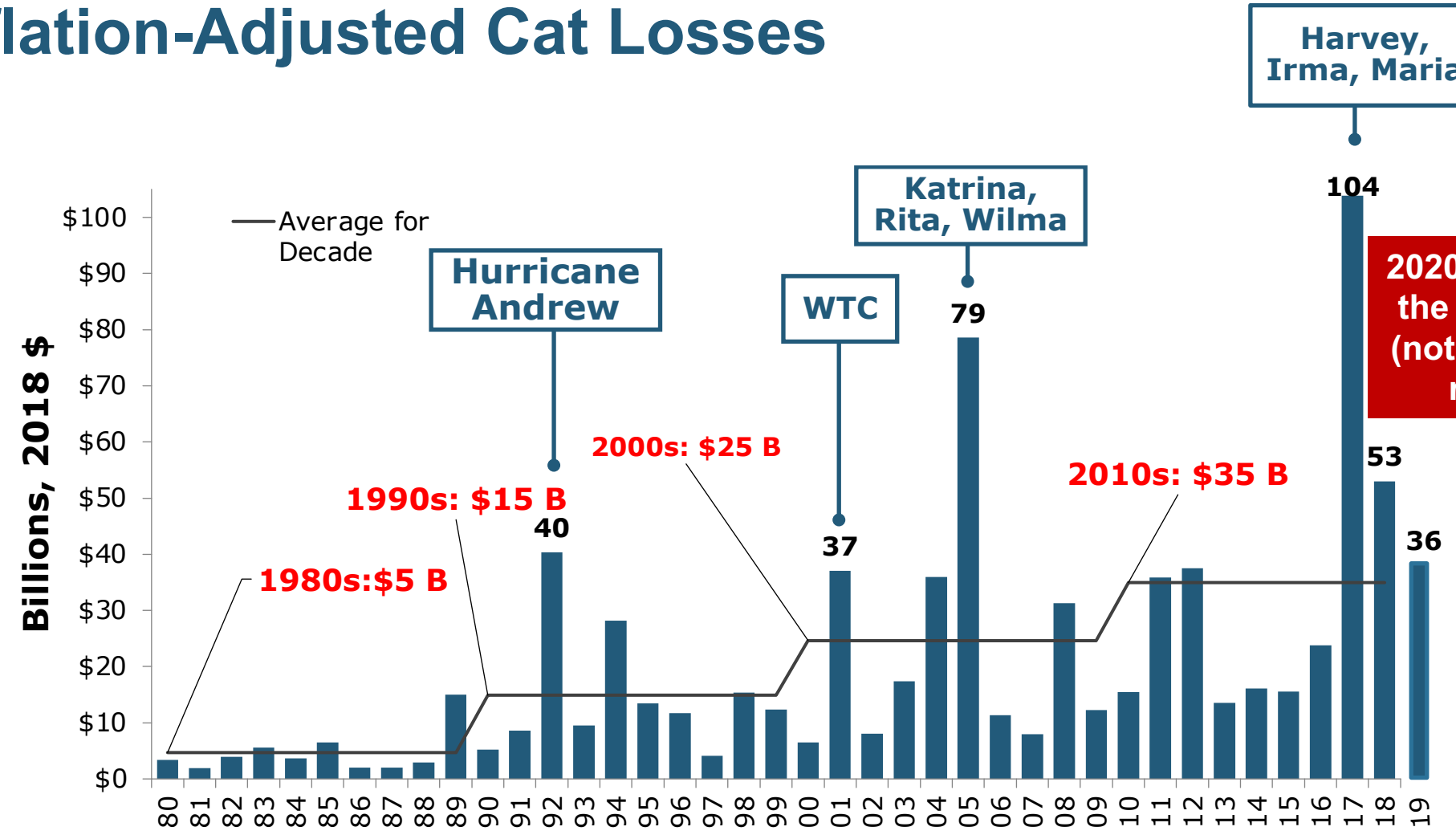
# U.S. Inflation-Adjusted Cat Losses




2020:H1 CAT losses in the US totaled ~$20B (not including COVID-related losses)

As of Oct. 4, 2020, more than 4 million acres of woodland had been destroyed by wildfire in CA alone this year

**Average Insured Loss per Year for 1980-2019 is $19.8 Billion**

Sources: Property Claims Service, a Verisk Analytics business; Insurance Information Institute.

# Top 20 Most Costly Disasters in U.S. History—Katrina Still Ranks #1

**COVID-19 insured property losses remain highly uncertain, but could easily make the top 10**

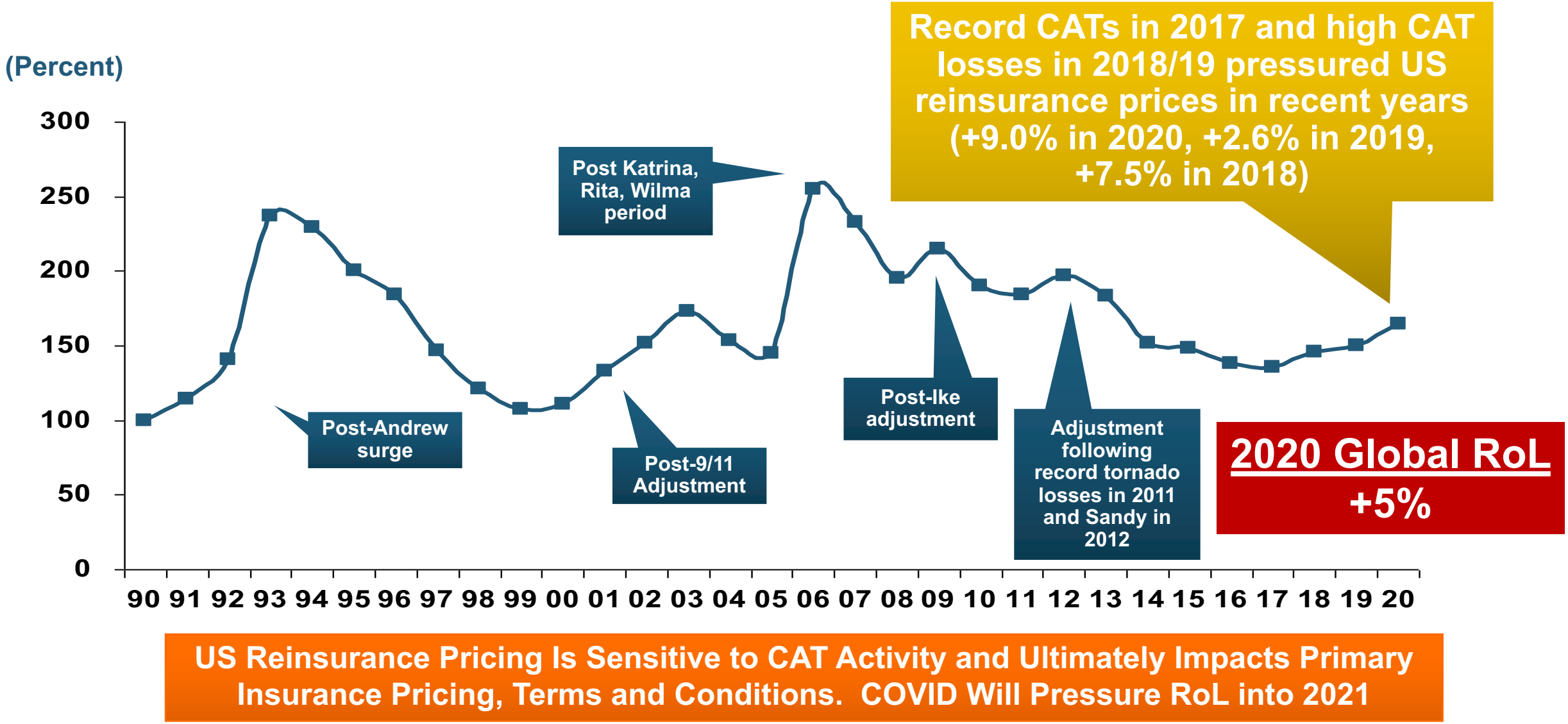
(Insured Losses, 2017 Dollars, $ Billions)*

**17 of the 20 Most Expensive Insurance Events in US History Have Occurred Since 2004**

*Estimated.

Sources: PCS, RMS, Karen Clark & Co; USC Center for Risk and Uncertainty Management adjustments to 2017 dollars using the CPI.

# US Property Catastrophe Rate-on-Line Index: 1990 – 2020*




**US Reinsurance Pricing Is Sensitive to CAT Activity and Ultimately Impacts Primary Insurance Pricing, Terms and Conditions. COVID Will Pressure RoL into 2021**

*As of January 1 each year.

Source: Guy Carpenter; Artimes.bm accessed at: http://www.artemis.bm/us-property-cat-rate-on-line-index

# Major and Rapid Changes in the Reinsurance Markets

- **Property: COVID-19 and Concerns Over BI Are Driving Reinsurers to Exclude Communicable Disease (CD) Globally in Virtually All Property Treaties**
  - Primary insurers are running into DOI resistance to gain approvals for exclusions
  - Commercial and personal lines
  - Exclusion is all CDs, not just pandemic or epidemic
- **Casualty: Some Reinsurers Starting to Exclude CD**
  - Exclusions being driven by London market
    - GL, WC (esp. WC CAT)
  - No universal exclusion push in non-London markets (yet)
  - Not affecting financial lines yet (D&O, E&O, Fiduciary, Fidelity) or Cyber
- **Reinsurers Try to Manage Global Aggregation Risk**

**These same factors are contributing to capacity issues in the retrocessional market**

# Major and Rapid Changes in the Reinsurance Markets

- **Exclusionary Language in Reinsurance Treaties: Based on London Market Association (LMA) Language**
  - **LMA5394:** is a broad communicable disease exclusion for use with property treaty reinsurance contracts that excludes “any loss, damage, liability, claim, cost or expense of whatsoever nature, directly or indirectly caused by, contributed to by, resulting from, arising out of, or in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease regardless of any other cause or event contributing concurrently or in any other sequence thereto.”
  - **LMA5399:** is a broad communicable disease exclusion for use with casualty treaty reinsurance contracts that excludes “all actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defen[s]e cost, cost, expense or any other amount incurred by or accruing to the reinsured, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.”

# INVESTMENTS:
# THE NEW REALITY

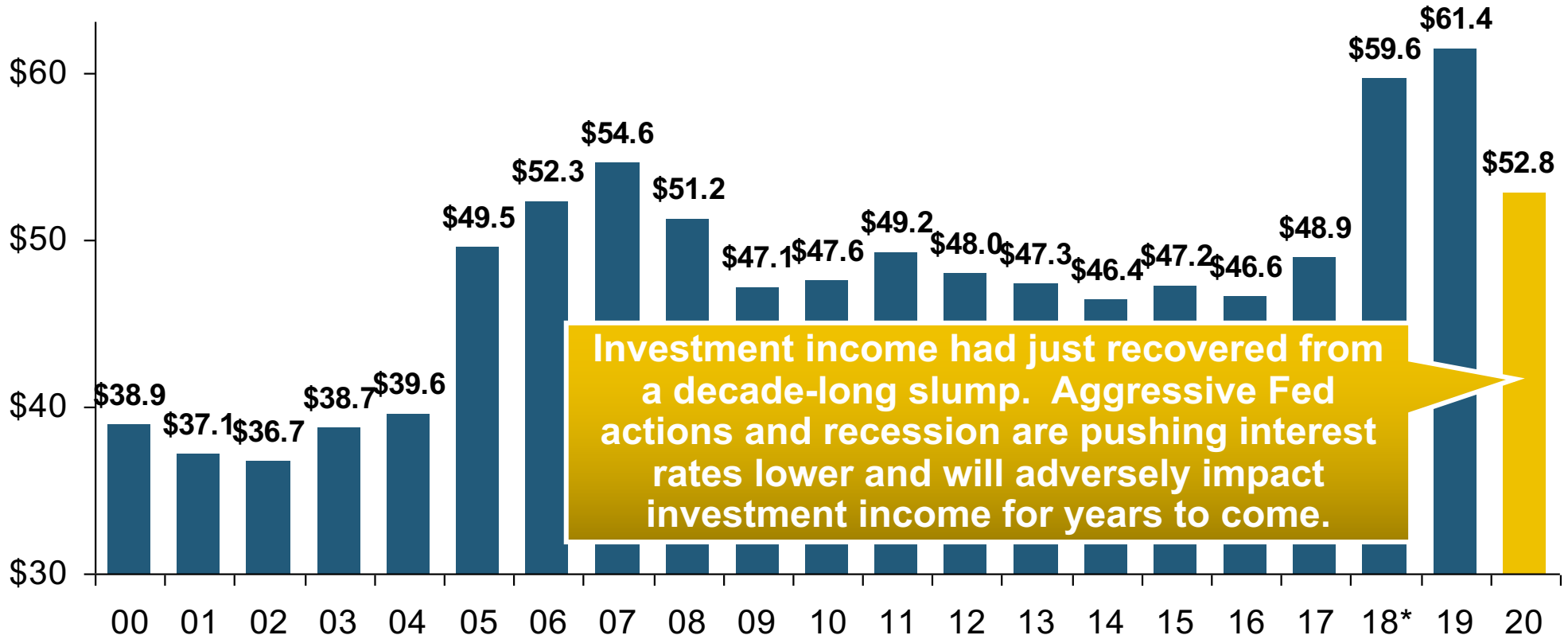
## Investment Performance Is a Key Driver of Insurer Profitability

## Aggressive Rate Cuts Will Adversely Impact Invest Earnings

## Financial Crisis *Déjà Vu*?

# Property/Casualty Insurance Industry Investment Income: 2000–2020E

($ Billions)

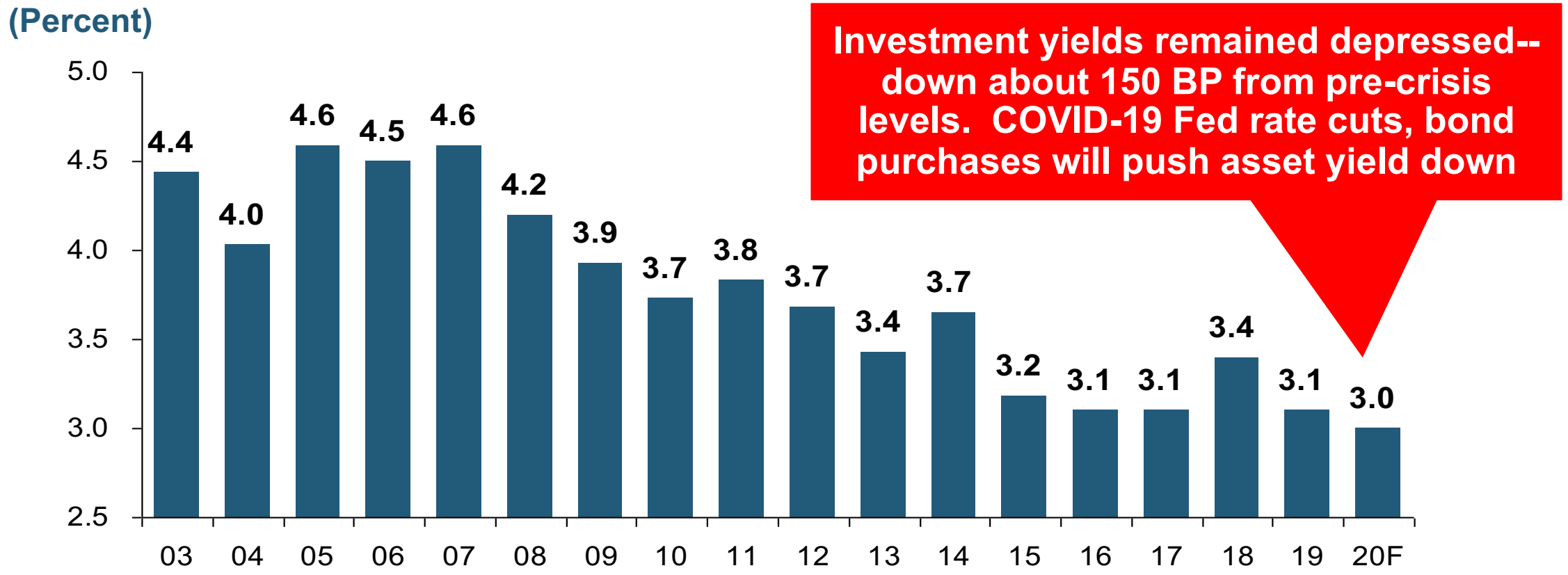



**Due to persistently low interest rates, investment income remained below pre-crisis levels for a decade. Lower interest rates post-COVID will drive investment income down once again.**

*2020 figure is annualized based on H1 actual of $26.4B. 2018-19 figures are distorted by provisions of the TCJA of 2017. Increase reflects such items as dividends from foreign subsidiaries.

[1] Investment gains consist primarily of interest and stock dividends. Sources: ISO; University of South Carolina, Center for Risk and Uncertainty Management.

# Net Investment Yield on Property/Casualty Insurance Invested Assets, 2007–2020F*



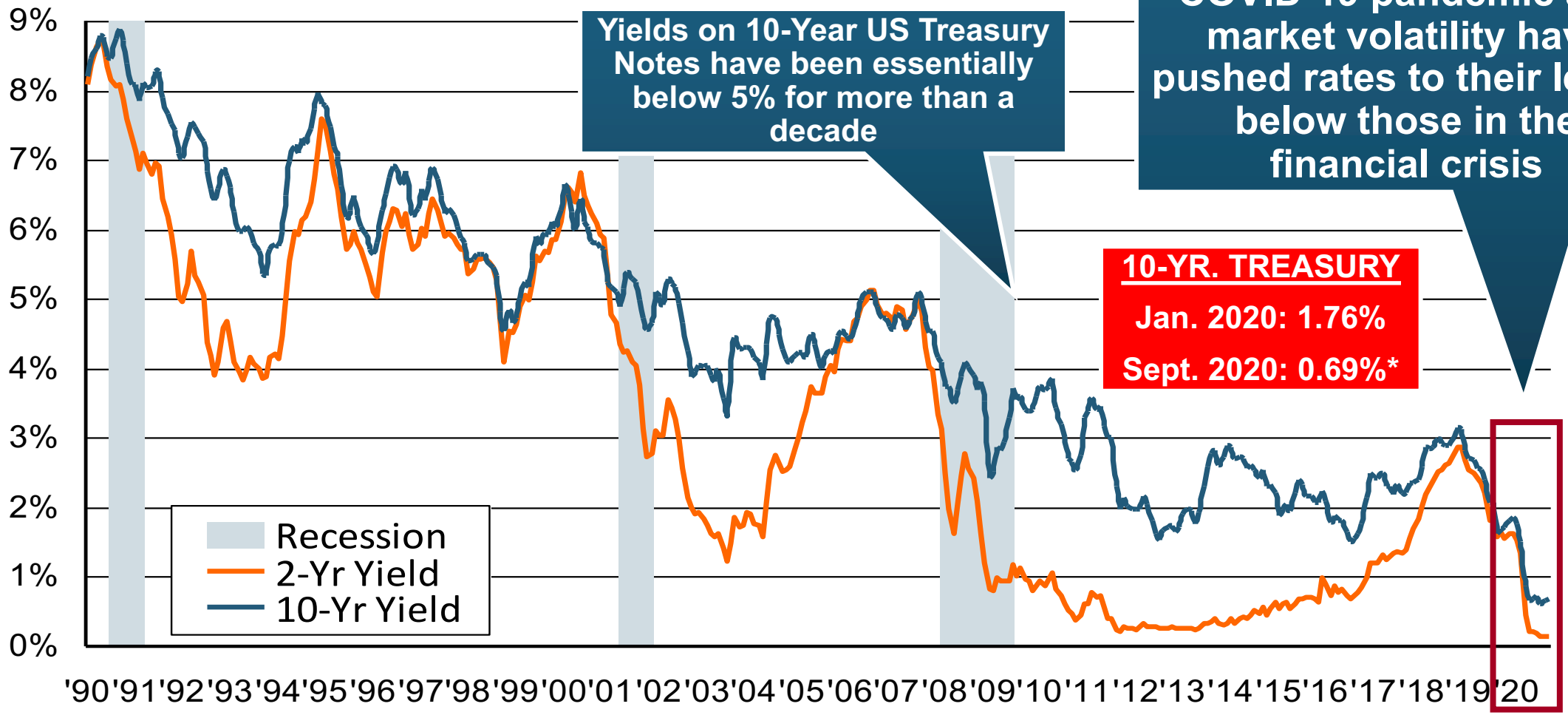

**Investment yields remained depressed--down about 150 BP from pre-crisis levels. COVID-19 Fed rate cuts, bond purchases will push asset yield down**

**The yield on invested assets remains low relative to pre-crisis yields. Fed rate increases beginning in late 2015 through 2018 halted the slide in yields, but rate cuts in 2019/2020 will preclude future gains**

**Average: 1960-2019 = 4.9%**
**Low: 2.8% (1961)**
**High: 8.2% (1984/85)**

Sources: NAIC data, sourced from S&P Global Market Intelligence; 2017-19 figures are from ISO. 2020F is from the Risk and Uncertainty Management Center, Univ. of South Carolina.

