

Gibraltar Insurance Webinar

30th September 2021

Introduction

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Agenda

Topic



Introduction



Tax – Captive Insurance



OIC Portal: Operational Issues - DACB

Break



Update from the Regulator



2020 year-end results (dotties)



Tax – Captive Insurance

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Key international tax provisions to consider

Tax residence

- Tax residence of captives can be challenged where central or effective management and control is exercised in another jurisdiction. Board meetings will not in itself determine tax residence if control is not effected through those meetings.
- COVID-19 specific guidance.

Permanent Establishment (“PE”)

- Captives supported by risk management functions in the UK (outside the jurisdiction of the Captive) or those with outsourced functions may create a PE in the UK (as well as potential tax residence risk).
- Divorce of buy-side and sell-side activities is key.

Controlled Foreign Company (“CFC”) rules

- CFC rules may give rise to tax on the captive’s profits in a parent jurisdiction.
- EU Anti Tax Avoidance Directive requires EU member states to introduce CFC rules from 1 January 2019.

UK’s Diverted Profits Tax (“DPT”)

- UK anti-avoidance measure introduced in 2015 to counteract arrangements that result in erosion of the UK tax base.
- May impact both a company paying a premium to a captive and the captive insurer itself.



OECD Pillar 2 proposals

Income Inclusion Rule (“IIR”)

The principal rule is the income inclusion rule, which will trigger additional “top-up tax” payable in a group’s parent company country where the profits of group companies in any one country are taxed at an effective tax rate below a minimum tax rate.

The Undertaxed Payments Rule (“UTPR”)

The undertaxed payments rule acts as a backstop for low-taxed group companies not controlled by a parent company subject to the income inclusion rule. The required top-up tax is allocated to other companies in the group on an annual basis based on a formulaic approach.

The Subject to Tax Rule (“STTR”)

The subject to tax rule operates separately, and in priority to, the other Pillar Two rules. It allows for source-country taxation where a payment is undertaxed in the country of the recipient.

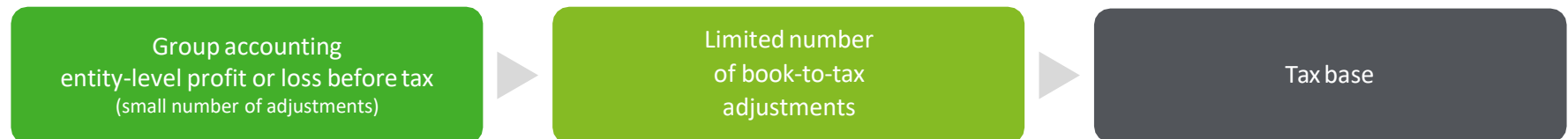
Jurisdictional-blending basis:

- Effective tax rate calculated annually with respect to each country in which the group has entities

Covered taxes are taxes on a group company’s **income or profit**:

- Taxes paid under controlled foreign company (CFC) rules are attributed to the country with the underlying income

Calculation of tax base:





G7 Finance Ministers and Central Bank Governors Communiqué

Pillar One & Pillar Two

"We strongly support the efforts underway through the G20/OECD Inclusive Framework to address the tax challenges arising from globalisation and the digitalisation of the economy and to adopt a global minimum tax. We commit to reaching an equitable solution on the allocation of taxing rights, with market countries awarded taxing rights on at least 20% of profit exceeding a 10% margin for the largest and most profitable multinational enterprises. We will provide for appropriate coordination between the application of the new international tax rules and the removal of all Digital Services Taxes, and other relevant similar measures, on all companies.

We also commit to a global minimum tax of at least 15% on a country by country basis. We agree on the importance of progressing agreement in parallel on both Pillars and look forward to reaching an agreement at the July meeting of G20 Finance Ministers and Central Bank Governors."

