



## STAFF REPORT

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**DATE:** June 14, 2021  
**TO:** Sacramento Regional Transit Board of Directors  
**FROM:** Brent Bernegger, VP, Finance/CFO  
**SUBJ:**

APPROVAL OF THE RENEWAL OF THE EMPLOYMENT PRACTICES LIABILITY, PROPERTY, BOILER AND MACHINERY, CRIME/EMPLOYEE DISHONESTY, PRIVACY AND NETWORK LIABILITY, UNDERGROUND STORAGE TANK POLLUTION LIABILITY AND FLOOD FOR THE PERIOD OF JULY 1, 2021 THROUGH JUNE 30, 2022.

AUTHORIZE THE GENERAL MANAGER/CEO TO NEGOTIATE THE RENEWAL OF THE EXCESS LIABILITY INSURANCE AT A NOT TO EXCEED AMOUNT OF \$8,870,792.00, FOR THE PERIOD OF JULY 1, 2021, THROUGH JUNE 30, 2022.

AUTHORIZE THE GENERAL MANAGER/CEO TO NEGOTIATE THE RENEWAL OF THE PROPERTY INSURANCE AT A NOT TO EXCEED AMOUNT OF \$2,750,000.00, FOR THE PERIOD OF JULY 1, 2021, THROUGH JUNE 30, 2022.

### RECOMMENDATION

Adopt the Attached Resolution.

### RESULT OF RECOMMENDED ACTION

Approval of the renewal of the Employment Practices Liability, Property, Boiler & Machinery, Crime, Privacy & Network Liability, Underground Storage Tank Pollution Liability and Flood for the period of July 1, 2021, through June 30, 2022.

Authorize the General Manager/CEO to negotiate the renewal of the Excess Liability insurance at a not to exceed amount of \$8,870,792.00 for the period of July 1, 2021, through June 30, 2022.

Authorize the General Manager/CEO to negotiate the renewal of the property insurance at a not to exceed amount of \$2,750,000.00 for the period of July 1, 2021, through June 30, 2022.

## FISCAL IMPACT

Total Operating Cost for Employment Practices Liability, Boiler & Machinery, Workers' Compensation, Crime, Privacy & Network Liability, Underground Storage Tank Pollution Liability and Flood: \$436,496.

Total amount not to exceed for the procurement of Property Insurance: \$2,750,000.00

Total amount not to exceed for the procurement of Excess Liability Insurance: \$8,870,792.00.

**TOTAL: \$12,057,288.00**

The amounts presented here are not to exceed amounts and do not equal the amounts included in the FY 2021-2022 Operating Budget presented for approval this evening. Once finalized, if the actual amounts are greater than the amounts included in the approved budget, a budget amendment will be submitted to the Board for approval during FY 2021-2022 if required.

## DISCUSSION

Alliant Insurance Services, Inc. has been Sacramento Regional Transit District's ("SacRT") insurance broker since 2017. Alliant continues to thoroughly examine SacRT's insurance and risk exposures and conducts extensive marketing of SacRT's insurance placements to current and prospective insurers. This results in more competitive options both from a coverage and pricing standpoint.

This year's goal to continue maintaining the liability and property coverage placements as close to expiring as possible has proved to be impossible due to an insurance market that has gone from bad to worse with the recent COVID-19 impact to the industry and economy in general. The markets for liability and physical damage for any type of fleet (trucking, transit, service, etc.) have dried up, with transit agencies, particularly in California, among the least desirable of those risks. The result has been a restriction of capacity such that insurers are no longer offering the deductibles and/or limits SacRT has traditionally purchased while still increasing rates by 100% or more in some cases.

The following is a summary of the significant changes, coverage and premiums for SacRT's FY 21-22 insurance placements.

### **General, Auto, and Professional Liability:**

SacRT is required to provide a per occurrence limit up to the FAST Act rail passenger transportation liability cap (inclusive of the \$2,000,000 Self-Insured Retention) with no less than a double aggregate limit to comply with Union Pacific (UP) contract requirements. *The limit was raised to \$322,864,228 from \$294,278,983 on February 25, 2021.* This limit is the federal cap, or maximum, amount a railroad is liable for passenger injuries incurred in a single occurrence. There is no cap, or maximum amount, set on a federal or state level for liabilities incurred by pedestrians, or bus passengers. No one insurer can provide a policy meeting this limit, so multiple carriers are engaged to secure the amount required. UP's requirement represents a significant cost even under less extreme market conditions.