# US Treasury Security Yields: A Long Downward Trend, 1990–2020*

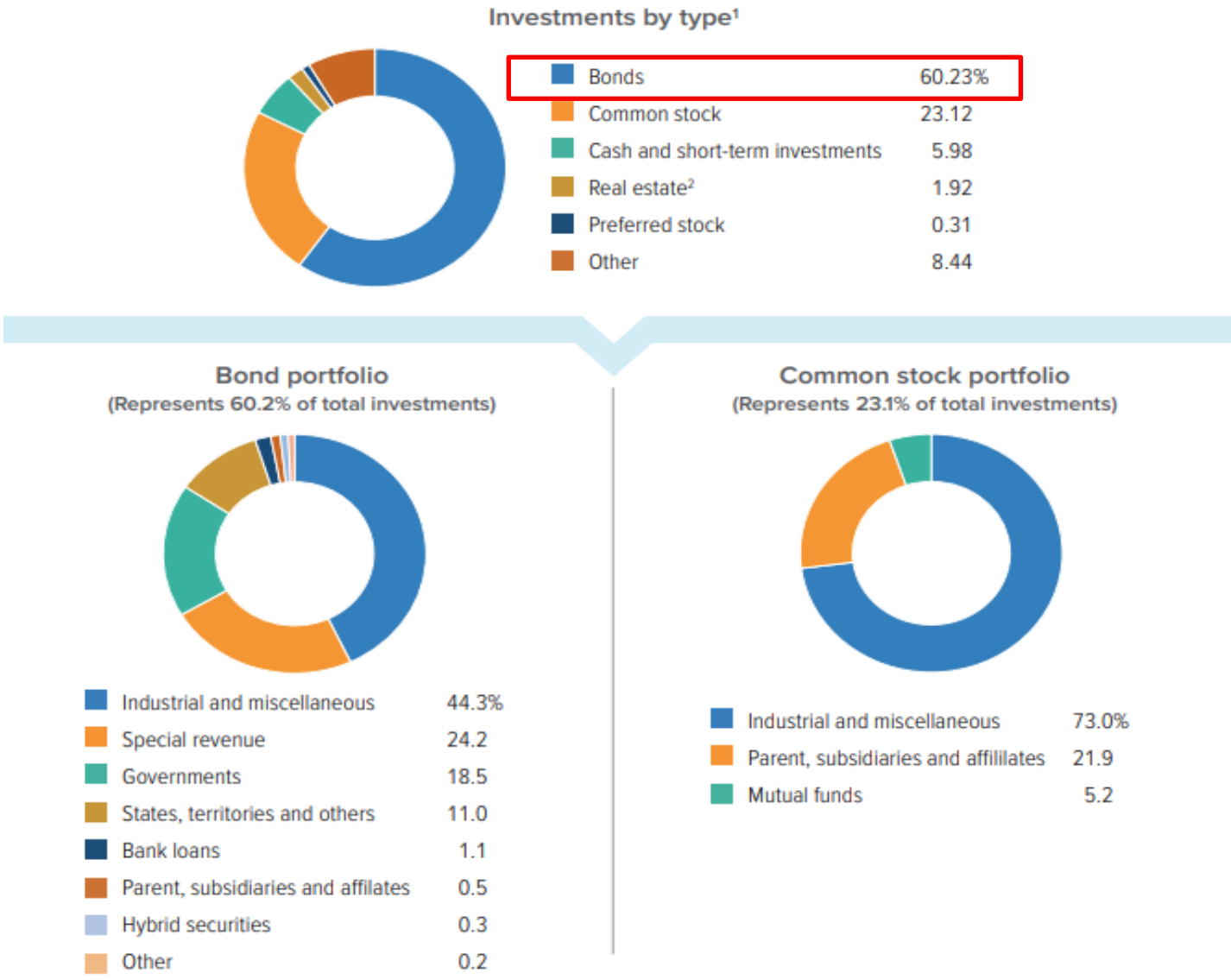



**Since roughly 80% of P/C bond/cash investments are in 10-year or shorter durations, most P/C insurer portfolios will have low-yielding bonds for many years to come.**

*Monthly, constant maturity, nominal rates, through Sept. 2020. Sept. 2020 figure is as of 9/13/20.

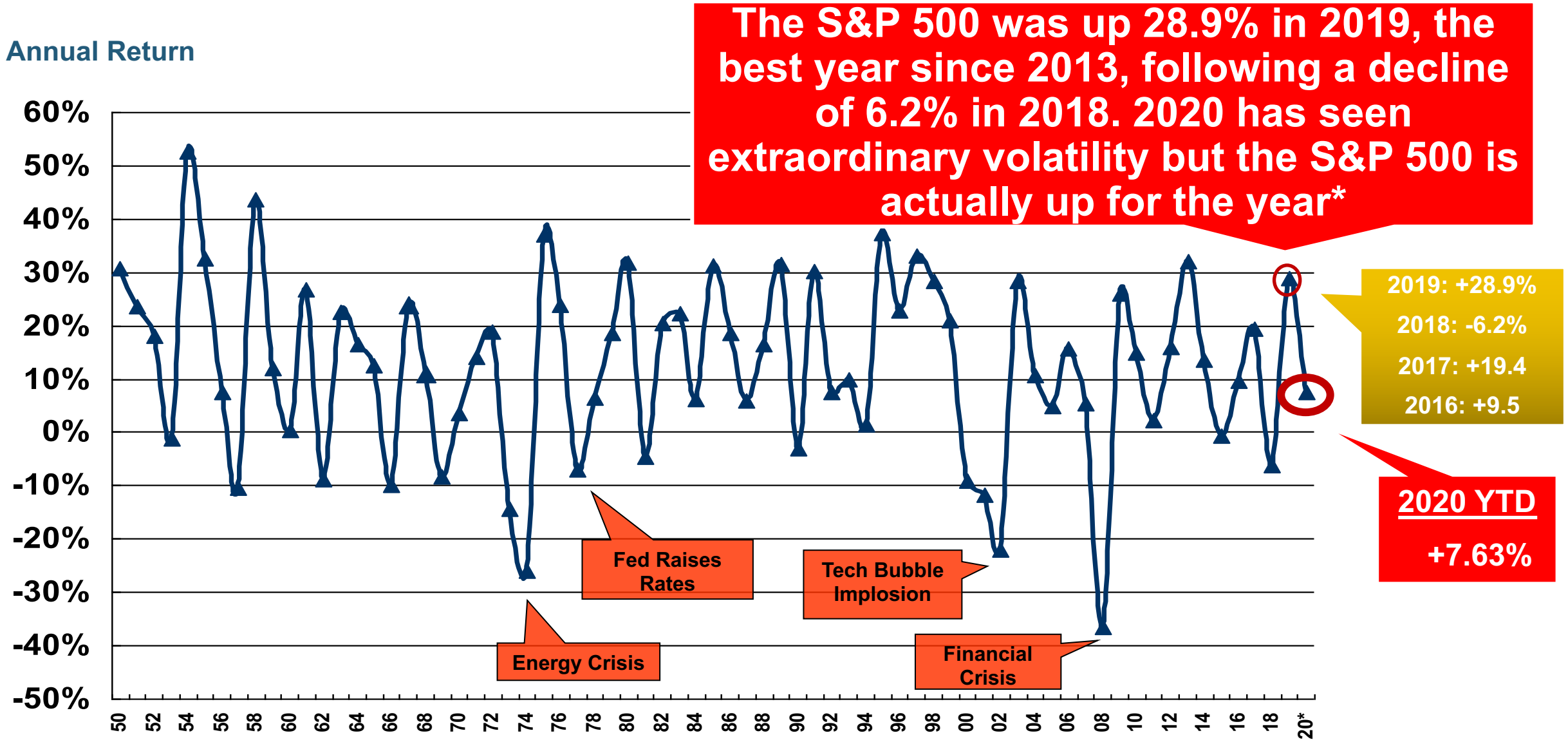
Sources: Federal Reserve Bank at http://www.federalreserve.gov/releases/h15/data.htm. National Bureau of Economic Research (recession dates); Risk and Uncertainty Management Center, University of South Carolina.

# Investments: Property/Casualty Insurers, 2018




Sources: NAIC from Insurance Information Institute *2020 Fact Book.*

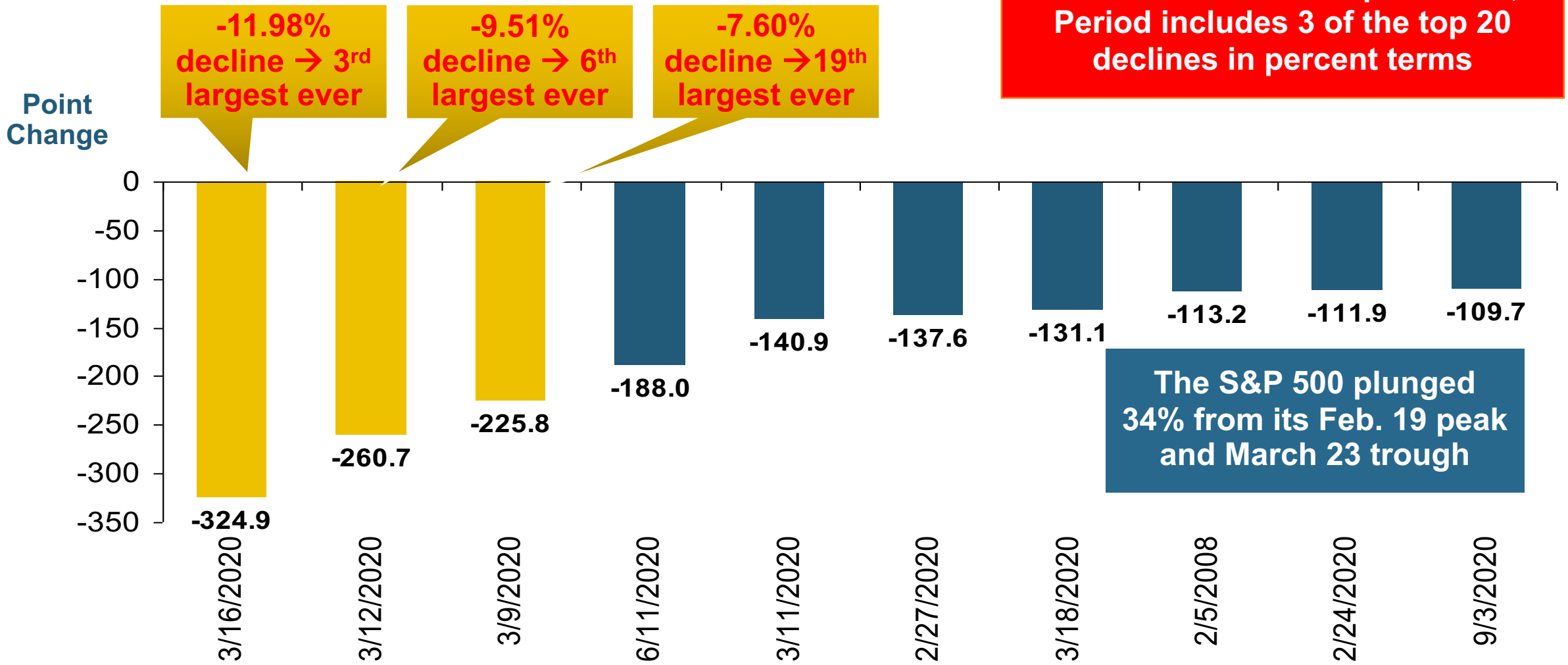
# S&P 500 Index Returns, 1950–2020*




,
*Through Oct. 9, 2020.
Source: NYU Stern School of Business: http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/histretSP.html; Center for Risk and Uncertainty Management, University of South Carolina

# Top 10 Largest Daily Point Drops in S&P 500 History*

**9 of the 10 largest point declines ever on the S&P 500 have occurred since the start of the pandemic; Period includes 3 of the top 20 declines in percent terms**




*Index began in 1923.

Source: Standard & Poor's; USC Center for Risk and Uncertainty Management.

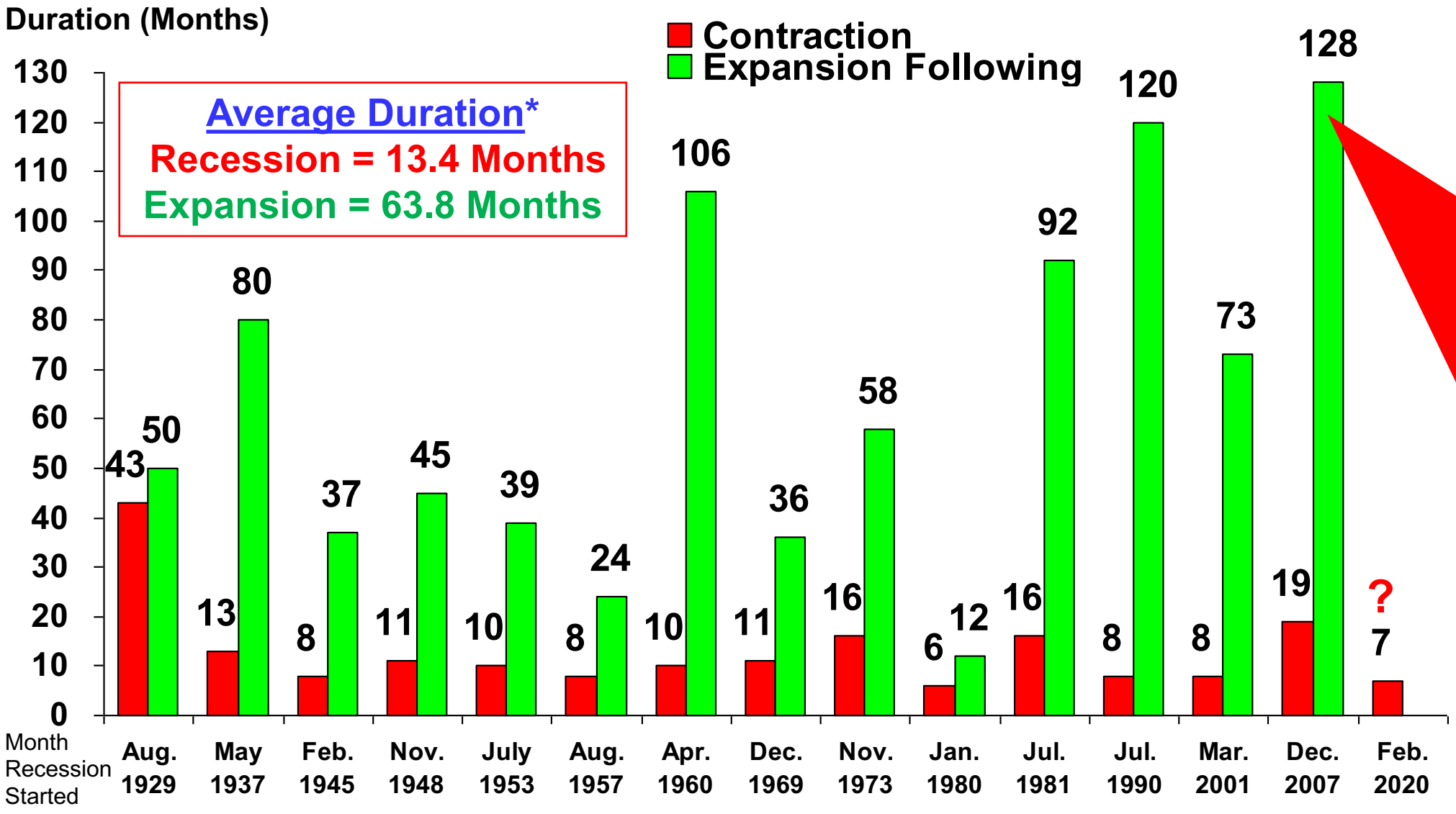
# THE ECONOMY

**COVID-19 Pandemic Will Directly and Severely Impact Growth As Exposure Growth Rapidly Shrinks**

**The Strength of the Economy Has Always Influenced Growth in Insurers' Exposure Base Across Most Lines**

**The Links Between the Economy and the P/C Insurance Industry Are Strengthening**

# Length of US Business Cycles, 1929-Present*



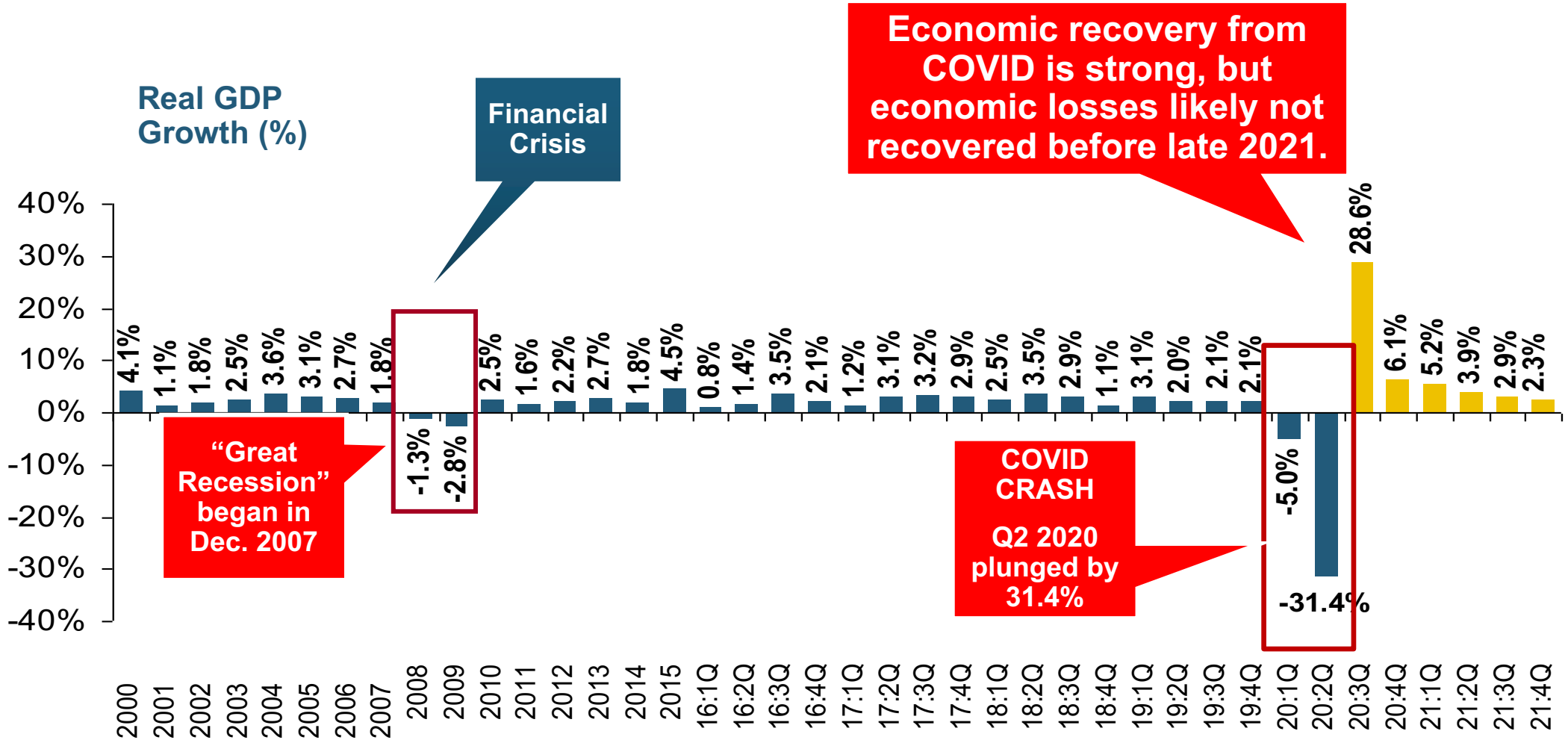

**The most recent economic expansion ended in Feb. 2020 and was the longest in US history (began July 2009)**

**Recession may officially last only 5-8 months**

**Will likely take 2+ years to recover lost growth**

* As of August 2020 but excluding current COVID-19 recession which began in Feb. 2020 but with an indeterminabt end.
Sources: National Bureau of Economic Research; Risk and Uncertainty Management Center, University of South Carolina.