- Paragraph 16, G7 Finance Ministers and Central Bank Governors Communiqué



Transfer Pricing

- Revised OECD Guidelines issued in July 2017 include an example on captives
- In July 2018, a Public Discussion Draft with respect to Financial Transactions was issued, which included a section on captives
- **In February 2020, a final version of this paper, “Transfer Pricing Guidance on Financial Transactions” was released, which will be added to the OECD Guidelines. This includes material on captives.**
- **Increasing number of tax audits from a transfer pricing perspective.**
- **COVID-19 is highlighting the importance and value of captive insurance arrangements to multinationals.**





Transfer Pricing

Background

- Background on captives
- Commercial rationale for captive insurance and reinsurance arrangements

Accurate delineation of the transaction

- Key questions:
 - Would this transaction exist in the open market between third parties?
 - Is the transaction in question actually a genuine insurance transaction?
 - Is there a real intra-group transfer of insurance risk?
- Achievement of necessary diversification of risk
- Assumption of risks and performance of risk control functions relating to functional and financial capacity
- Effects of outsourcing and reinsurance fronting

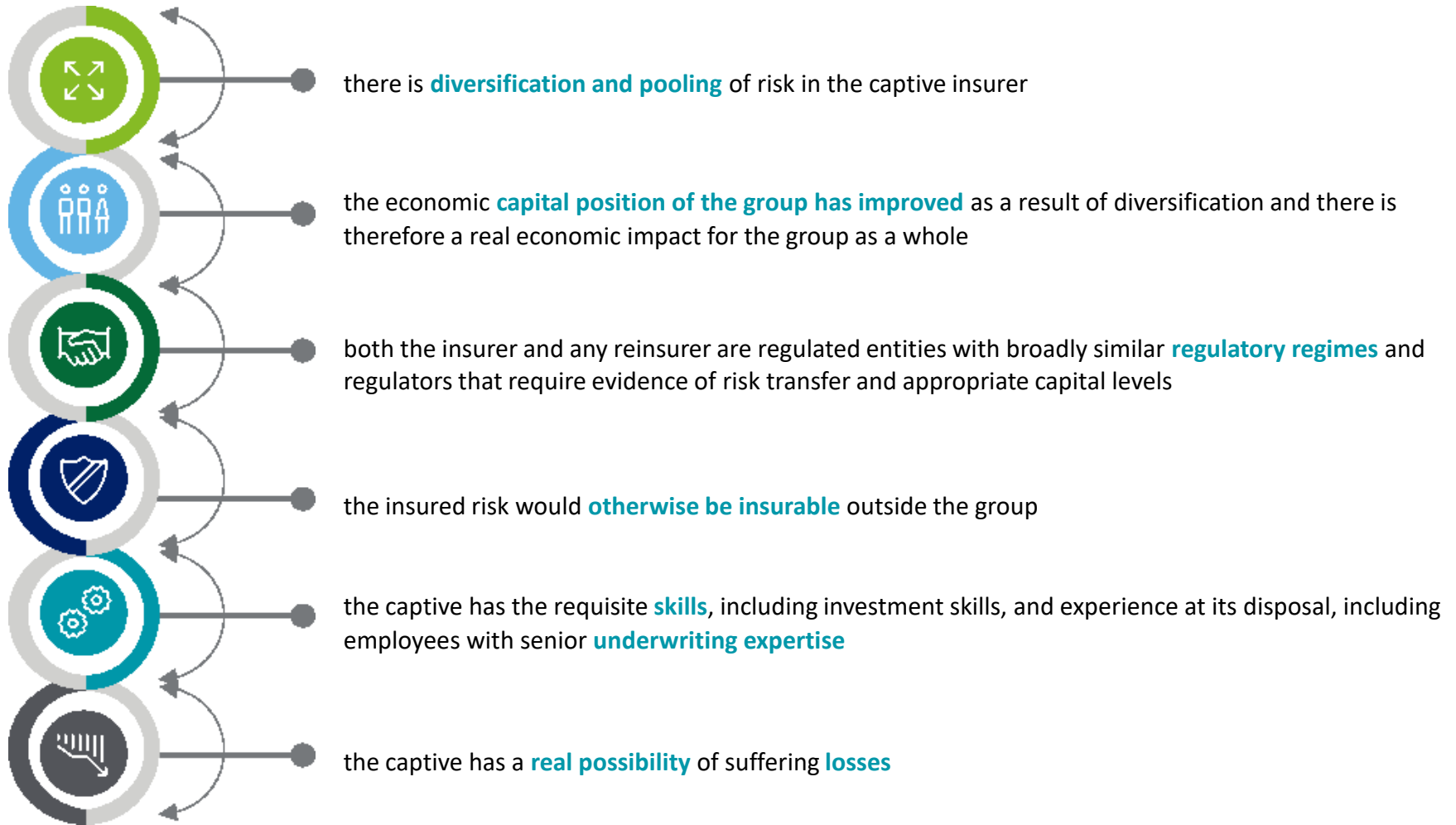
Pricing methods and issues

- Comparable uncontrolled price
- Combined ratio and return on capital
- Actuarial analysis
- Group synergies
- Agency sales