At SacRT's request, Alliant successfully bifurcated the limits over \$100,000,000 in 2017 to cover only the portion of track subject to the UP requirement up to the federal cap for passenger liability. This proved to be a very valuable and cost-effective strategy in the past that has resulted in significant savings to SacRT.

The severe market conditions cannot be overstated and continue to be the worst they have been since 1985, largely driven by significantly increased settlement amounts (known as "social inflation") on auto liability cases, particularly in California. One person claims that would have previously settled for \$5,000,000.00 - \$10,000,000.00 are now regularly settling for \$30,000,000.00(CA), \$42,000,000.00 (CA), \$45,000,000.00 (CA), and \$75,000,000.00 (NY). The lack of predictability in outcomes of jury verdicts has driven many carriers out of the California market, and in some cases out of the United States.

Alliant encouraged SacRT to re-evaluate purchasing above \$100,000,000.00, as UP's requirement to buy up to the federal cap on the 8 miles of track subject to the agreement. SacRT has reached out to UP and is currently participating in UP's insurance deviation process. This process consists of UP asking counsel of their choosing in California to opine as to whether there are other avenues of recovery for UP should a catastrophic event occur causing exposure to UP at or near the federal rail cap and SacRT does not have insurance to the cap. This process does not evaluate the risk (or lack of risk) posed by SacRT's light rail service along the subject areas of track. Staff will continue to work with UP during this process. It is possible that the market will not allow for coverage up to \$322,864,228.00 which could make it impossible for SacRT to comply with UP's requirements and place SacRT in breach of its agreement with UP.

Few new carriers have entered the class given the overall adverse loss experience. The entire global market of carriers was accessed for replacement quotes, and 37 carriers were contacted in the United States, London, and Bermuda markets. As of June 2, 2021, the first \$100,000,000.00 of the \$324,000,000.00 SacRT is electing to purchase again is formally quoted. (Exhibit 1).

Please note also that Errors & Omissions, Employment Practices Liability, Employee Benefits Liability and Sexual Molestation coverage are not supported by the market excess \$40,000,000 this year.

Exacerbating pricing was a general liability loss settlement of \$5,000,000 that resolved in fiscal year 20, as well as additional exposures assumed. In this last policy year SacRT absorbed the liability of paratransit service previously sub-contracted.

Underwriters are aware of the service decreases due to the COVID pandemic; however, they are evaluating their capacity deployment much more on a price per million basis and the market is effectively not reflecting the exposure decreases on any transit accounts.

### **Employment Practices Liability (EPL):**

Arch Insurance Company continues to be a stable partner, providing a \$2 million limit and \$250,000 deductible with a 10% increase in the rate as expiring for FY 21/22. The premium is increasing due to the overall hard market conditions. This placement reflects a rate increase at or below those for good risks in this market.

## **Property:**

Travelers, the current carrier on the property program, increased its rate substantially on all SacRT property for FY 21/22, with an increase of 107% for the Light Rail Vehicles (LRVs) in addition to doubling the deductible. This was driven by general market conditions and because Travelers paid for two large claims, one involving a crash between two LRVs and one a totaled bus. They also paid for a total fire loss to a vacant building that occurred on June 10, 2020, after the renewal for FY 20/21 had been priced.

At the beginning of June 2021, Travelers pulled their initial renewal quote. This was in response to a recent collision that occurred on May 26, 2021, where a passenger van struck a train causing it to derail. Although fault lies with the driver of the van, the collision may result in the total loss of one light rail car, and it is unlikely that the driver carries sufficient insurance to cover the replacement value of the light rail car. Travelers submitted a new quote increasing the premium from \$1,612,899 to \$2,378,956.41. In addition to the increased premium, the new quote changes coverage in significant ways which results in decreased coverage. The following changes to coverage are noted below:

- The deductible has increased from \$100,000 to \$250,000.
- Inland marine deductible has increased from \$250,000 to \$500,000.
- Inland marine total limit has reduced from \$100,000,000 to \$10,000,000.
- Light rail basic deductible has increased from \$500,000 to \$1,000,000.
- Light rail train v. light rail train (two trains colliding with each other) deductible has increased from \$1,000,000 to \$2,000,000.
- Light rail now has a \$2,500,000 limit for loss or damage to any one item (previously no limit).
- Light rail total limit has reduced from \$100,000,000 to \$10,000,000.
- Valued business interruption insurance has an increased wait time of 30 days (previously 15 days). Additionally, the minimum loss has increased from \$250,000 to \$500,000.
- Any newly added property covered under inland marine will be covered if reported; however, the maximum payout will be \$1,200,000.