# US Real GDP Growth*

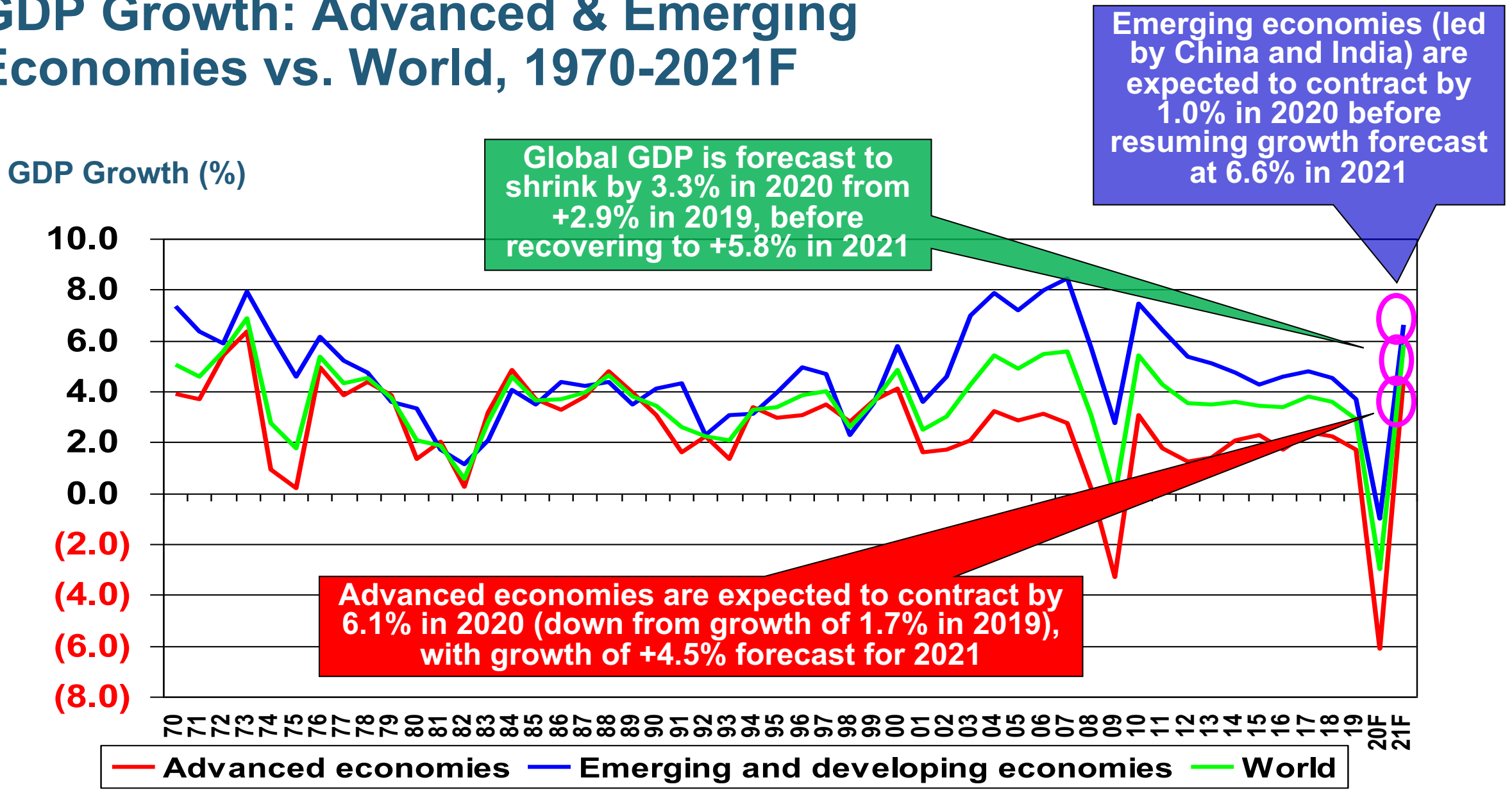



**Demand for Insurance Will Be Severely Impacted As the Economy Slows but Is Expected to Improve by Late Q3 and into Q4**

* Estimates/Forecasts from Wells Fargo Securities.

Source: US Department of Commerce, Wells Fargo Securities 10/20; Center for Risk and Uncertainty Management, University of South Carolina.

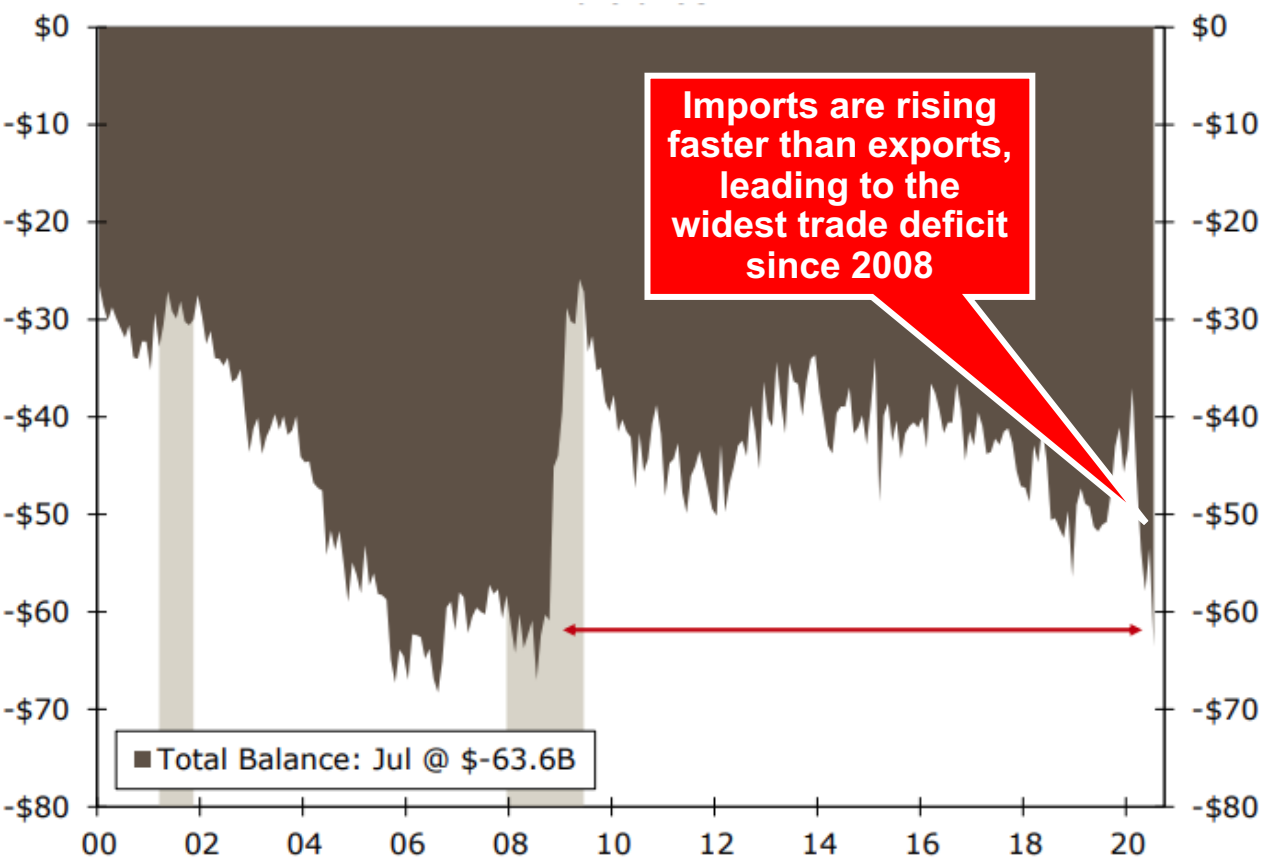
# GDP Growth: Advanced & Emerging Economies vs. World, 1970-2021F



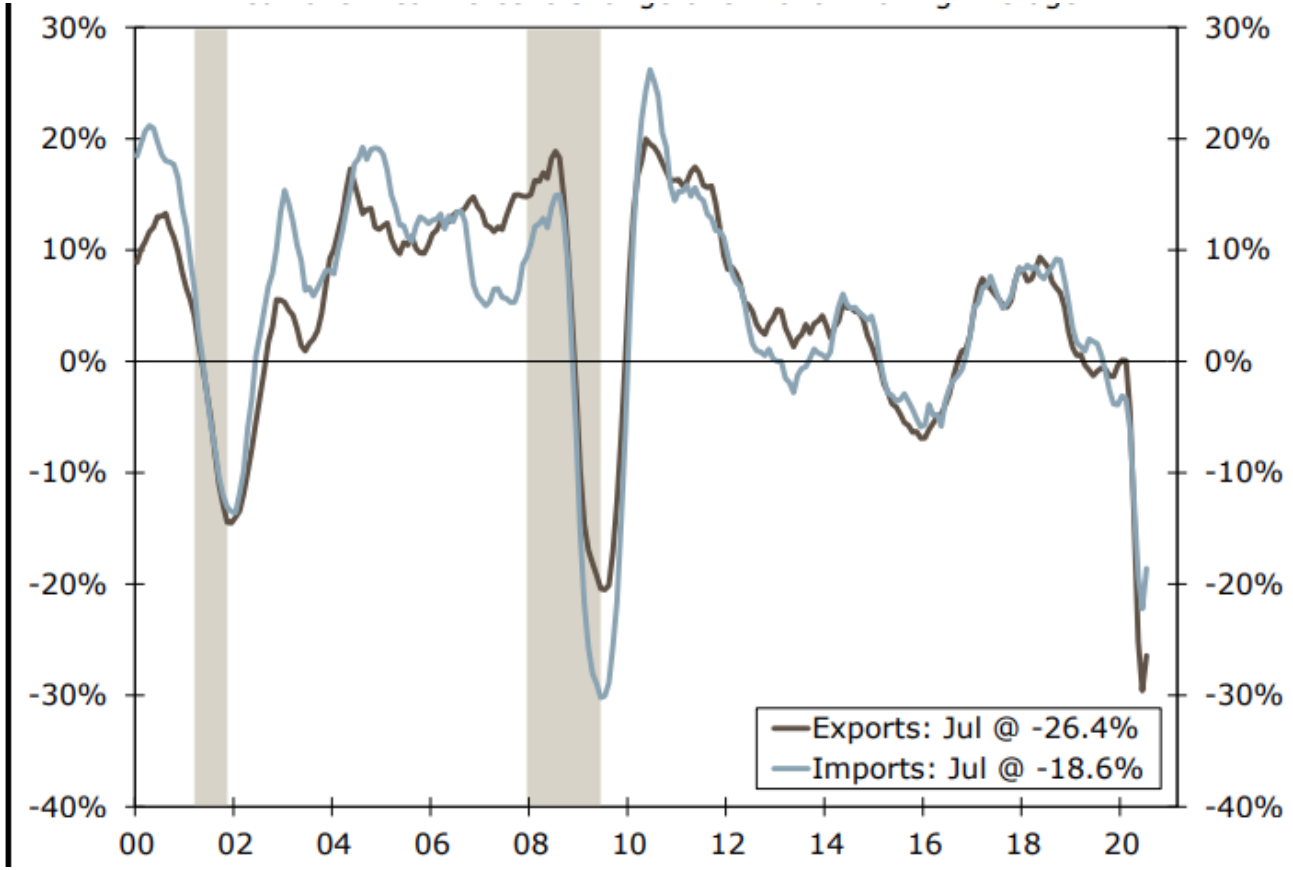

Source: International Monetary Fund, *World Economic Outlook*, Apr. 2020;
Univ. of South Carolina, Risk and Uncertainty Management Center.

# Surging Trade Deficit as Trade Flows Begin Slow Recovery

## Trade Balance in Goods & Services




## US Exports and Imports

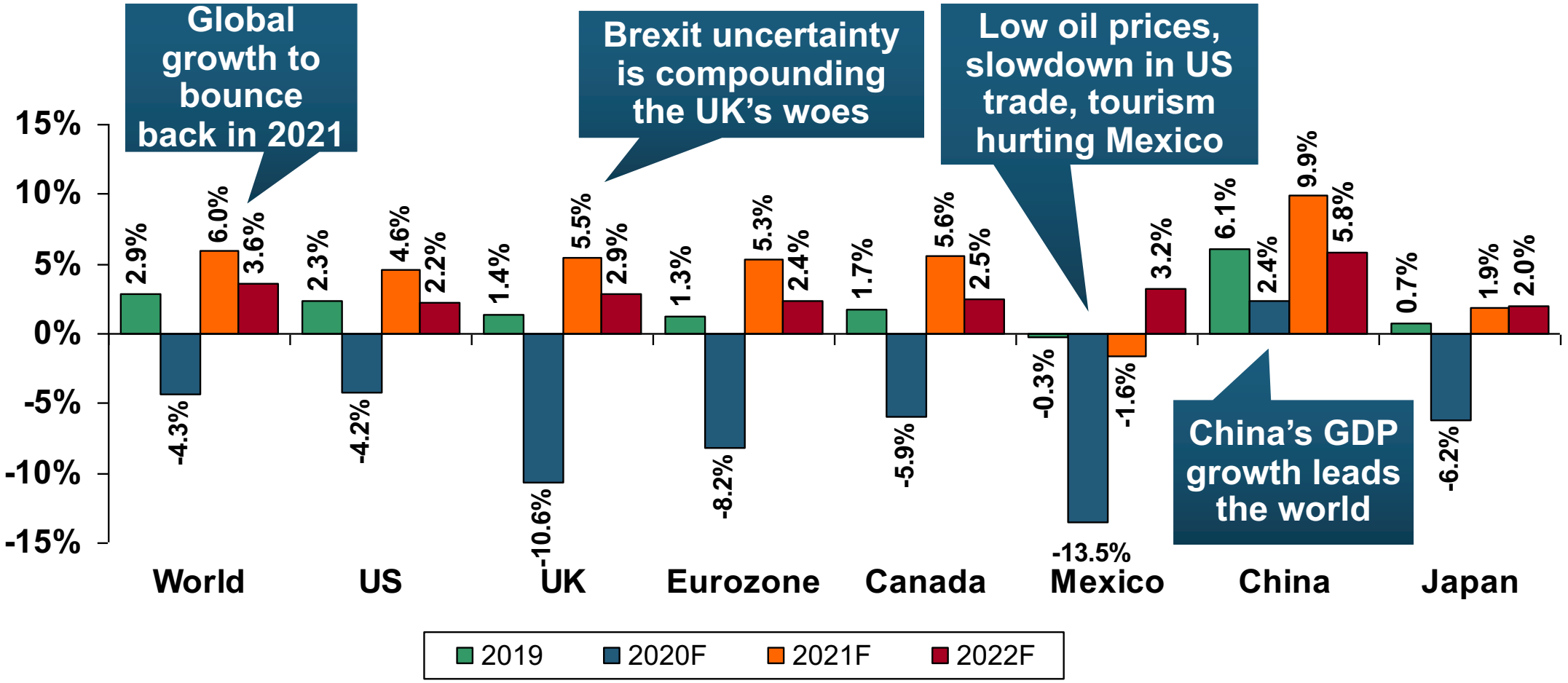



- **Current and looming trade wars are negatives for ocean and inland marine lines (and many others)**

- **The outcome of the election will determine whether the US continues down a path of increasing isolationism or re-engages with a more globalist strategy**

Sources: Wells Fargo Securities, US Commerce Dept.; Risk and Uncertainty Management Center, University of South Carolina

# Real GDP Growth Forecasts, Select Major Economies: 2019 – 2022F

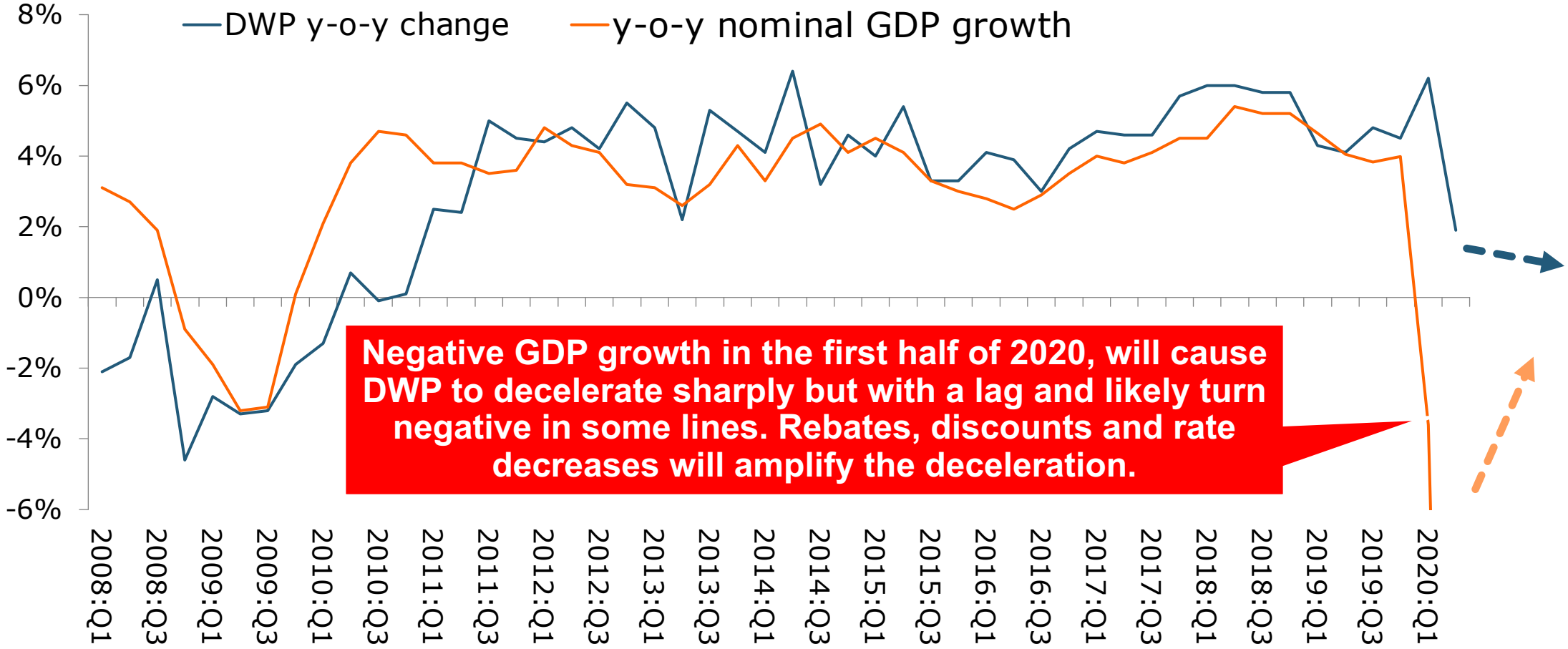



**The coronavirus recession of 2020 will be followed by a robust period of growth in most countries in 2021, led by China but with Latin America lagging. Growth rates should approach pre-COVID trends in 2022**

Source: Wells Fargo Securities (Oct. 2020); Univ. of South Carolina, Risk and Uncertainty Management Center.