Transfer Pricing

Accurate delineation of transaction



OIC PORTAL: OPERATIONAL ISSUES

SEPTEMBER 2021

Andrew Parker

Head of Strategic Litigation



OIC operational issues (1)

1. Importance of liability response
2. Transfer between insurers
3. Direct contact with represented claimants
4. Claimant's statement of truth?
5. Specific interim payments

General or specific interim payment: example

General IP

PSLA	£3,000
Loss of earnings	£3,000
Vehicle damage	£5,000

General IP of £5,000

A general IP is offset against settlement but does not reduce the overall value of the claim

Claim value = £11,000

Over small claims limit

Specific IP

PSLA	£3,000
Loss of earnings	£3,000
Vehicle damage	£5,000

Specific IP for vehicle of £5,000

A specific IP means that item is no longer counted as part of the value of the claim

Claim value = £6,000

Under small claims limit

OIC operational issues (2)

6. Cost of court fees
7. Ban on pre-medical offers
8. Mixed injuries
9. Exceptional circumstances
10. Effect on claims frequency

2021 areas of supervisory focus for insurance



Agenda

1. Group supervision
2. Substance and regulated individuals
3. Premium debtors and terms of business arrangements
4. Regulatory filings

Group Supervision

When reviewing insurance groups, we have considered the following:

- Whether supervision should be at the ultimate holding company level.
- Whether there is equivalence at the ultimate holding company level.
- The insurance and distribution sides as well as any service companies.
- Both capital and operation risk mitigation as well as independence of governance of the insurer and any related service companies.

We also note the publication of the PRA consultation CP17/21 - Solvency II: Definition of an insurance holding company and will consider whether further consultation and guidance would be helpful in this area.

Group Supervision

When reviewing whether an insurance group is mixed activity or an insurance group, we have been considering:

- Metrics - as published in existing Guidance Note.
- Group Risks and Group Contagion.
- Possible swings in classification.
- The independence of decision making and operations of the insurer.
- If there is or should be a sub-IHG within any Mixed Activity Group.

Substance, Regulated individuals and conflicts of interest

Substance/Head office

An applicant or insurance company must meet the threshold condition for location of its offices set out in paragraph 1 of Schedule 12 to the FSA 2019.

We expect Gibraltar firms to be controlled by their Boards and senior management from Gibraltar. We therefore expect that firms have a substantive presence ***with the majority of their senior role holders (i.e. individuals carrying out regulated functions under Part 8 of the FSA 2019) based in Gibraltar.***

Substance, Regulated individuals and conflicts of interest

- CEO to lead the strategy and direction of the insurance company.
- Firms and applicants should consider the conflicts of interest which could exist between insurance companies and connected brokers/entities.
- Likely to require some independence of governance and management.
- Likely to be improved through having a good balance of Executive Directors to Independent Non Executive Directors.
- Head of Underwriting and Head of Claims - Conflicts are likely to exist between these two roles.

The FSC is considering whether further consultation and guidance would be helpful in this area

Premium and other debtors and TOBAs

We have been conducting a review on premium debtors and TOBAs. This has involved us requesting information and analysing the following:

- Premium and other debtor exposures and agreements with intermediaries.
- The nature of the arrangements over cash amounts held by brokers on behalf of insurance companies.
- Credit terms.
- Terms of business arrangements.
- How the board oversees credit exposure.
- The Solvency II treatment, capital and own funds held against intermediary and service company exposures.

Regulatory filings

- Most regulatory filing deadlines are statutory deadlines with limited powers to provide extension.
- Timely regulatory filings are very important to us to be able to appropriately supervise firms.
- We consider the compliance teams take responsibility to ensure filing timelines are met.
- Early engagement in the very exceptional circumstance that a regulatory timeline cannot be achieved.



UK & Gibraltar Motor Market Analysis

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Introduction

The Motor Insurance Industry in one word – the survey says...