Given the loss history and the extremely limited market for property insurance for public transit in California, an increase in rates was expected, and the few interested markets approached for FY 20/21 have not shown interest. Alliant continues to market SacRT to additional property insurers to cover some of the reductions of coverage contained in the most recent Travelers' quote. Staff is asking the Board to approve a not to exceed amount of \$2,750,000.00 to negotiate property insurance.

## **Boiler & Machinery:**

Travelers has been the insurer for Boiler & Machinery coverage for several years and consistently offers competitive terms and pricing. This year the premium is increasing 11% inclusive of a 3% increase in the insured values. All other terms and conditions are the same time.

### **Excess Workers' Compensation:**

The current Workers' Compensation insurer offered a flat rate for renewal terms at the current \$25M limit. SacRT is required to provide Statutory limits for this coverage to meet contract requirements and based on comparing the rates for Statutory Coverage decided to accept a proposal from PRISM, the largest JPA risk pool in the country. In addition to the increased limits, membership in PRISM comes with risk management resources including extensive online training, crisis incident management, actuarial analyses subsidies, and discounts on goods and services. The Board approved binding this coverage during its May 10, 2021, Board Meeting.

### **Crime/Employee Dishonesty:**

SacRT maintains a \$3M limit for Crime coverage, and the premium to remain at that limit decreased 5%. This is a very good renewal considering the increased exposures and general market conditions and staff recommends continuing this option. A \$5m coverage limit was explored and quoted at \$20,018 but required an increased deductible from \$2,500 to \$25,000.

### **Privacy & Network Liability (Cyber):**

This coverage line has seen the most dramatic increases over the last year, exceeding 700% in some cases, as losses have grown well beyond expectations. Given these pressures the insurer quoted a 240% increase this year with an increase in deductible from \$50,000 to \$250,000. Alliant extensively marketed this coverage, and the best alternative would have saved \$20,000 (≈20%) but would come with a 50% co-insurance requirement for Ransomware/Malware. Given the increased significant co-insurance retention and the prevalence of ransomware the savings is not worth the risk.

### **Underground Storage Tanks Pollution Liability:**

Coverage will renew with Liberty with a 10% increase in the rate due to the age of the tanks. The insurer attempted to raise the deductible on some of the older tanks, but Alliant was able to negotiate a reduction to the current \$25,000. The oldest tank's deductible remains at \$100,000, while the one above ground tank will keep a \$5,000 deductible.

### **Pollution Liability – Elk Grove:**

The contract with Elk Grove requires SacRT to provide a specialized pollution policy to cover potential on or migrating off-site pollutants arising from SacRT's use of Elk Grove's bus maintenance facility. The carrier has offered a flat renewal and also discounted premiums for a two- or three-year extension.