# The Economy Drives P/C Insurance Industry Premiums: 2006:Q1–2020:Q2*

## Direct Premium Growth (All P/C Lines) vs. Nominal GDP: Quarterly Y-o-Y Pct. Change




**Negative GDP growth in the first half of 2020, will cause DWP to decelerate sharply but with a lag and likely turn negative in some lines. Rebates, discounts and rate decreases will amplify the deceleration.**

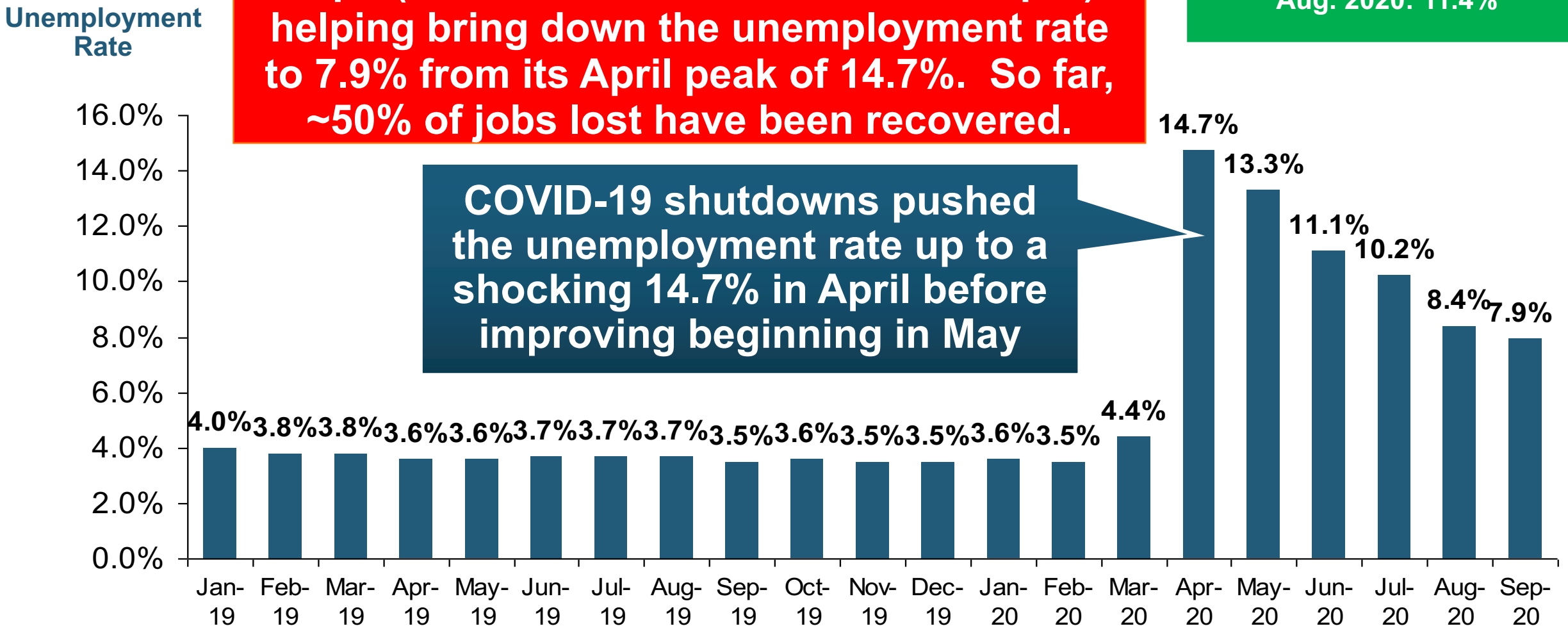
**Direct written premiums track nominal GDP fairly tightly over time, suggesting the P/C insurance industry's growth prospects inextricably linked to economic performance.**

Sources: SNL Financial; U.S. Commerce Dept., Bureau of Economic Analysis; ISO; I.I.I.; Risk and Uncertainty Management Center, University of South Carolina.

# Unemployment Rate: Jan. 2019 – Sept. 2020

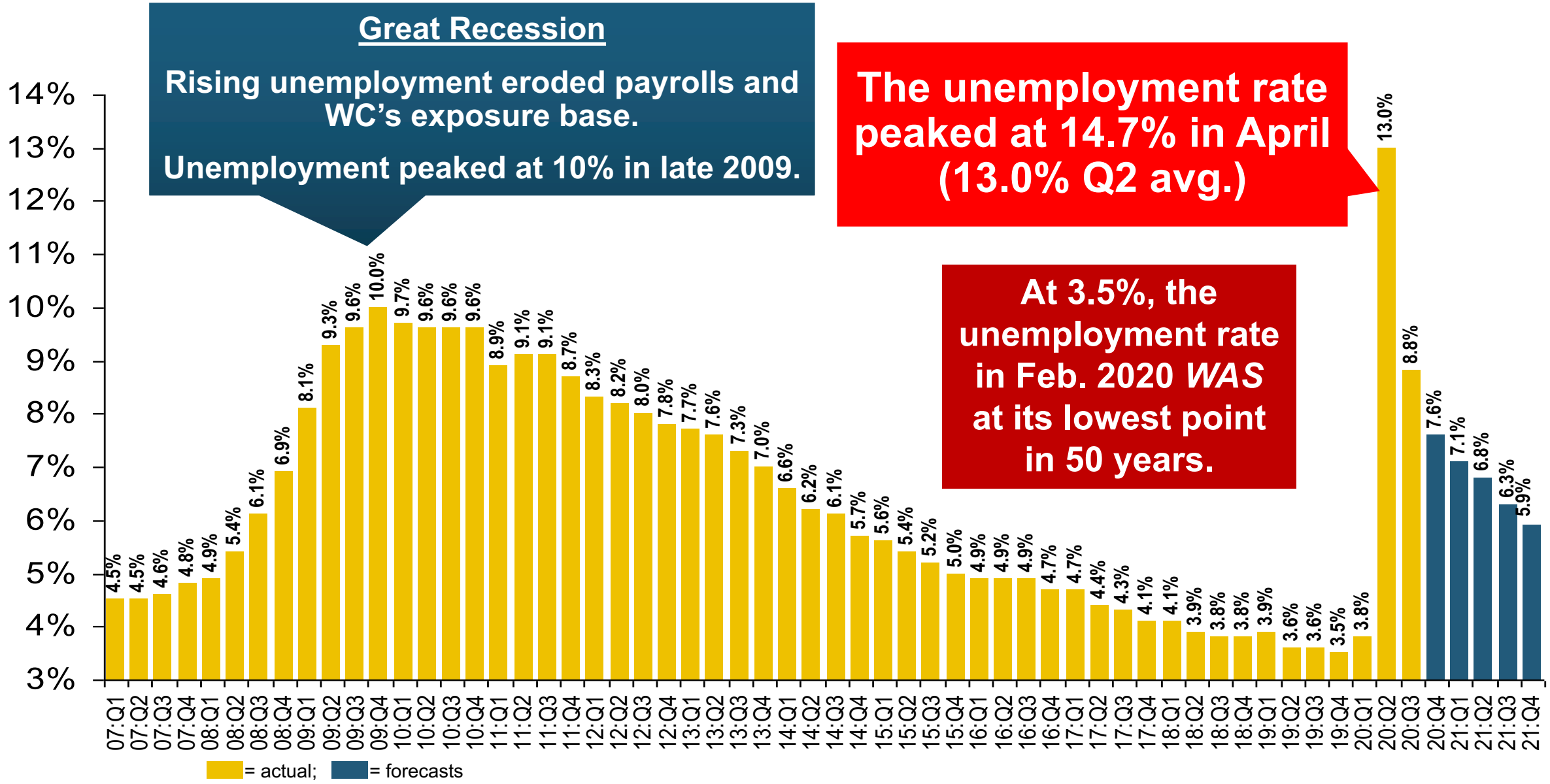
**California:**
Feb. 2020: 3.9% (record low)
Peak: 16.4% (Apr./May)
Aug. 2020: 11.4%

**11.4M jobs were created from May through Sept. (after a loss of 22.2M in March/April) helping bring down the unemployment rate to 7.9% from its April peak of 14.7%. So far, ~50% of jobs lost have been recovered.**



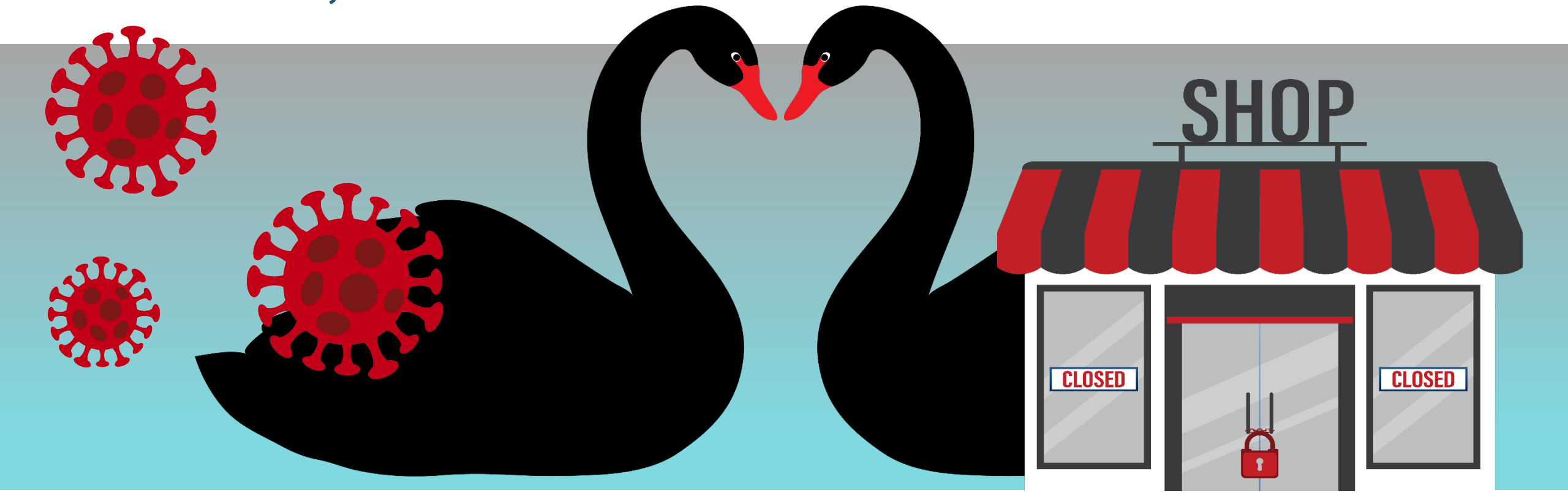

Source: US Bureau of Labor Statistics; Risk and Uncertainty Management Center, University of South Carolina.

# US Unemployment Rate Forecast: 2007:Q1–2021:Q4




Sources: US Bureau of Labor Statistics; Wells Fargo Securities (10/20 edition); Risk and Uncertainty Management Center, University of South Carolina.

# Government Mandated Business Closures Were the Real Black Swan, Not the Coronavirus




- The US (and world) has endured several other major infectious disease outbreaks killing 100,000+ Americans without shutting down the economy
  - Hong Kong Flu (1968-70)
  - Asian Flu (1957-58)

- It is the reaction to the virus that is unprecedented and represents the *true* Black Swan event
- The ramifications of this decision will be consequential for a generation (e.g., $3 trill. in debt)

Sources: CDC; Risk and Uncertainty Management Center, University of South Carolina

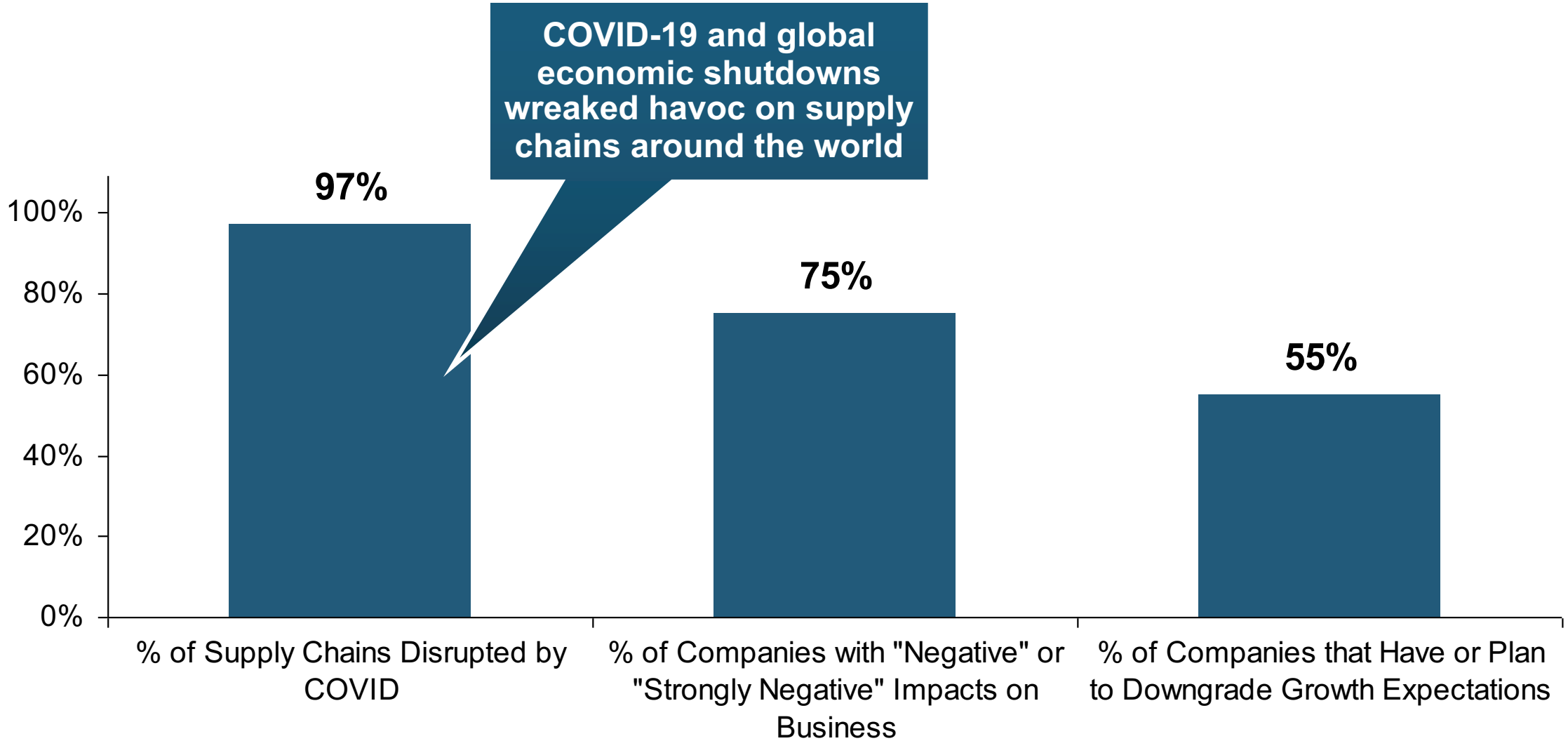
# Supply Chain Risks

## COVID-19 Exposed Many Weaknesses in Global Supply Chains



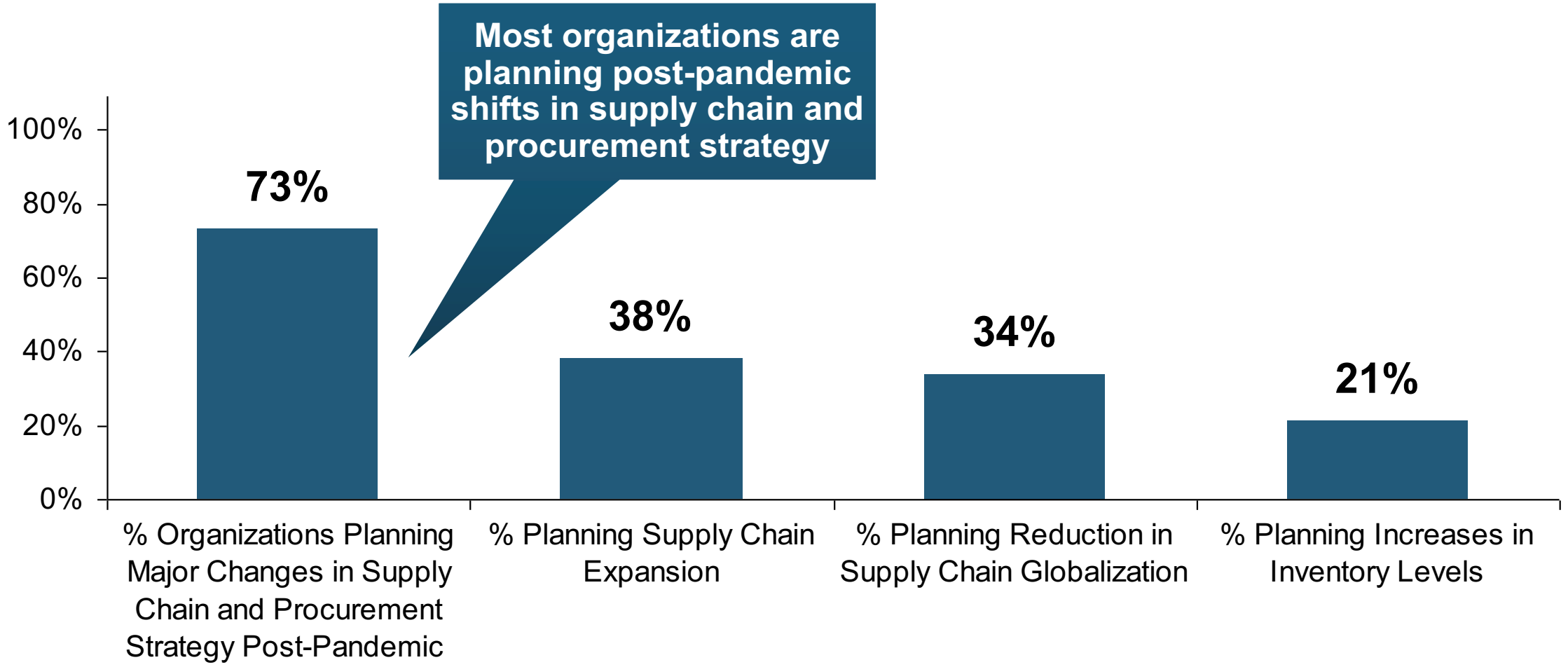
49

# COVID-19 Impacts on Supply Chains




Source: Procurious, *How Now? Supply Chain Confidence Index*. Survey of 605 procurement, supply chain and business leaders, taken April 28 – May 12, 2020; Accessed at: https://www.procurious.com/how-now

# Top Responses by Organizations to COVID-19 Supply Chains Disruptions




Source: Procurious, *How Now? Supply Chain Confidence Index*. Survey of 605 procurement, supply chain and business leaders, taken April 28 – May 12, 2020; Accessed at: https://www.procurious.com/how-now

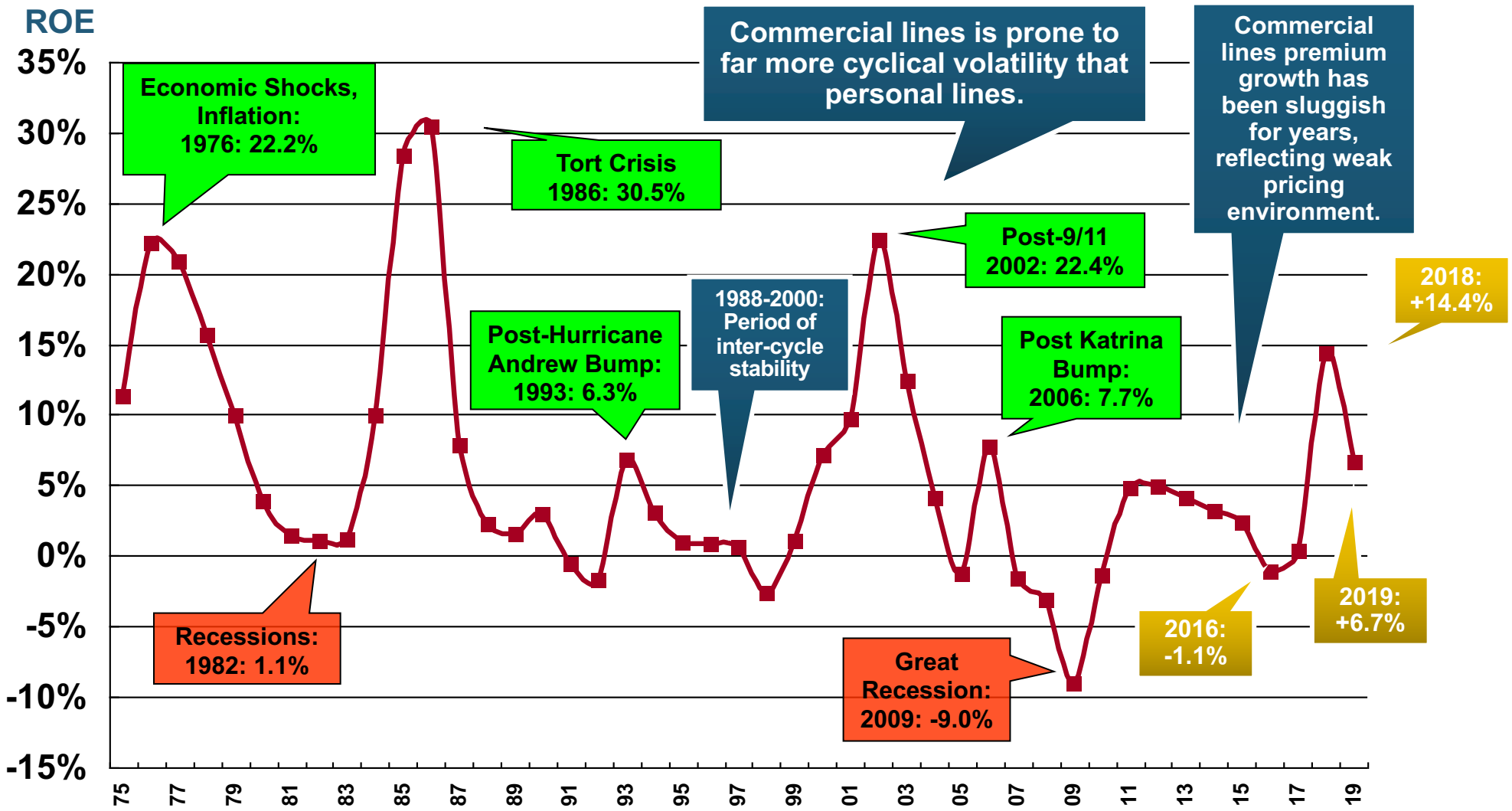
# Commercial Lines Growth, Underwriting Performance & Pricing Cyclicality