Introduction

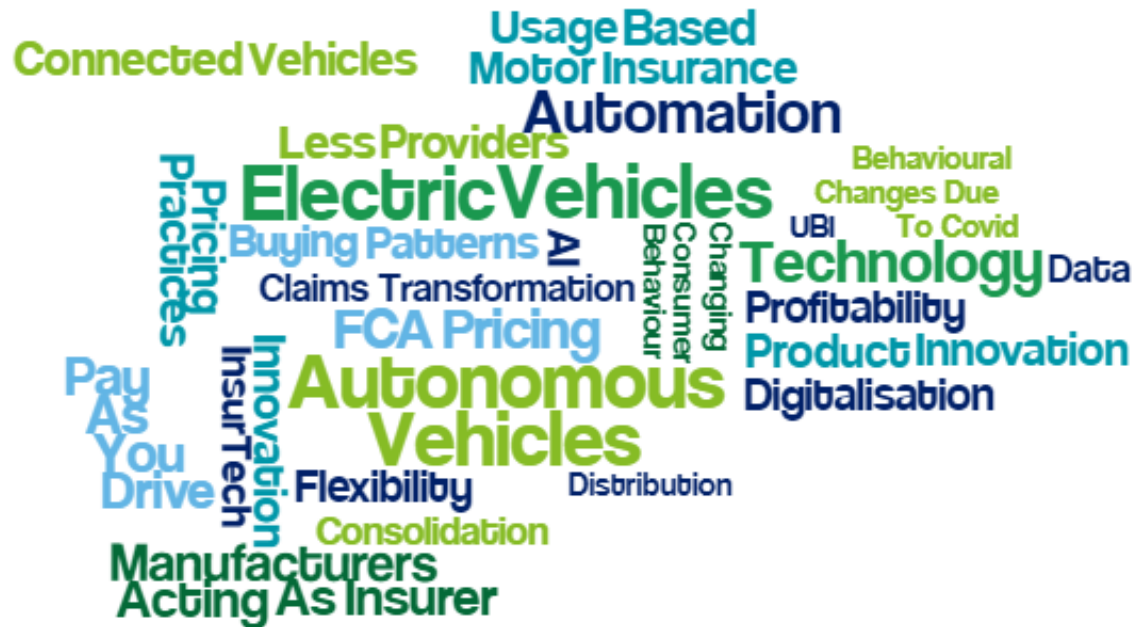
Top 3 Issues Facing the Motor Insurance Industry – the survey says...

FCA Pricing
Covid Impact
Inflation
Whiplash Reforms
Competition



Introduction

The Next Big Change – the survey says...





Insights from your reporting - what you wrote about pre-pandemic





Insights from your reporting - what you wrote about during the pandemic





Introduction

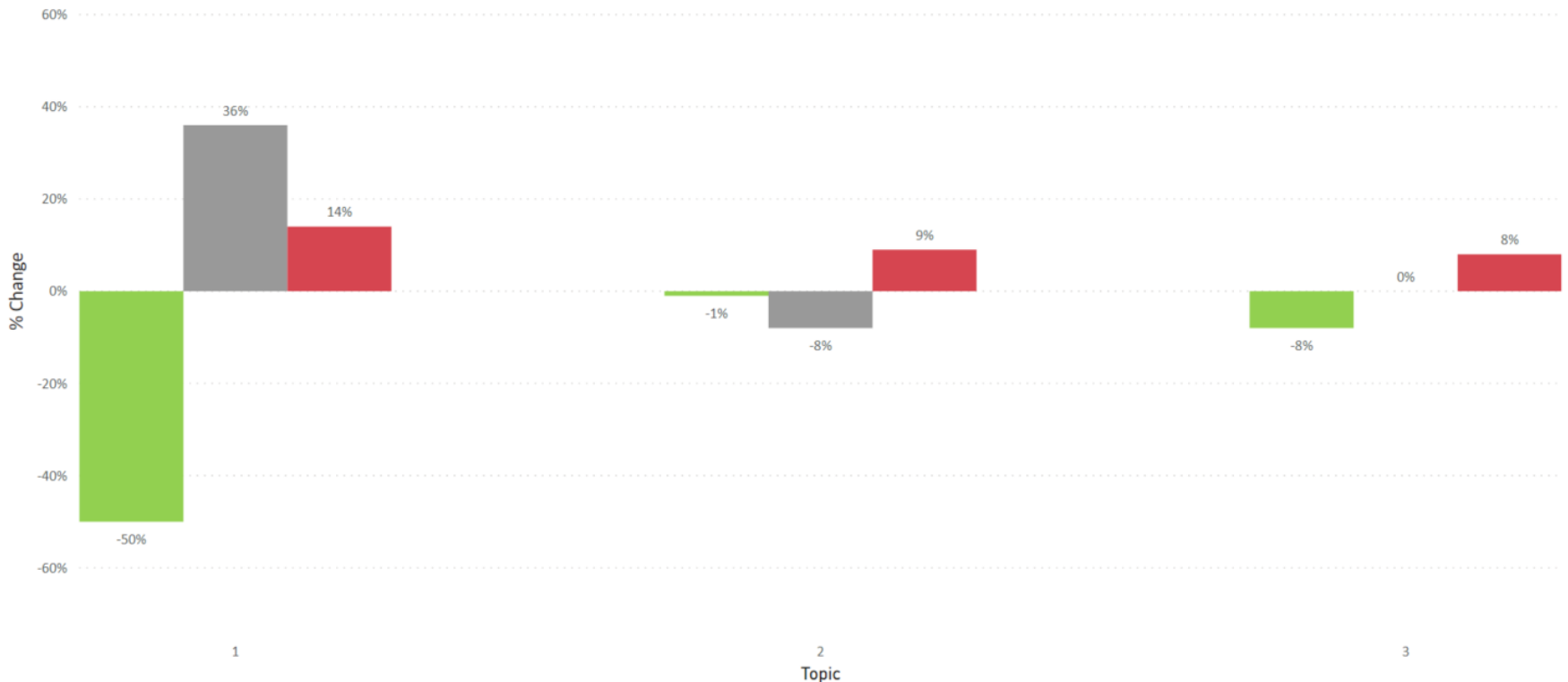
Insights from your reporting – sentiment analysis