Policy Type	07/01/21-07/01/22 Renewal Program	07/01/20-07/01/21 Renewal Program	07/01/19-07/01/20 Expiring Program	07/01/18-07/01/19 Expired Program	07/01/17-07/01/18 Expired Program	07/01/16-07/01/17 Expired Program
Excess Liability (GL/AL/PL/EPL)	\$8,870,792	\$5,650,899	\$2,480,000	\$2,095,799	\$2,095,799	\$2,376,515
Employment Practices Liability	\$75,524	\$73,321	\$73,154	\$70,163	\$70,163	\$90,050
Property & Inland Marine	\$ 2,750,000	\$1,500,000	\$716,777	\$564,711	\$537,883	\$572,788
Boiler & Machinery	\$11,999	\$10,817	\$11,205	\$10,632	\$10,158	\$11,749
Excess Workers' Compensation	\$217,692	\$184,632	\$159,087	\$150,139	\$150,902	\$139,508
Crime	\$16,266	\$17,123	\$18,024	\$8,664	\$8,664	\$10,875
Privacy & Network Liability	\$93,529	\$25,080	\$23,690	\$23,690	\$15,996	\$14,835
Underground Storage Tanks Pollution Liability	\$5,527	\$5,025	\$4,876	\$4,798	\$5,329	\$5,776
Pollution Liability – Elk Grove	\$3,614	\$3,606	\$3,612	n/a	n/a	n/a
Flood	\$12,345	\$12,346	\$12,500	\$12,338	\$14,735	\$17,232
<b>Total</b>	<b>\$12,057,288</b>	<b>\$7,482,849</b>	<b>\$3,502,925</b>	<b>\$2,940,934</b>	<b>\$2,909,629</b>	<b>\$3,239,328</b>

**Flood:** The current insurer has offered a flat renewal.

### Renewal Program Pricing History

### LIABILITY - COVERAGE TOWERS AND PRICING COMPARISON (EXHIBIT 1)

### EMPLOYMENT PRACTICES LIABILITY – ARCH INSURANCE COMPANY

- Exposure Basis: Number of Full-Time Employees Equivalent
- Claims-Made Coverage

**CARRIER:** Admitted  
**LIMITS:** \$2,000,000 Each Insured Event/Aggregate  
**SELF-INSURED RETENTION:** \$250,000  
**PREMIUM:** \$75,524

**PROPERTY/INLAND MARINE – TRAVELERS INSURANCE COMPANY**

**DELUXE PROPERTY COVERAGE FORM**

**COVERAGES AND LIMITS OF INSURANCE - DESCRIBED PREMISES**

Insurance applies on a BLANKET basis only to a coverage or type of property for which a Limit of Insurance is shown below.

<b>Blanket Description of Coverage or</b>	<b>Property Limits of Insurance</b>
Buildings	\$86,027,199
Your Business Personal Property	\$58,850,020
Personal Property of Others	\$100,000

<b>Coverage</b>	<b>Limits of Insurance &amp; Deductibles</b>
Scheduled property: non-revenue vehicles, revenue vehicles, short term leased or rented vehicles that are not included on the vehicle schedule, light rail specialty vehicles and miscellaneous scheduled property.	
No coverage is provided for light rail trains.	\$10,000,000
Flood Limit of Insurance (Included in inland marine coverage part limit)	\$10,000,000
Flood Annual Aggregate Limit of Insurance (Included in inland marine coverage part limit)	\$10,000,000
Earth Movement Limit of Insurance (Included in inland marine coverage part limit)	\$10,000,000
Earth Movement Annual Aggregate Limit of Insurance (Included in inland marine coverage part limit)	\$10,000,000
Basic Deductible	
- Basic Deductible, except as noted	\$500,000
- Specialty Vehicles	\$250,000
- Police Vehicles	\$250,000
Flood Deductible	\$500,000
Earth Movement Deductible	\$500,000
Windstorm Deductible	\$500,000
Coinsurance	N/A
Valuation	Replacement Cost/Stated Value

**DELUXE EXTRA EXPENSE COVERAGE FORM**

<b>Premises Location No.</b>	<b>Building No.</b>	<b>Limits of Insurance</b>
1-16	1-28	\$8,818,461

Restoration Period and Monthly Percentage Limits: 40-80-100%

**DEDUCTIBLES:**

**BY "FLOOD":**

At the premises location(s) of the following Building(s) numbered: 001-028 in any one occurrence: \$500,000

As respects to Business Income Coverage a 15-day deductible applies at all locations