## Pricing Pressures Are Intensifying



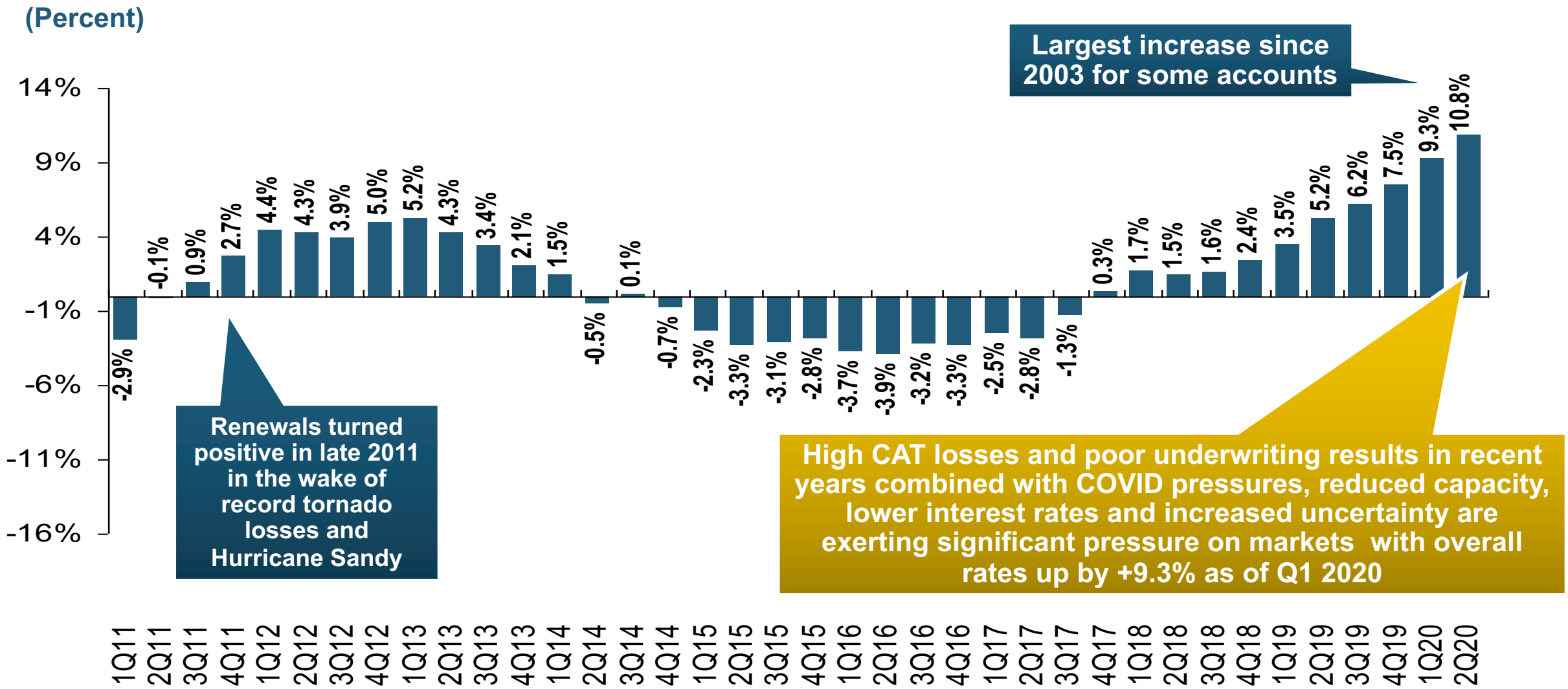
52

# Commercial Lines NPW Premium Growth: 1975 – 2019




Note: Data include state funds beginning in 1998.
Source: A.M. Best; Insurance Information Institute; Univ. of South Carolina Center for Risk and Uncertainty Management, ISO.

# CIAB: Average Commercial Rate Change, All Lines, 2011:Q1–2020:Q2*

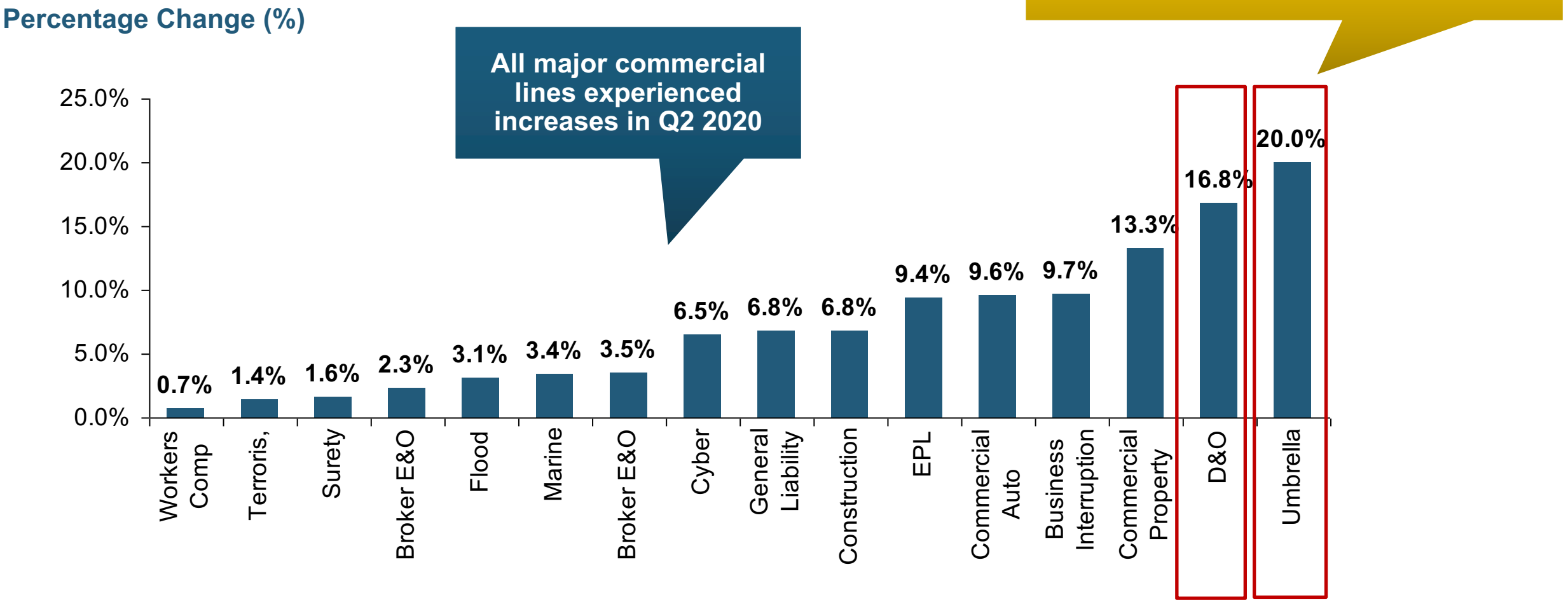



*Latest available.
Note: CIAB data cited here are based on a survey. Rate changes earned by individual insurers can and do vary, potentially substantially.
Source: Council of Insurance Agents & Brokers; Center for Risk and Uncertainty Management, Univ. of South Carolina.

# Change in Commercial Rate Renewals, by Line: 2020:Q2

Umbrella now leads all major commercial lines in terms of rate gains, exceeding D&O and CP

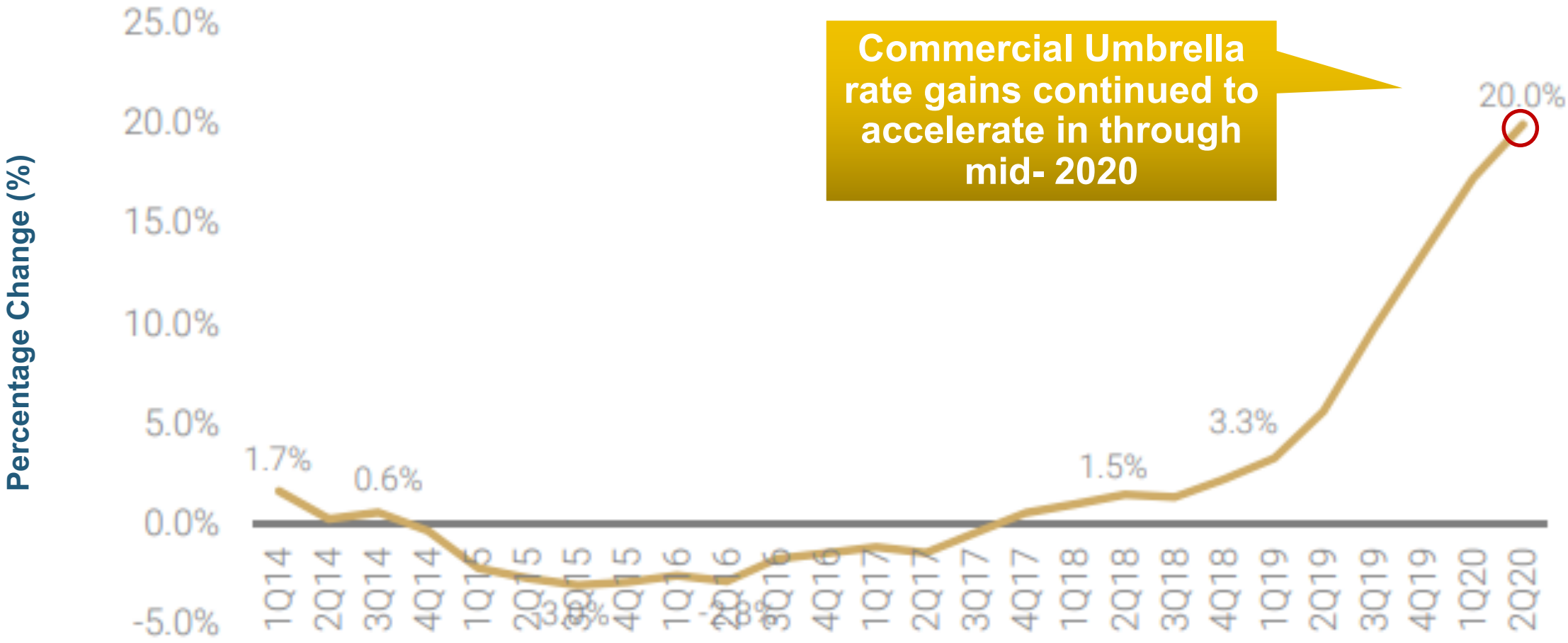
All major commercial lines experienced increases in Q2 2020




Note: CIAB data cited here are based on a survey. Rate changes earned by individual insurers can and do vary, potentially substantially.

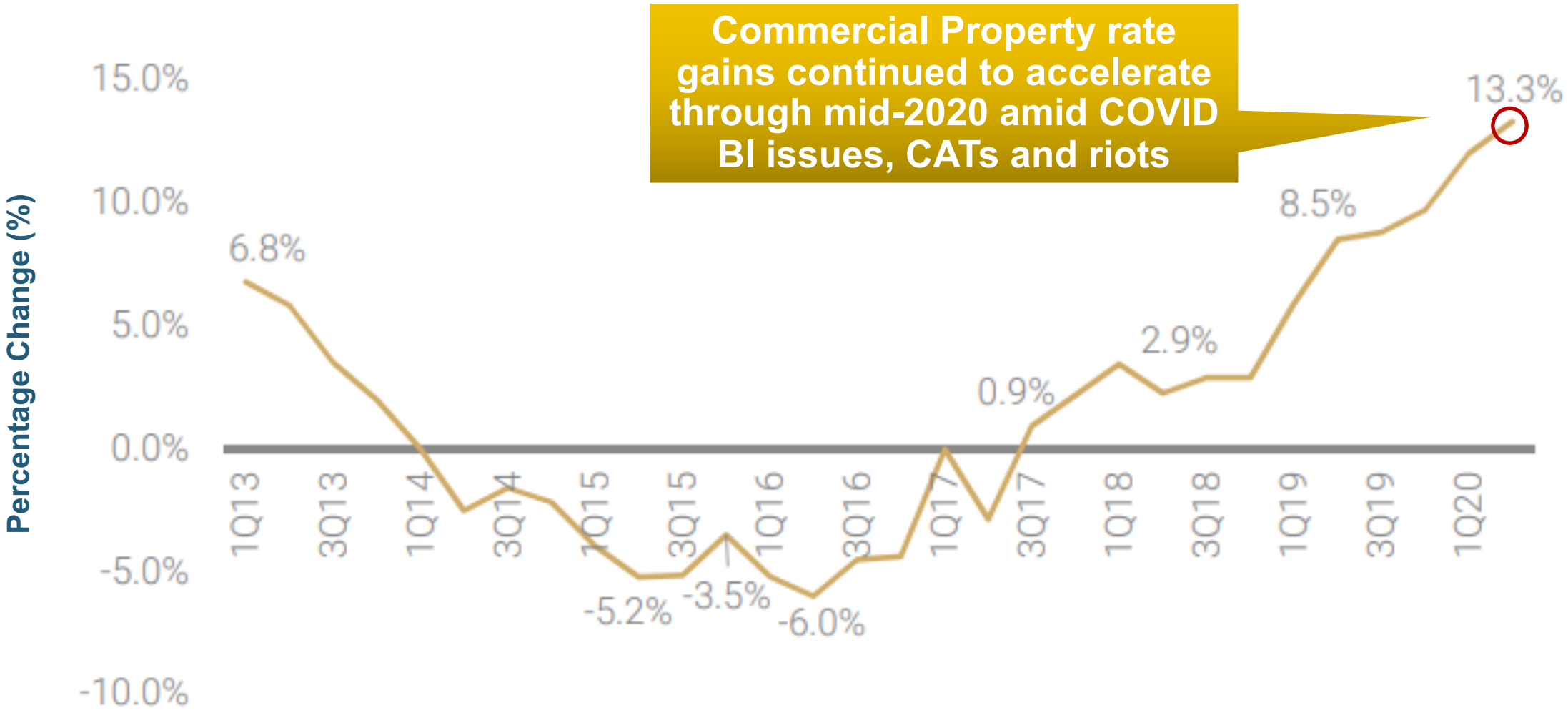
Source: Council of Insurance Agents and Brokers; USC Center for Risk and Uncertainty Management.

# Change in Commercial Umbrella Renewals: 2011:Q1 to 2020:Q2



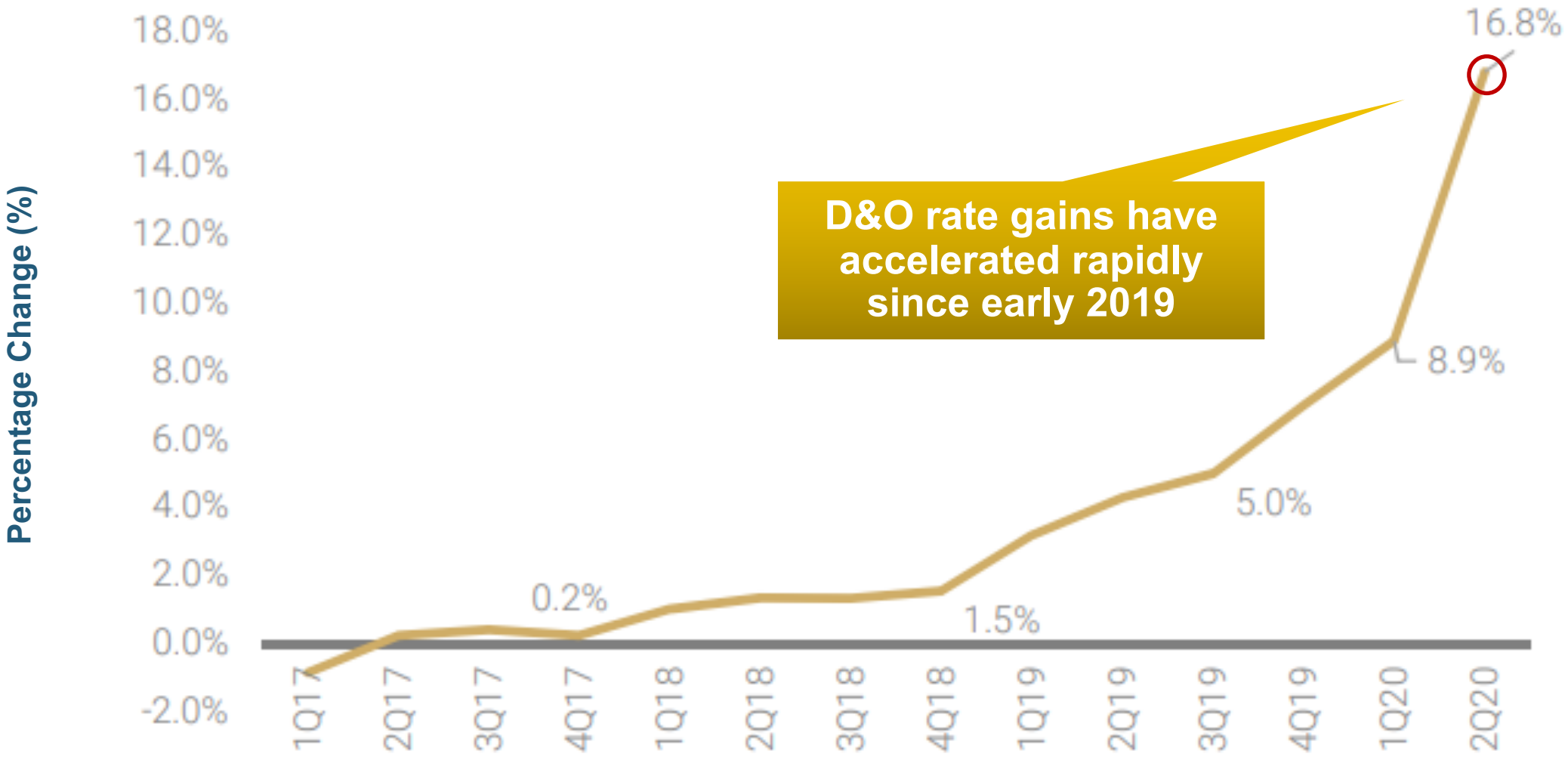

Note: CIAB data cited here are based on a survey. Rate changes earned by individual insurers can and do vary, potentially substantially.
Source: Council of Insurance Agents and Brokers.