Topic 1 – annuity, comparison, compensation, debt, demand, dividend, dominant, primarily, rule, unlimited

Topic 2 – analysis, coinsurance, contain, debt, expertise, occur, quantitative, recovery, robust, team

Topic 3 – adopt, analysis, emerge, fall, guideline, judgement, mga, recognise, recognition

● Positive ● Neutral ● Negative

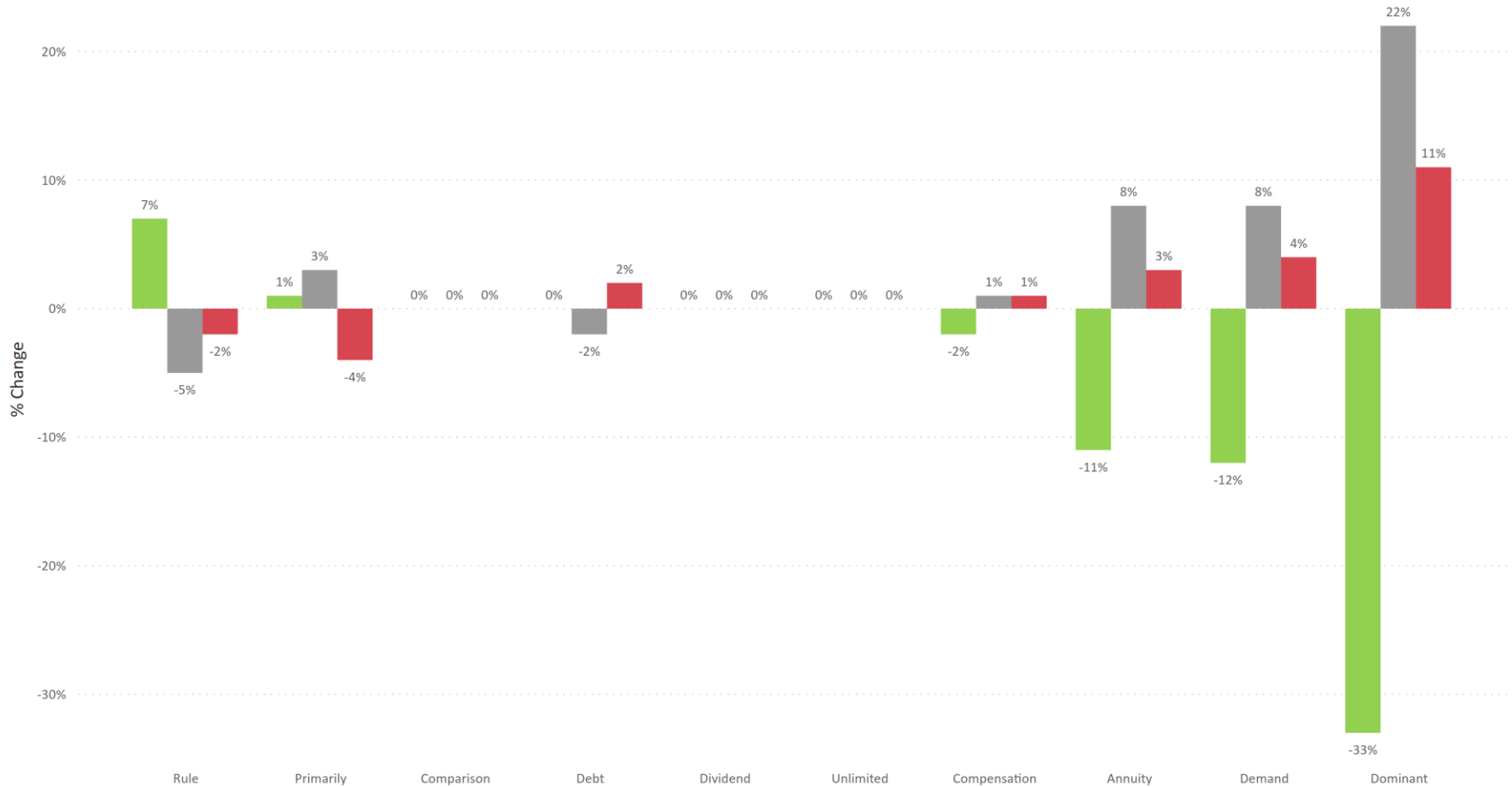




Introduction

Insights from your reporting – sentiment analysis

● Positive ● Neutral ● Negative

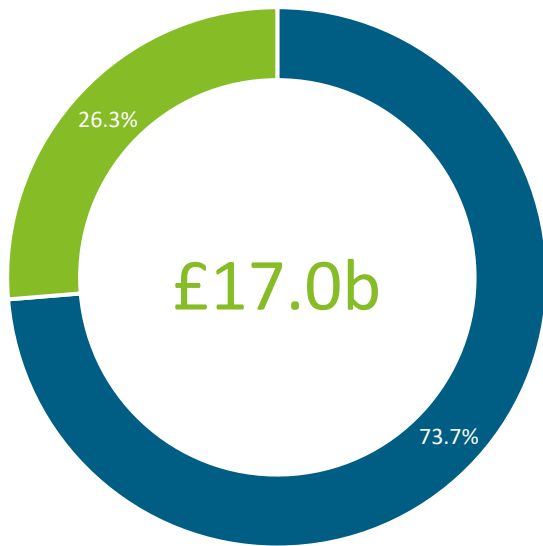




Past Performance

Ancient History