**TO UTILITY SERVICES:**

Direct Damage, in any one occurrence: \$100,000

Time Element, in any one occurrence: \$100,000

**ANY OTHER COVERED LOSS:**

in any one occurrence: \$100,000



## IM PAK SCHEDULED PROPERTY COVERAGE - VEHICLES

### RAILROAD ROLLING STOCK

Coverage	Limits of Insurance & Deductibles
Covered Property: light rail trains.	\$10,000,000
Flood Limit of Insurance (Included in inland marine coverage part limit)	\$10,000,000
Flood Annual Aggregate Limit of Insurance (Included in inland marine coverage part limit)	\$10,000,000
Earth Movement Limit of Insurance (Included in inland marine coverage part limit)	\$10,000,000
Earth Movement Annual Aggregate Limit of Insurance (Included in inland marine coverage part limit)	\$10,000,000
Basic Deductible	
- Basic Deductible, except as noted	\$1,000,000
- Collision (LRV v. LRV)	\$2,000,000
- Aggregate	\$2,500,000
Flood Deductible	\$500,000
Earth Movement Deductible	\$500,000
Windstorm Deductible	\$500,000
Coinsurance	N/A
Valuation	Replacement Cost/Stated Value

**Premium: \$2,304,074**

### Boiler & Machinery – Travelers

- Exposure Basis: Statement of Values
- Comprehensive
- Admitted Carrier
- Deductible: \$25,000

Limits:

**\$ 10,000,000** Total breakdown limit  
**\$ 250,000** Utility interruption  
**\$ 250,000** Hazardous substance  
**\$ 500,000** Ordinance or Law  
**\$ 250,000** Water Damage

**Premium: \$11,999**

**EXCESS WORKERS' COMPENSATION – Public Risk Innovation, Solutions, and Management (PRISM)**

- Exposure Basis: Payroll (per \$100)
- Coverage as Required by Law
- JPA Risk Pool
- Self-Insured Retention: \$2,000,000

**Limit:** **Statutory** Each Occurrence/Employee for Disease;  
\$5M Employers' Liability  
Estimated Payroll \$82,960,932  
Rate: \$0.2624  
**Premium: \$217,692**

**CRIME/EMPLOYEE DISHONESTY – NATIONAL UNION (AIG):**

Government Crime Policy on Discovery form including the following coverages:

- Employee Theft – Per Loss Coverage
- Forgery or Alteration
- Inside the Premises – Theft of Money and Securities
- Inside the Premises – Robbery & Safe Burglary of Other Property
- Outside the Premises (Money, Securities and Other Property)
- Computer Fraud
- Funds Transfer Fraud
- Money Orders & Counterfeit Money

**CARRIER:** Admitted  
**LIMITS:** \$3,000,000  
**DEDUCTIBLE:** \$2,500  
**PREMIUM:** **\$16,266**

**PRIVACY & NETWORK LIABILITY (CYBER) – ASCENT/LOYDS:**

- Exposure Basis: Revenues
- Non-Admitted Carrier
- Deductible: \$250,000 Each Claim & 8 hours for business interruption
- **\$5,000,000 Aggregate Limit**

<b>Limits</b>	<b>Insuring Module</b>
\$5,000,000	Security & Privacy Liability
\$5,000,000	Network Interruption & Recovery
\$5,000,000	Multimedia & Intellectual Property Liability
\$5,000,000	Network Extortion
\$5,000,000	Privacy Regulatory Defense and Penalties
\$5,000,000	Notification Expenses
\$5,000,000	PCI Fines

**Coverage Enhancements for FY 21/22:**

- Carve back for PCI fine or assessment
- Forensic Accounting Costs

**Premium: \$93,529** including surplus lines taxes and fees

**Underground Storage Tank Pollution Liability – Liberty Surplus Ins. Corp.:**

- Exposure Basis: Number of tanks (9), capacity, contents and monitoring system
  - Non-Admitted Carrier
  - Deductible Each Claim: AST \$5,000
- USTs Varies by Tank Age – \$25,000 & \$100,000 Each Claim

Limit: \$1,000,000 Each Claim/Aggregate

**Premium: \$5,527** including surplus lines taxes and fees

**Pollution Liability, Elk Grove – Beazley Syndicates:**

- Exposure Basis: Statement of values for buildings and business personal property.
- Non-admitted Carrier
- Deductible: \$5,000

Limit: \$1,000,000 Each Claim/Aggregate

**Premium: \$3,614** including surplus lines taxes and fees

**Primary Flood – Tokio Marine Specialty Ins. Co.:**

- Exposure Basis: Statement of values for buildings and business personal property.
  - Non-Admitted Carrier
  - Deductible: \$50,000