# Change in Commercial Property Rate Renewals: 2011:Q1 to 2020:Q2



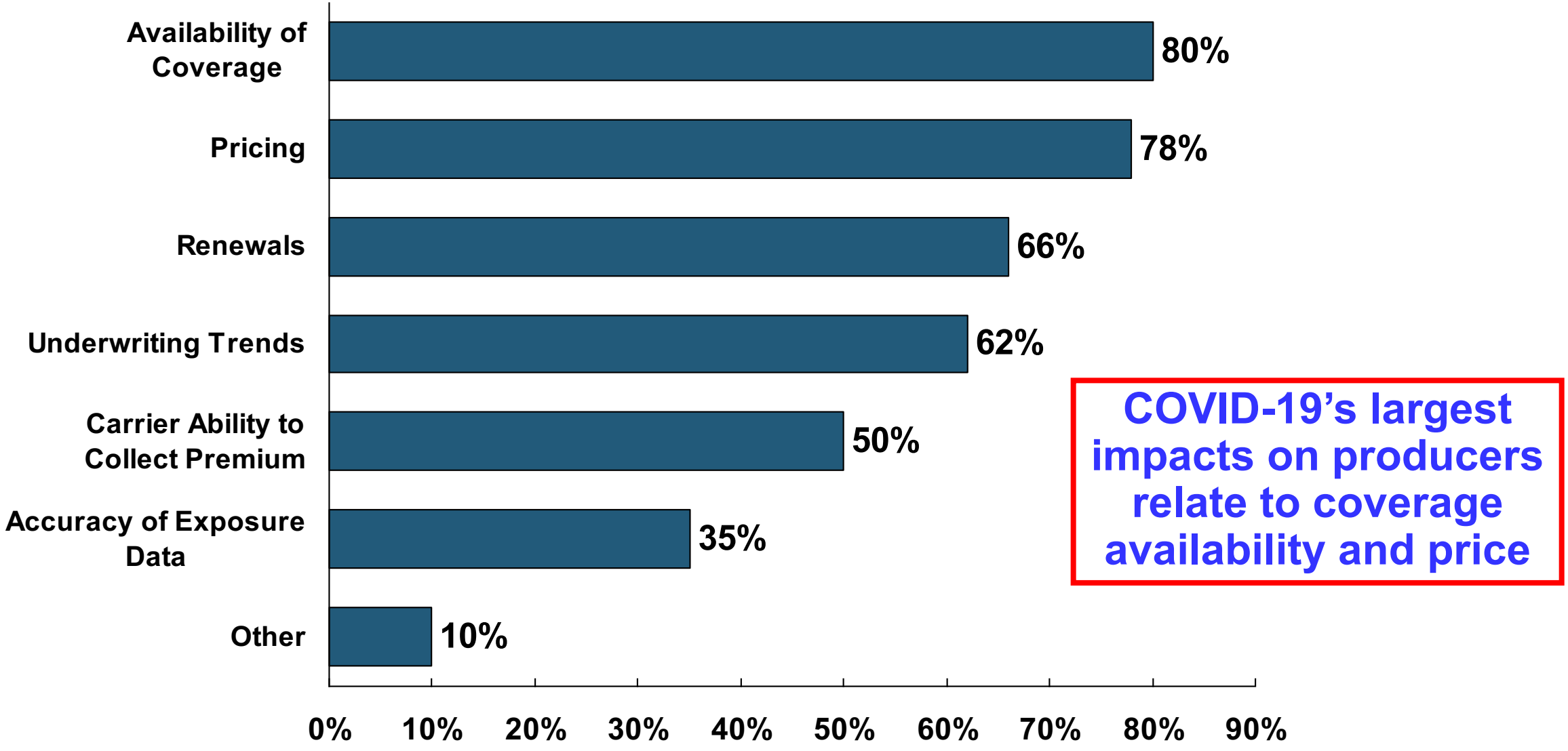

Note: CIAB data cited here are based on a survey. Rate changes earned by individual insurers can and do vary, potentially substantially.
Source: Council of Insurance Agents and Brokers.

# Change in D&O Rate Renewals: 2017:Q1 to 2020:Q2




Note: CIAB data cited here are based on a survey. Rate changes earned by individual insurers can and do vary, potentially substantially.
Source: Council of Insurance Agents and Brokers.

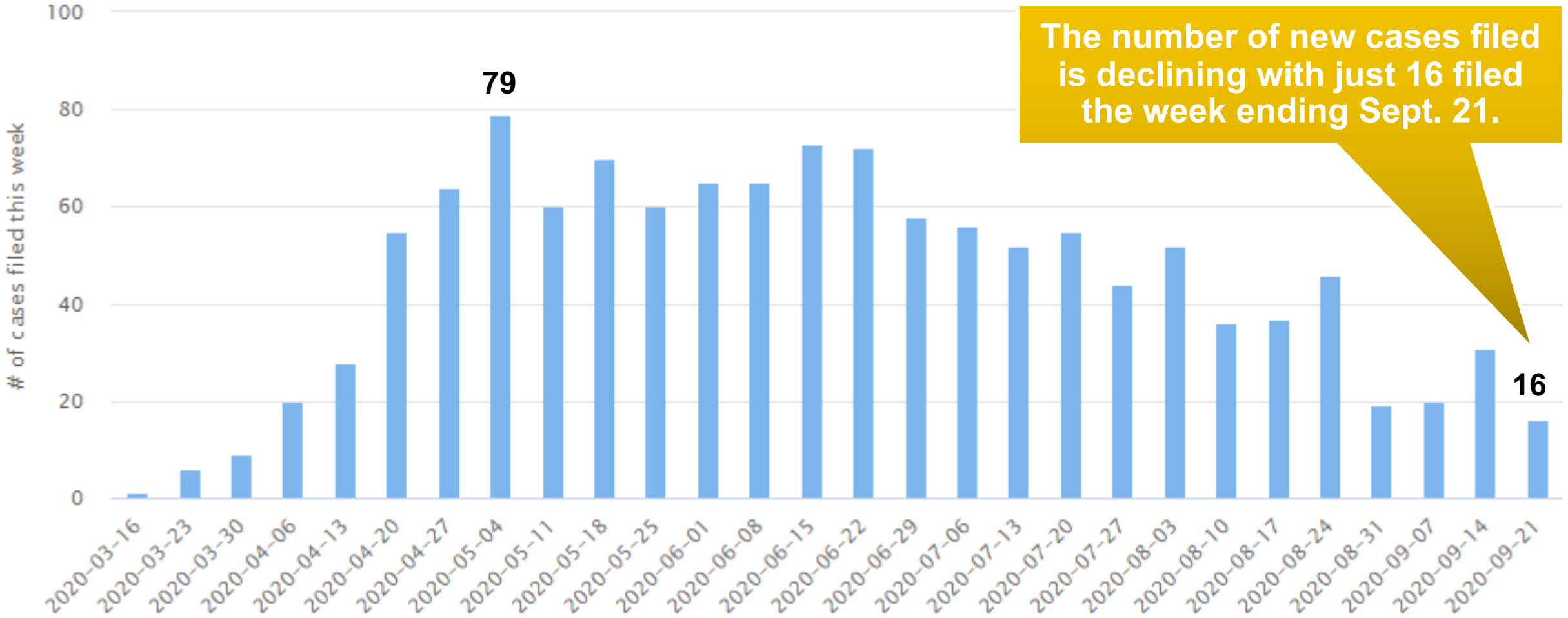
# COVID-19 Issues Impacting Producers, 2020:Q2*




**COVID-19's largest impacts on producers relate to coverage availability and price**

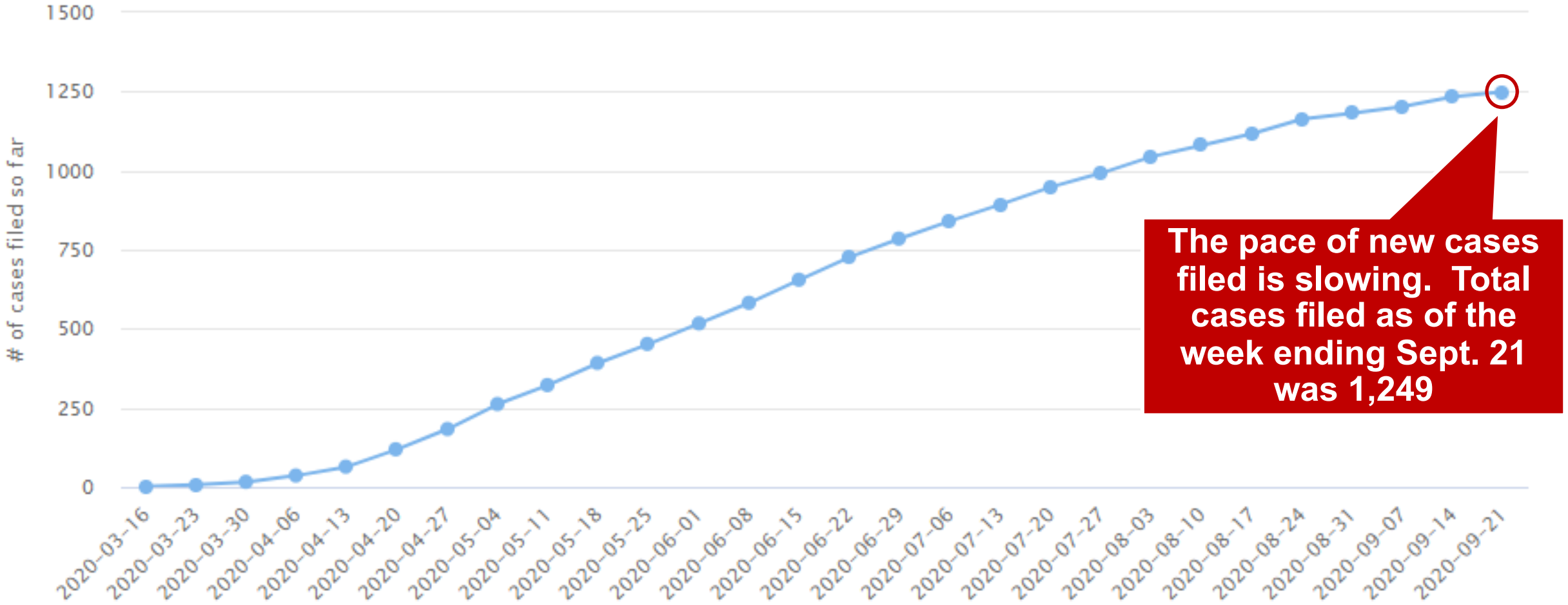
Note: CIAB, Q2 2020 *COVID-19 Supplement* accessed at: https://www.ciab.com/download/25840/; Risk and Uncertainty Management Center, University of South Carolina.

# Weekly Number of COVID-Related Lawsuits Filed:
## *(Weeks Ending Mar. 16, 2020 to Sept. 21, 2020)*



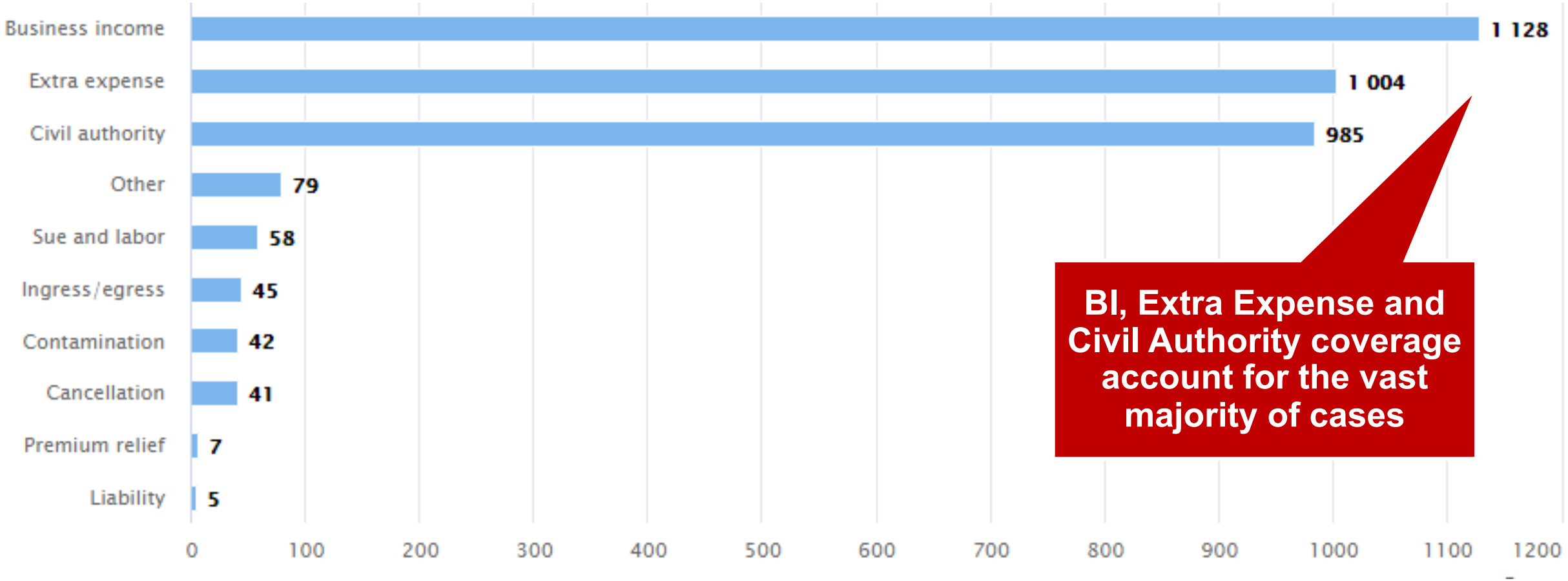

Source: Covid Coverage Litigation Tracker, University of Pennsylvania School of Law. Accessed 10/10/20 at: https://cclt.law.upenn.edu

# Cumulative COVID-Related Lawsuits Filed:
## *(Weeks Ending Mar. 16, 2020 to Sept. 21, 2020)*




Source: Covid Coverage Litigation Tracker, University of Pennsylvania School of Law. Accessed 10/10/20 at: https://cclt.law.upenn.edu

# Coverage Sought in COVID-Related Lawsuits:
## *(Total through Sept. 21, 2020)*




Source: Covid Coverage Litigation Tracker, University of Pennsylvania School of Law. Accessed 10/10/20 at: https://cclt.law.upenn.edu

# Tort Environment:
# The Return of Social Inflation?

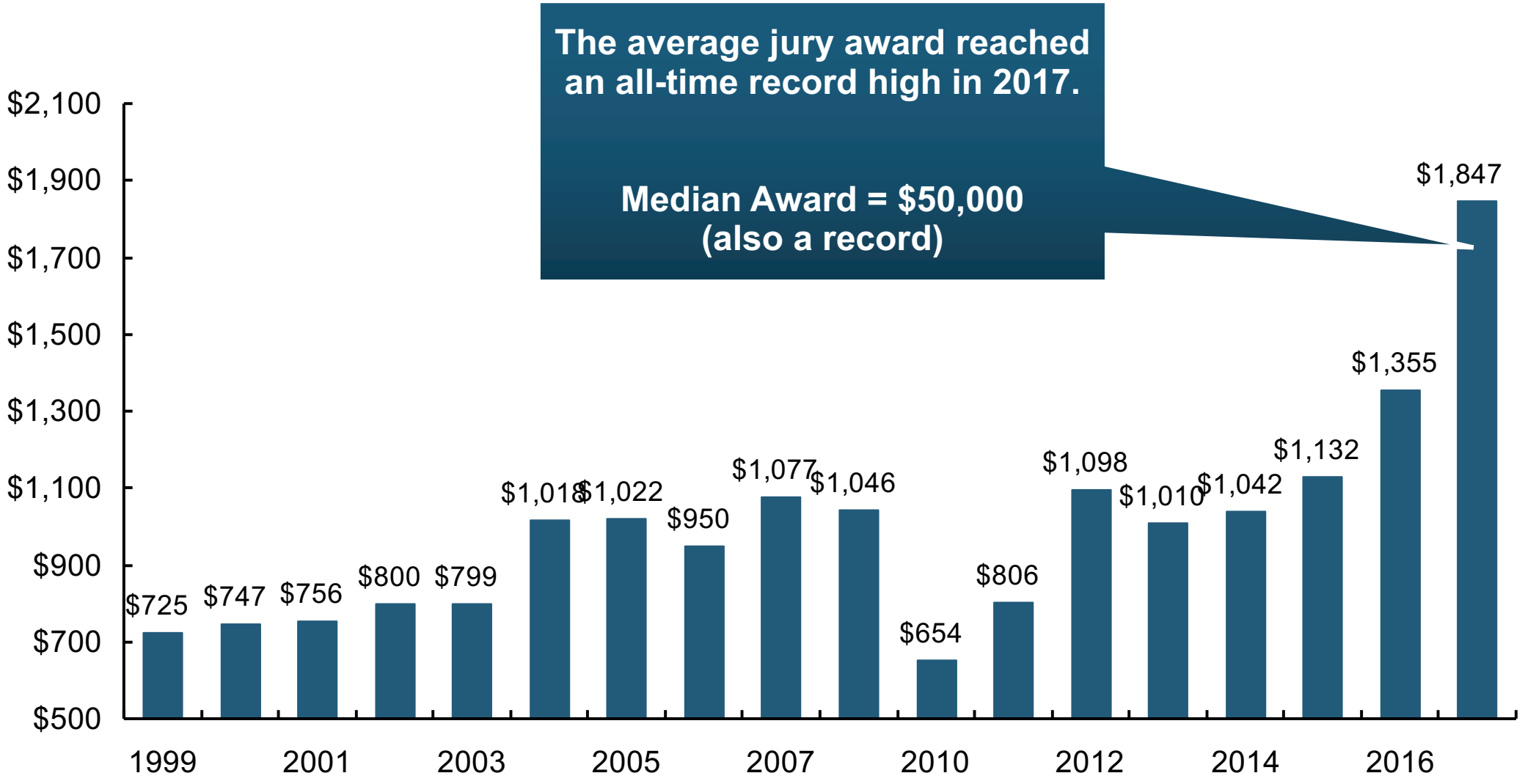
## Tort Costs Are Under Pressure from a Variety of Different Factors

***D&O Line Impacted***



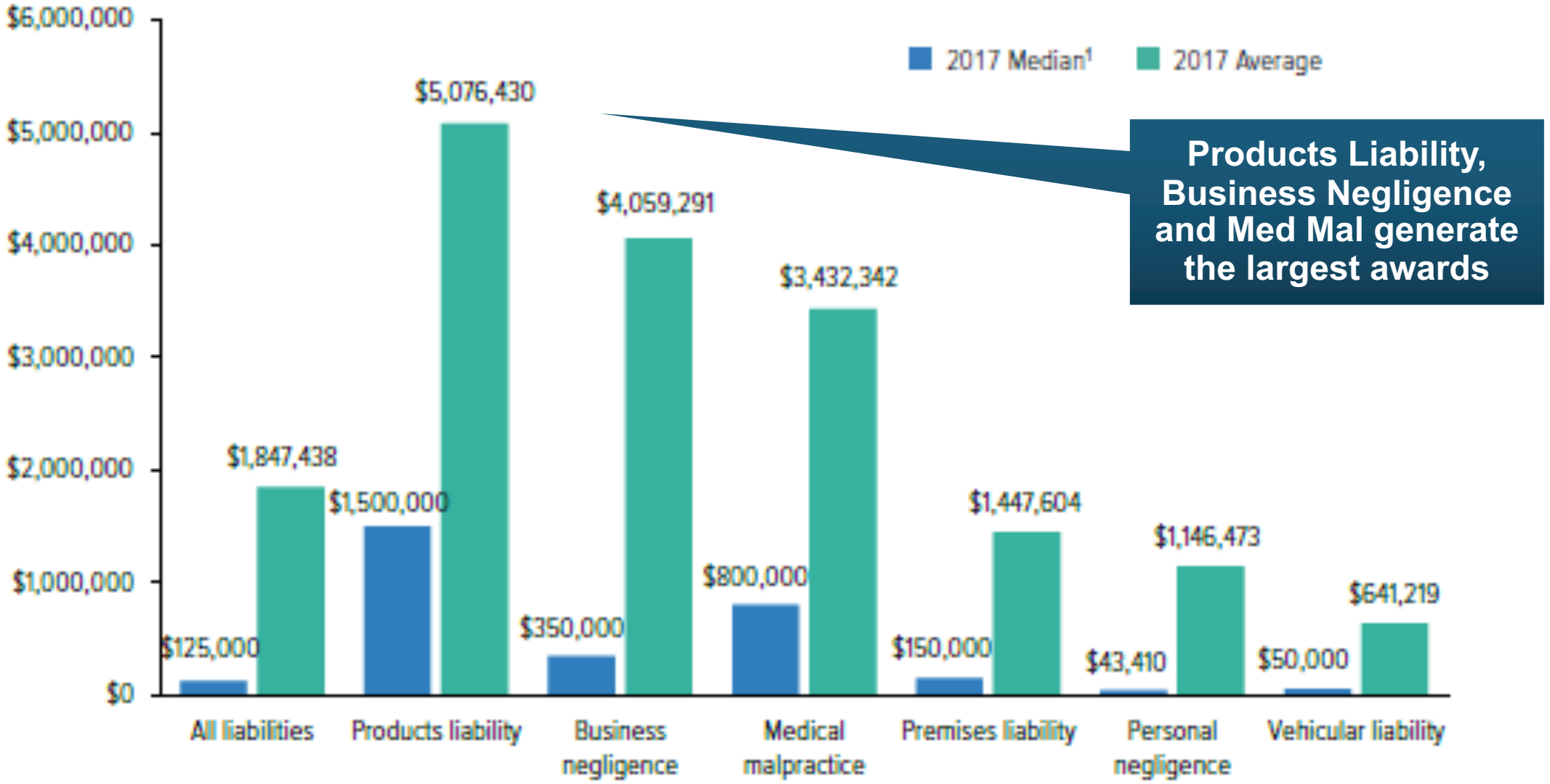
63

# Average Jury Awards, 1999 – 2017 (latest available)




Source: Jury Verdict Research; *Current Award Trends in Personal Injury* (58th Edition), Thomson Reuters; Risk and Uncertainty Management Center, Univ. of South Carolina.

# Average and Median Jury Awards, 2017 (latest available)




Source: Thompson Reuters, Current Award Trends in Personal Injury (58th ed.); Ins. Info, Inst.; Risk and Uncertainty Management Center, Univ. of South Carolina.

# The Nation's Judicial Hellholes: 2019 – 2020

## Watch List

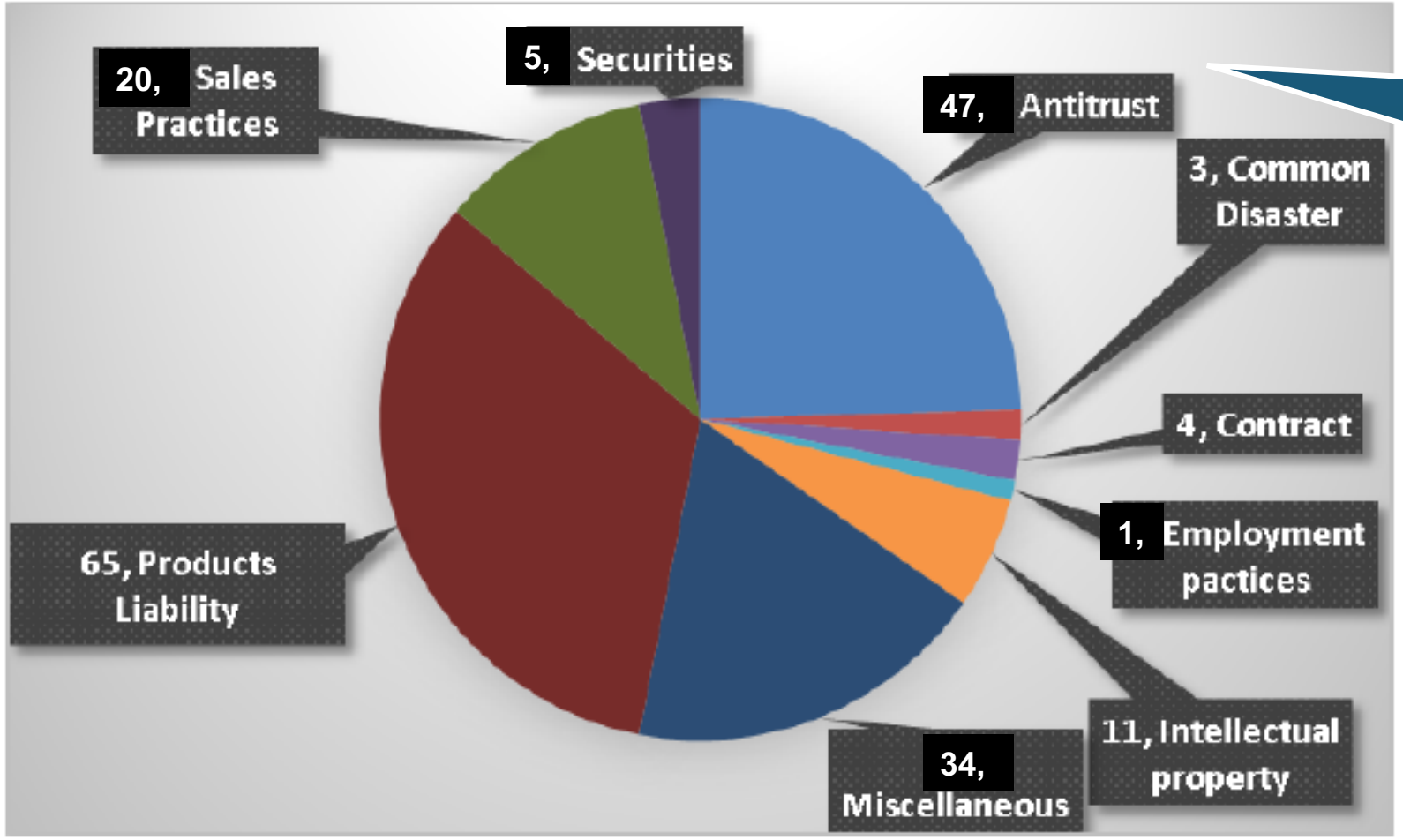
- CO Supreme Court
- Florida
- MD General Assem.
- MT Supreme Court
- PA Supreme Court
- WV Supreme Ct.

## Dishonorable Mention

- AK Supreme Court
- KS Supreme Court
- OR Supreme Court

Source: American Tort Reform Association; Risk and Uncertainty Management Center, Univ. of South Carolina.

# Multi-District Litigation (MDL), Current Cases, as of Year-End 2019




**65 out of the 190 current MDL are related to Products Liability, with antitrust coming second at 47 (25%)**

**Examples**
**Roundup (Monsanto)**
**Talcum Powder (J&J)**
**Opiates (Purdue, etc.)**
**Deepwater Horizon (BP)**
**Diesel Deception (VW)**

Source: Judicial Panel on Multidistrict Litigation accesses at https://www.jpml.uscourts.gov/sites/jpml/files/JPML_Calendar_Year_Statistics-2019_1.pdf;
Risk and Uncertainty Management Center, Univ. of South Carolina.

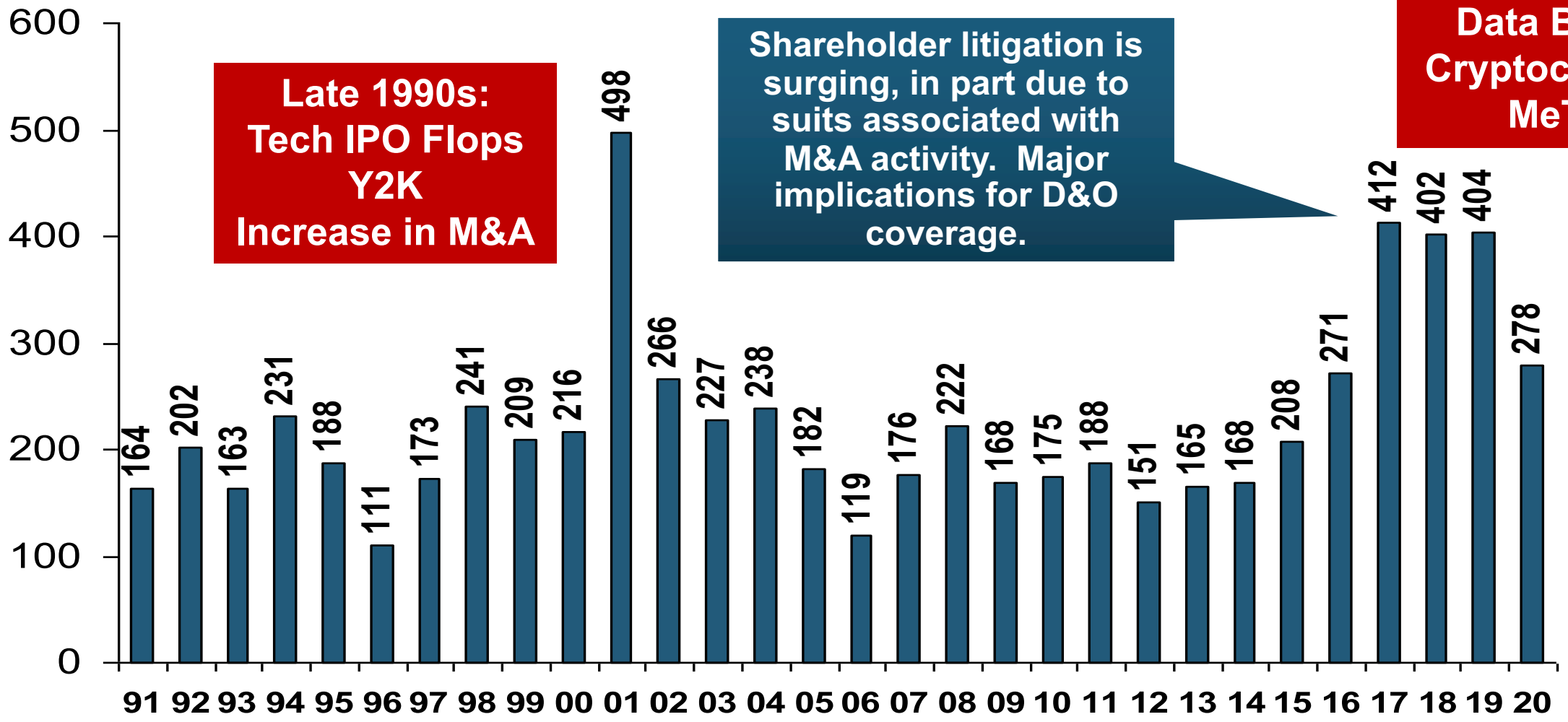
# Defense Costs and Cost Containment Expense as a Percent of Incurred Losses ($000), 2016 - 2018

| | 2016 | | 2017 | | 2018 | |
|---|---|---|---|---|---|---|
| | Amount | As a percent of Incurred losses | Amount | As a percent of Incurred losses | Amount | As a percent of Incurred losses |
| Product liability | $844,606 | 102.5% | $645,190 | 68.6% | $861,155 | 66.4% |
| Medical professional liability | 1,920,552 | 50.3 | 1,660,939 | 43.7 | 1,690,271 | 41.8 |
| Commercial multiple peril[2] | 2,152,076 | 35.0 | 2,117,223 | 34.8 | 2,276,024 | 31.2 |
| Other liability | 4,066,992 | 15.4 | 5,167,731 | 21.9 | 4,573,280 | 14.9 |
| Workers compensation | 3,270,001 | 3.7 | 2,956,635 | 3.3 | 3,065,540 | 3.3 |
| Commercial auto liability | 1,487,106 | 9.9 | 1,746,182 | 11.2 | 1,823,716 | 10.2 |
| Private passenger auto liability | 5,008,575 | 20.9 | 5,380,006 | 24.8 | 6,007,796 | 27.9 |
| **All liability lines** | **$18,749,908** | **11.4%** | **$19,673,906** | **12.1%** | **$20,297,782** | **11.6%** |

**Products and MPL lead the way in defense costs as a percent of incurred losses**

Note: Figures are net of reinsurance and exclude state funds.
Source: NAIC sourced from S&P Global Markets; Ins. Info, Inst.; Risk and Uncertainty Management Center, Univ. of South Carolina.

# Shareholder Class Action Lawsuits*



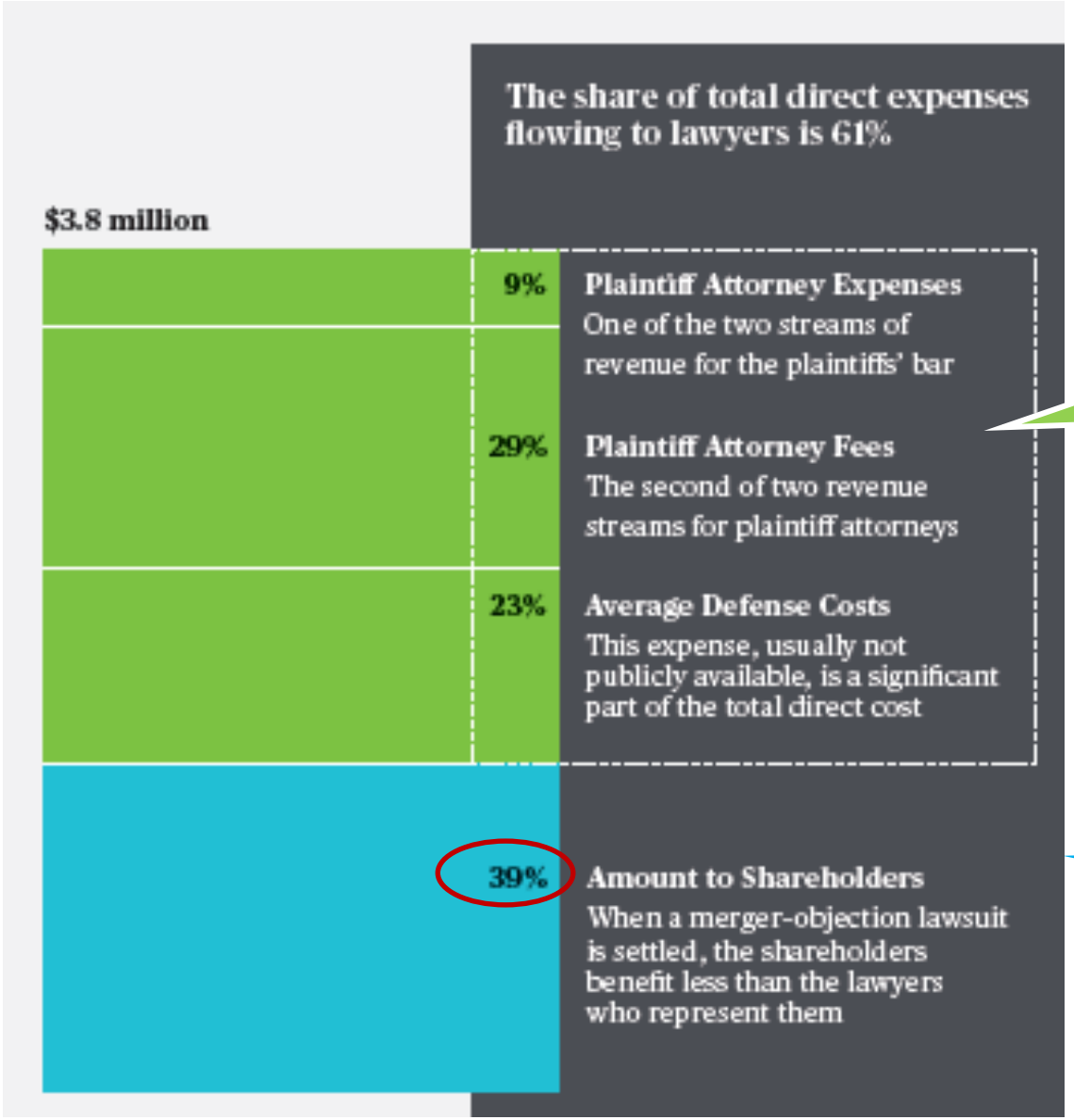

*As of Oct. 9, 2020.

Source: Stanford University School of Law (securities.stanford.edu); Risk and Uncertainty Management Center, Univ. of South Carolina.

# Nuisance to Menace: Securities Class Action → D&O Pressure

Source: Chubb: “From Nuisance to Menace: The Rising Tide of Security Class Action Litigation,” June 2019.

# Total Direct Cost of Settled Merger Claims, 2012 - 2017




**38% of the cost to settle merger-objection lawsuits goes to plaintiff attorney fees and expense while 23% goes toward defense costs**

**Just 39% of the cost to settle merger-objection lawsuits goes to shareholders**

Source: Chubb: "From Nuisance to Menace: The Rising Tide of Security Class Action Litigation," June 2019.

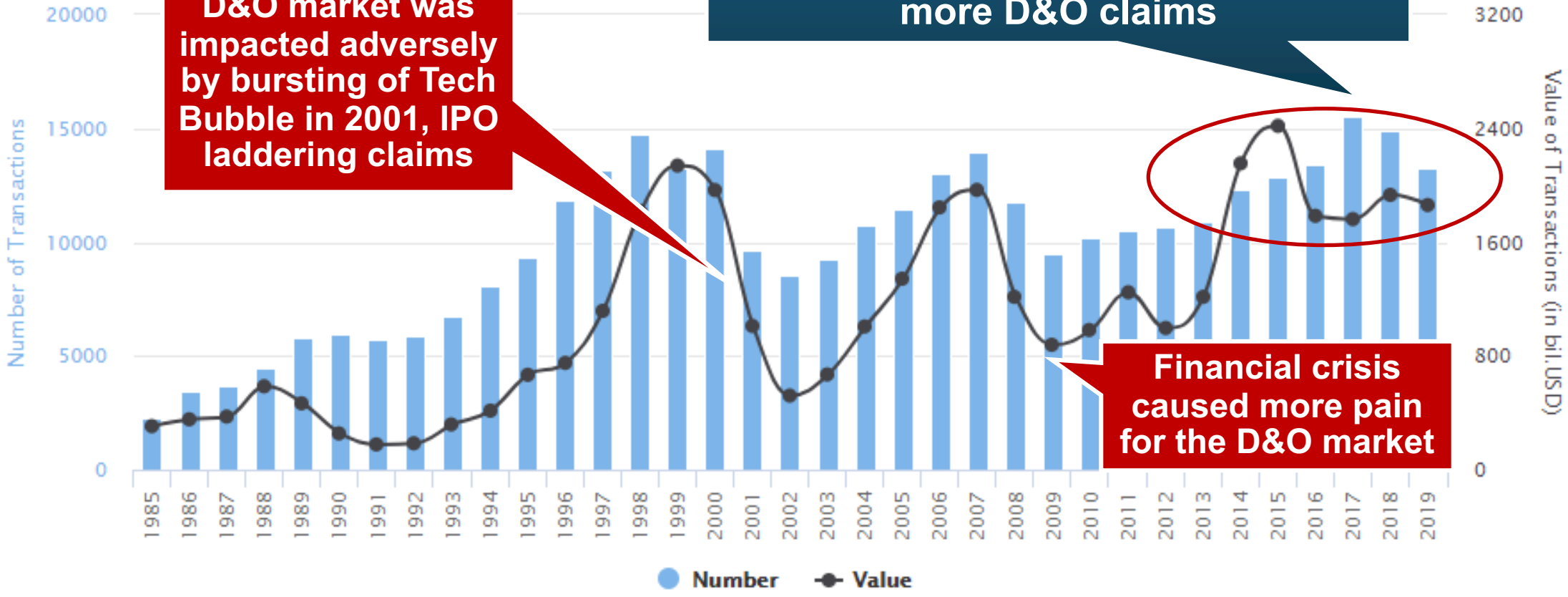
# Merger & Acquisition Activity in the US, 1985 - 2019

**Index: 1992 = 100**

**US M&A activity has been at or close to record levels in recent years both in terms of total deal value and number of deals. The result: More securities class action litigation and more D&O claims**

**D&O market was impacted adversely by bursting of Tech Bubble in 2001, IPO laddering claims**

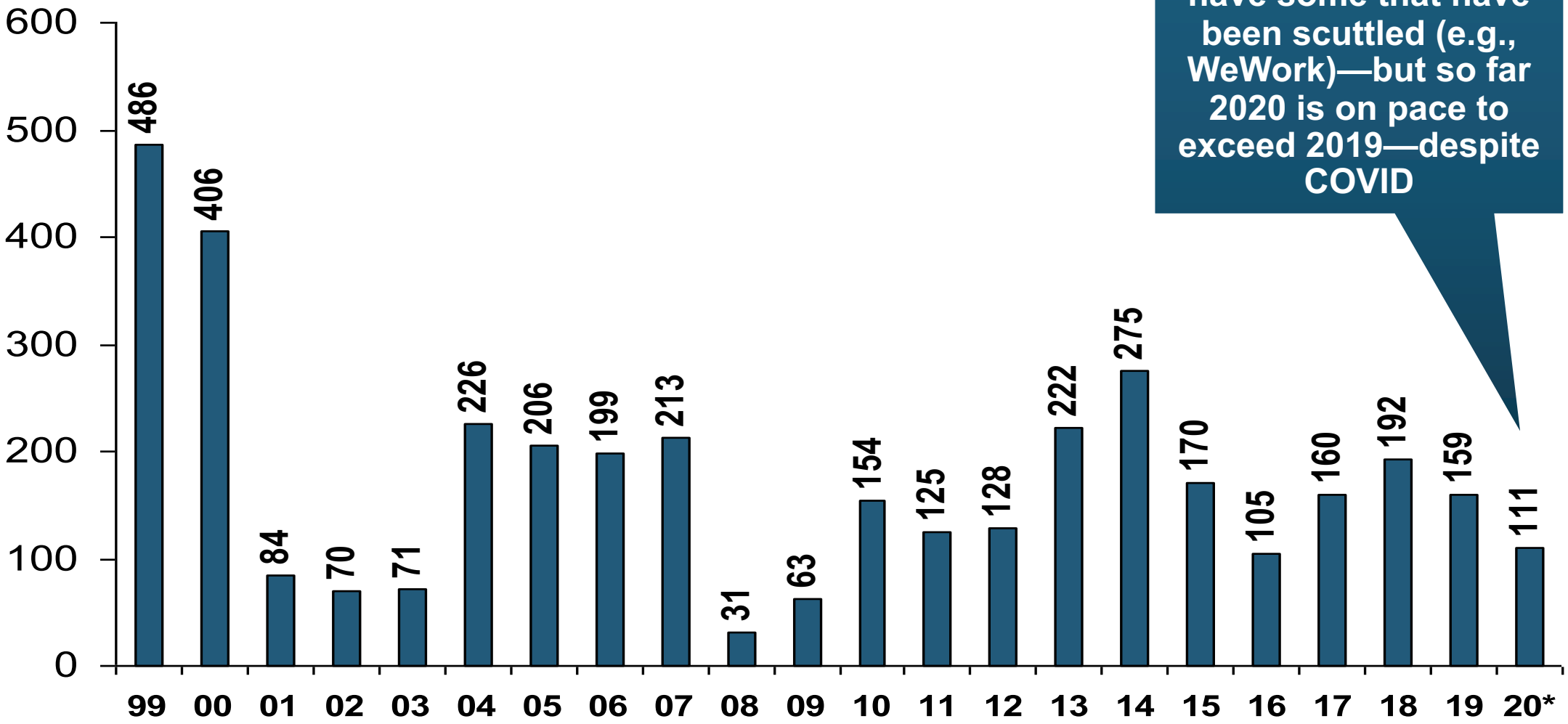
**Financial crisis caused more pain for the D&O market**




*Risk adjusted.