Limit: Varies –

Buildings \$0 - \$500,000

Business Personal Property \$100,000 - \$500,000

**Premium: \$12,346** including surplus lines taxes and fees

RESOLUTION NO. 21-06-0076

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

June 14, 2021

**APPROVAL OF THE RENEWAL OF THE EMPLOYMENT PRACTICES LIABILITY, PROPERTY, BOILER AND MACHINERY, CRIME/EMPLOYEE DISHONESTY, PRIVACY AND NETWORK LIABILITY, UNDERGROUND STORAGE TANK POLLUTION LIABILITY AND FLOOD FOR THE PERIOD OF JULY 1, 2021 THROUGH JUNE 30, 2022**

**AUTHORIZE THE GENERAL MANAGER/CEO TO NEGOTIATE THE RENEWAL OF THE GENERAL LIABILITY EXCESS INSURANCE AT A NOT TO EXCEED AMOUNT OF \$8,870,792.00 FOR THE PERIOD OF JULY 1, 2021, THROUGH JUNE 30, 2022.**

**AUTHORIZE THE GENERAL MANAGER/CEO TO NEGOTIATE THE RENEWAL OF THE PROPERTY INSURANCE AT A NOT TO EXCEED AMOUNT OF \$2,750,000.00, FOR THE PERIOD OF JULY 1, 2021, THROUGH JUNE 30, 2022.**

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Board hereby approves the renewal of the employment practices liability, boiler & machinery, crime/employee dishonesty, privacy & network liability, underground storage tank pollution liability and flood for the period of July 1, 2021, through June 30, 2022.

THAT, the Board hereby authorizes the General Manager/CEO to negotiate and bind the renewal of the excess liability insurance at a not to exceed amount of \$8,870,792.00 for the period of July 1, 2021, through June 30, 2022.

THAT the Board hereby authorizes the General Manager/CEO to negotiate and bind the renewal of the Property insurance at a not to exceed amount of \$2,750,000.00.

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STEVE MILLER , Chair

A T T E S T:

HENRY LI, Secretary

By: \_\_\_\_\_  
Tabetha Smith, Assistant Secretary

LIABILITY Layer	Coverage	21/22 Premium and TRIA	21/22 TOTAL PREMIUM with SL T&F and applicable Bermuda fees LESS Rebate
1	Excess Liab- 5M xs 2M SIR	\$1,231,200.00	\$1,271,214.00
2	Excess Liab- 3M xs 5M	\$673,003.00	\$707,444.24
3	Excess Liab- 10M xs 8M	\$1,184,211.00	\$1,222,697.86
4	Excess Liab- 10M xs 18M	\$800,000.00	\$822,250.00
5	Excess Liab- 20M xs 28M	\$1,100,000.00	\$1,040,187.50
6	Excess Liab- 20M xs 48M	\$780,000.00	
7	Excess Liab- 32M xs 68M	\$800,000.00	
		<b>\$6,568,414.00</b>	<b>\$5,063,793.60</b>
8	Excess Liab- 100M xs 100M		
9	Excess Liab- 123M xs 200M		

Estimate Target

20/21 TOTAL LIABILITY (\$324M LIMIT) \$5,650,899.50

OTHER LINES	20/21 TOTAL PREMIUM with SL T&F LESS Rebate	21/22 Premium	21/22 TOTAL PREMIUM with SL T&F LESS Rebate	% Increases
Crime	\$17,123.00	\$20,333.00	\$16,266	-5%
Cyber	\$27,531.61	\$90,585.00	\$93,529	240%
EPL	\$68,321.00	\$75,524.00	\$75,524	11%
Equipment Breakdown	\$10,828.00	\$11,999.00	\$11,999	11%
Excess WC *	\$184,632.00	\$217,692.00	\$217,692	18%
Flood	\$12,345.20	\$13,980.40	\$12,345	0%
Pollution- Storage Tanks	\$5,024.22	\$6,123.70	\$5,527	10%
Pollution- Elk Grove loc	\$3,613.75	\$3,500.00	\$3,614	0%
Property	\$1,401,135.54	\$2,378,956.41	\$2,378,956	70%
<b>TOTAL</b>	<b>\$1,730,554.32</b>	<b>\$2,818,693.51</b>	<b>\$2,815,452.41</b>	<b>63%</b>

\*Increase due to Statutory Limit/moving to PRISM