Source: Institute for Mergers, Acquisitions and Alliances (IMAA) accessed 1/19/20 at: https://imaa-institute.org/m-and-a-statistics-countries/.

# Number of IPOs in the US, 1999 – 2020*

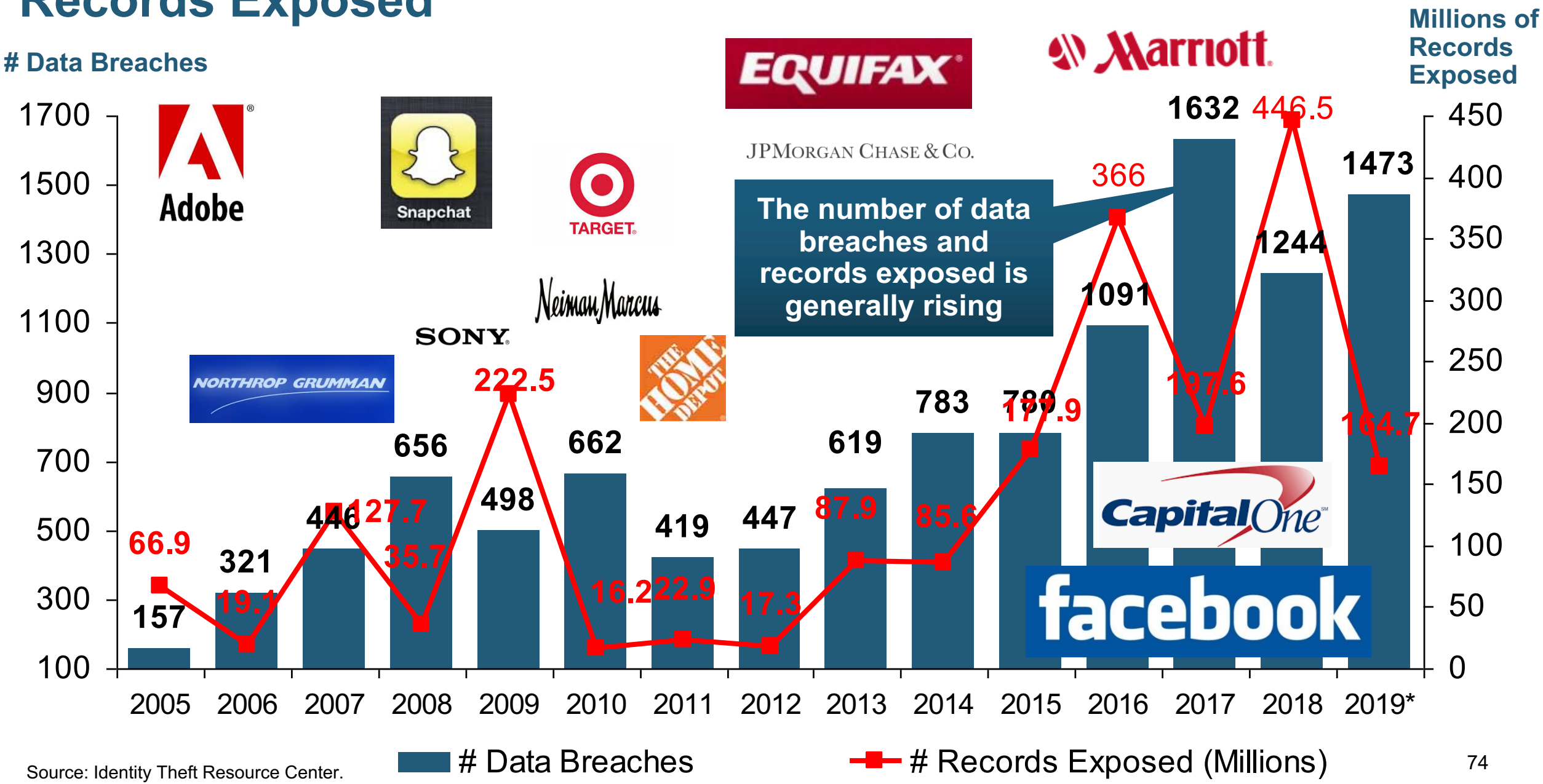



**Some recent IPOs have been troubled as have some that have been scuttled (e.g., WeWork)—but so far 2020 is on pace to exceed 2019—despite COVID**

*As of Aug. 31.

Source: Renaissance Capital; Risk and Uncertainty Management Center, Univ. of South Carolina.

# Data Breaches 2005-2019, by Number of Breaches and Records Exposed




Source: Identity Theft Resource Center.

# Federal and State COVID-19 Initiatives Impacting Commercial Insurers

# P/C Insurance Coverage & COVID-19

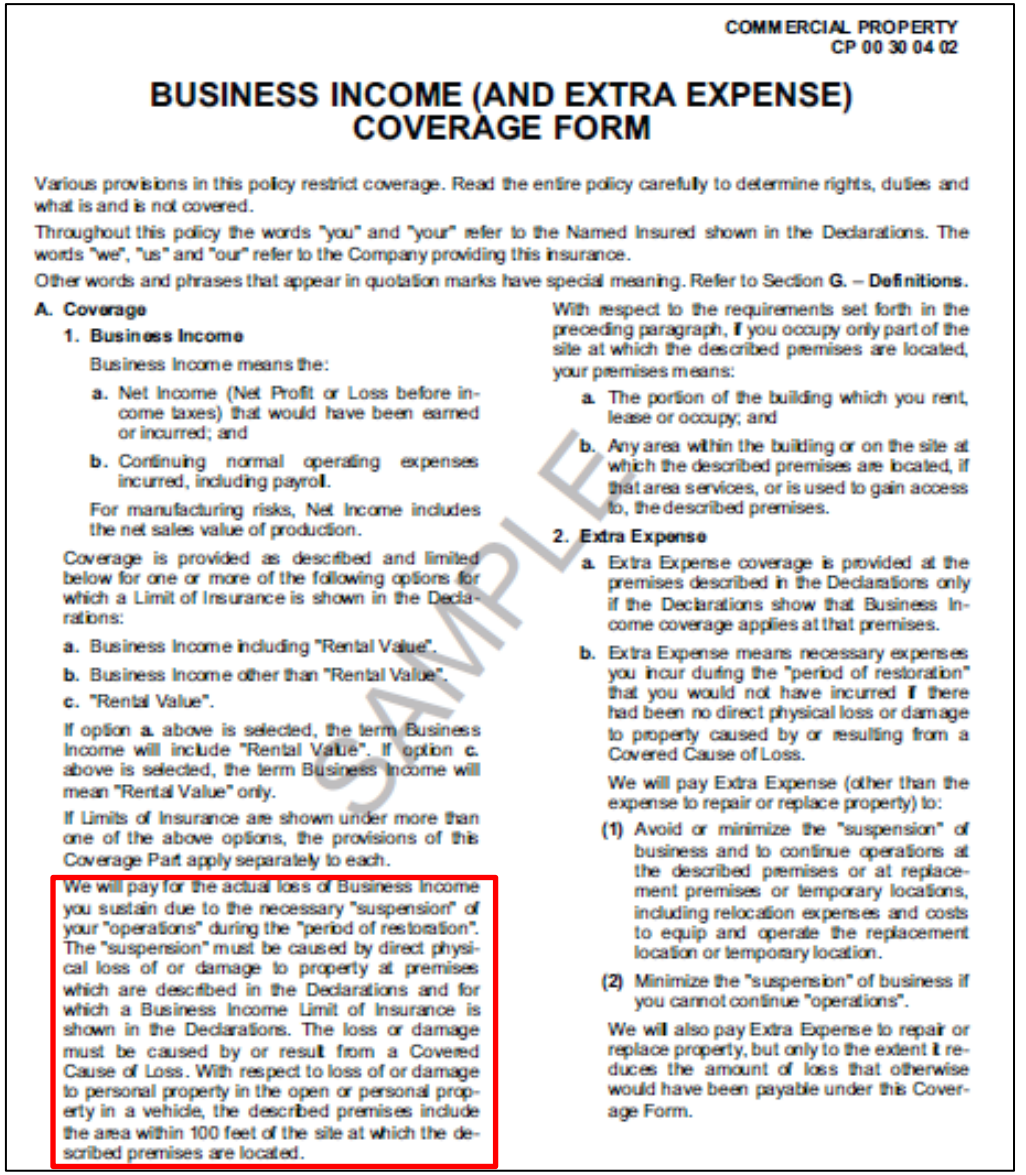
- **Insurers have received tens of thousands of claims related to COVID-19 losses**
  - **Workers comp**
  - **Business Interruption**
  - **GL**
  - **Event Cancellation**
  - **Travel Insurance**
  - **D&O**
  - **Trade Credit**
  - **Mortgage**
  - **EPL**
- **Crises tend to precipitate efforts to stretch contract language in an effort to:**
  - **Find coverage where none exists**
  - **Find coverage where none was intended**
  - **Find coverage for which no premium was paid**
- **Politicians frequently pile on: Zero political risk**

# Business Interruption Coverage (BIC) & COVID-19

- **Business interruption policies clearly exclude COVID-19 claims**

- **The ISO Business Income form contains the following language:**

  - ***"We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property…The loss or damage must be caused by or the result of a covered cause of loss." [from ISO form: CP 00 30 04 02]***



COMMERCIAL PROPERTY
CP 00 30 04 02

## BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G. – Definitions.**

**A. Coverage**

**1. Business Income**

Business Income means the:

**a.** Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and

**b.** Continuing normal operating expenses incurred, including payroll.

For manufacturing risks, Net Income includes the net sales value of production.

Coverage is provided as described and limited below for one or more of the following options for which a Limit of Insurance is shown in the Declarations:

**a.** Business Income including "Rental Value".

**b.** Business Income other than "Rental Value".

**c.** "Rental Value".

If option **a.** above is selected, the term Business Income will include "Rental Value". If option **c.** above is selected, the term Business Income will mean "Rental Value" only.

If Limits of Insurance are shown under more than one of the above options, the provisions of this Coverage Part apply separately to each.

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which a Business Income Limit of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

**a.** The portion of the building which you rent, lease or occupy; and

**b.** Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

**2. Extra Expense**

**a.** Extra Expense coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income coverage applies at that premises.

**b.** Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

We will pay Extra Expense (other than the expense to repair or replace property) to:

**(1)** Avoid or minimize the "suspension" of business and to continue operations at the described premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.

**(2)** Minimize the "suspension" of business if you cannot continue "operations".

We will also pay Extra Expense to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Coverage Form.

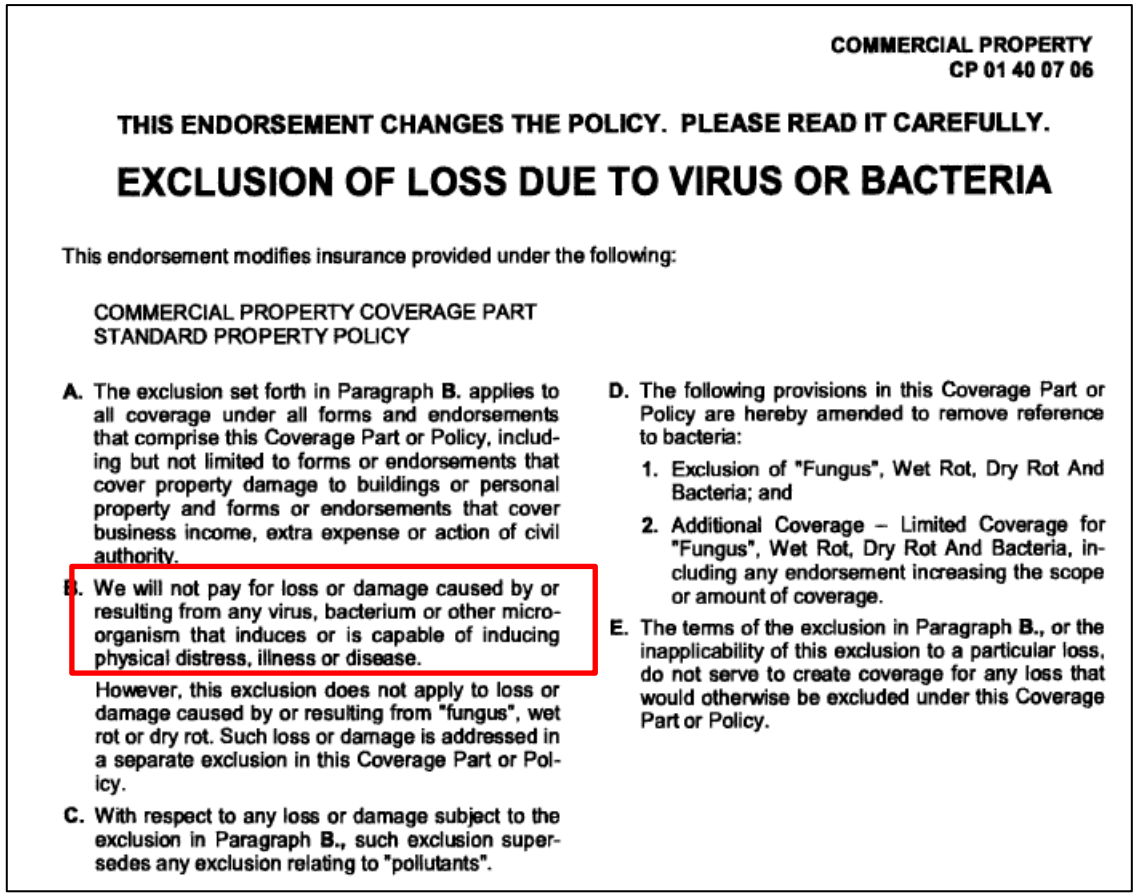
SAMPLE

# Exclusion of Loss Due to Virus or Bacteria

- **Business property and hence business interruption coverage also clearly excludes loss or damage due to viruses via exclusion**

- **The ISO "Exclusion of Loss Due to Virus or Bacteria" contains the following language:**

  - ***"We will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease."*** *[from ISO form: CP 01 40 07 06]*



COMMERCIAL PROPERTY
CP 01 40 07 06

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART
STANDARD PROPERTY POLICY

**A.** The exclusion set forth in Paragraph **B.** applies to all coverage under all forms and endorsements that comprise this Coverage Part or Policy, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover business income, extra expense or action of civil authority.

**B.** We will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

However, this exclusion does not apply to loss or damage caused by or resulting from "fungus", wet rot or dry rot. Such loss or damage is addressed in a separate exclusion in this Coverage Part or Policy.

**C.** With respect to any loss or damage subject to the exclusion in Paragraph **B.**, such exclusion supersedes any exclusion relating to "pollutants".

**D.** The following provisions in this Coverage Part or Policy are hereby amended to remove reference to bacteria:

1. Exclusion of "Fungus", Wet Rot, Dry Rot And Bacteria; and
2. Additional Coverage – Limited Coverage for "Fungus", Wet Rot, Dry Rot And Bacteria, including any endorsement increasing the scope or amount of coverage.

**E.** The terms of the exclusion in Paragraph **B.**, or the inapplicability of this exclusion to a particular loss, do not serve to create coverage for any loss that would otherwise be excluded under this Coverage Part or Policy.

# Update on Business Continuity Disputes

- **Large number of BI suits have been filed against insurers**
  - Most are still making their way through the court system…BUT
- **Since mid-2020 numerous courts have made decisions favoring insurers across a growing number of industries (not just restaurants)**
- **Courts have generally found that:**
  - Virus exclusions found in many policies are unambiguous and are binding
  - That BI coverage is necessarily triggered only when there is actual physical loss or damage to property
  - Government  mandated closures alone are insufficient to trigger BI coverage

# Business Continuity Protection Program (BCPP)

- **Purpose:** The BCPP is designed to bolster the country's economic resilience by providing timely and efficient financial protection and payroll support to the private sector in the event of a future declared public health emergency.
  - Has support of several industry group: APCIA, NAMIC, Big I
  - No balance sheet risk to the insurance industry

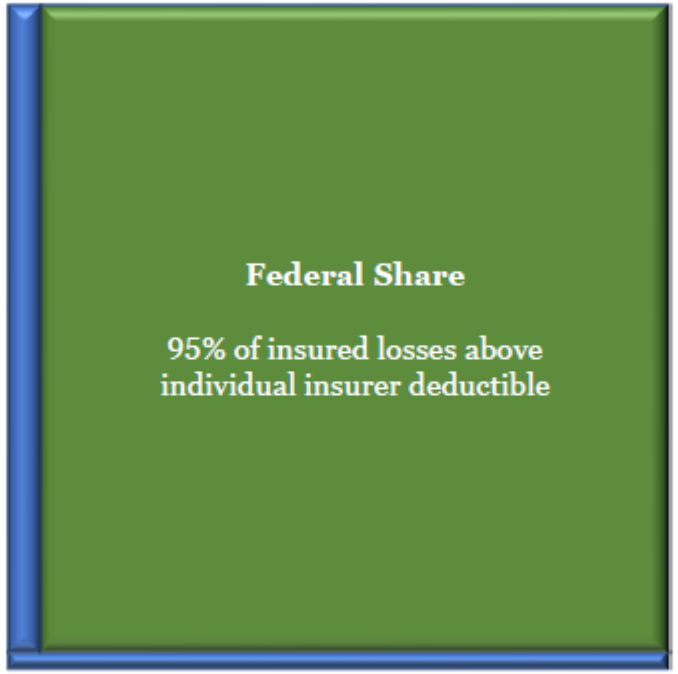
- **Structure:**
  - Businesses purchase revenue replacement assistance from the BCPP – up to 80% of payroll, employee benefits and operating expenses
  - Provides 3 months of relief payments
  - Payouts based on prior year's tax return
  - Relief is automatically triggered following a federally declared public health emergency

Source: APCIA

# Why PRIA Is a Well-Intentioned but Bad Idea

**Up to $37.5B in liability for insurers**

**Total potential insurer liability under PRIA is almost $50 billion—nearly double the insured property losses from 9/11 and larger than every disaster in history other than Hurricane Katrina**




**Insurer Co-Share**
5% of insured losses above individual insurer deductible

The insurer deductible and liability cap are based on insured losses from all covered public health emergencies declared in any one calendar year.

**Liability Cap**
Neither insurers nor Treasury have any obligations above the liability cap.

*Claim payouts are pro-rated if it appears the cap may be reached.*

**Potentially $12B of liability for insurers**

**Program Trigger**
Treasury may not make a payment under the program unless total insured losses from a declared public health emergency exceed $250 million.

**Individual Insurer Deductible**
5% of insurer's prior year direct earned premium for most commercial property and casualty lines of business

*The total of all individual insurer deductibles is about $12 billion.*

Source: Risk and Uncertainty Management Center, University of South Carolina and Centers for Better Insurance, "*Pandemic Risk Insurance Act of 2020: Summary and Key Risks,*" June 2020.

# SUMMARY

- The P/C Insurance Industry Remains Strong, Stable, Sound and Secure
- Communicable Disease Exclusion Spreading
- The Rapid Economic Slowdown Will Temper P/C Growth, Especially in Economically Sensitive Lines (especially Workers Comp)
- Asset Price Volatility Will Persist and Low Interest Rates Will Pressure Investment Earnings for Years
- COVID-19 Exposures Are Substantial but Manageable with Headline Risk on BI and WC Issues

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***Thank you for your time and your attention!***

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