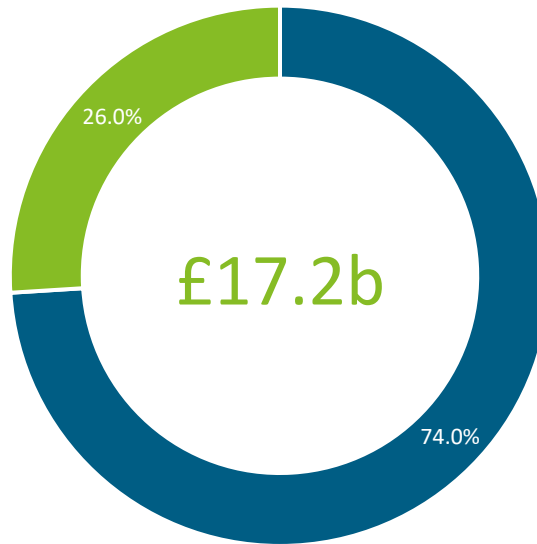
2018



■ UK share

■ Gib share

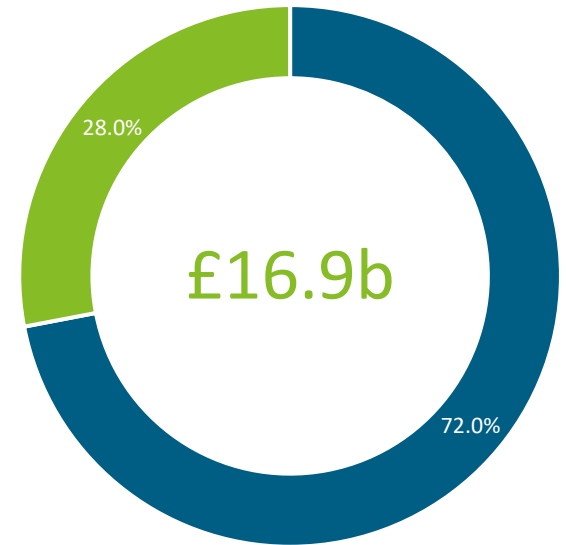
2019



■ UK share

■ Gib share

2020



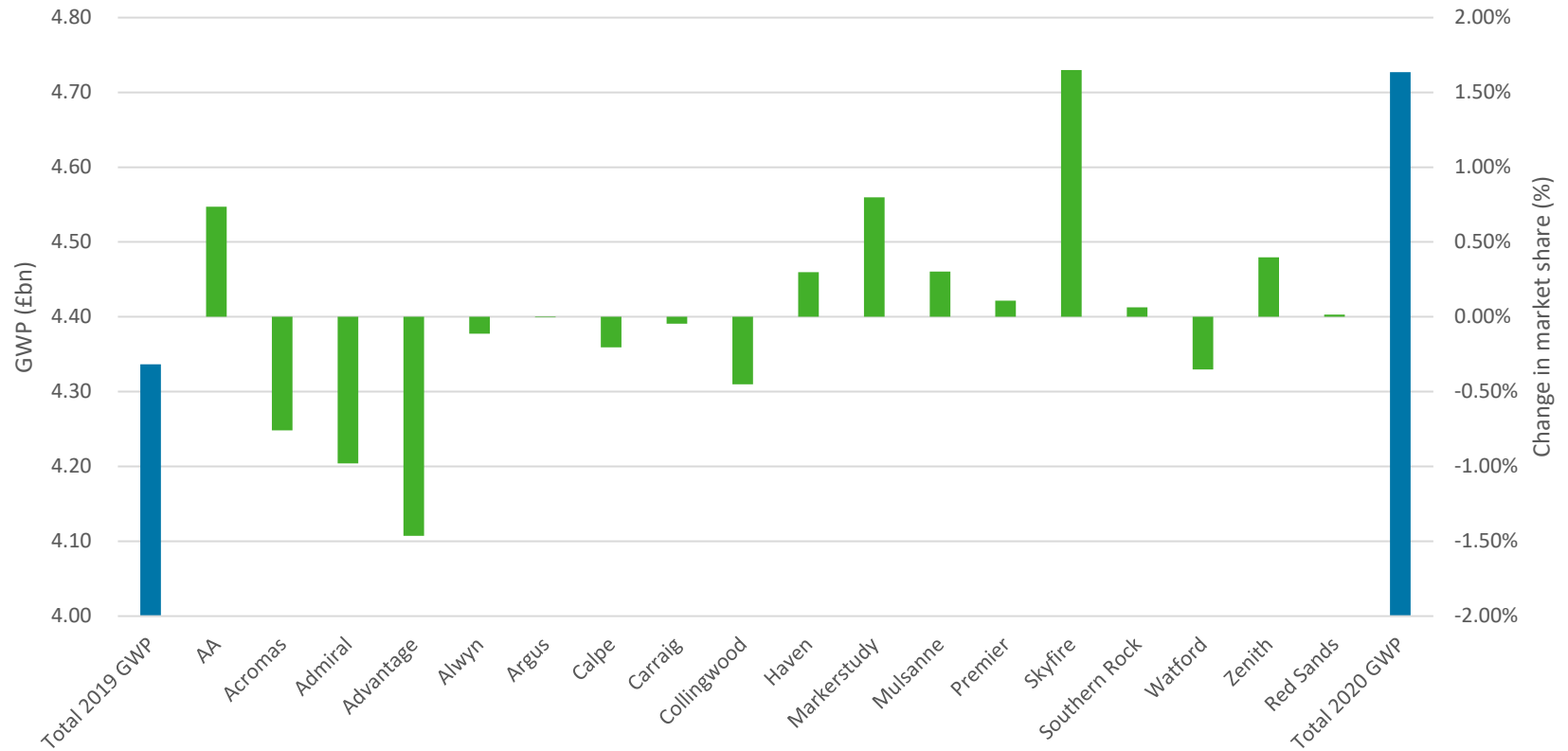
■ UK share

■ Gib share



2020 year-end results

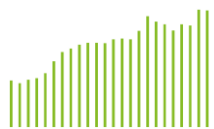
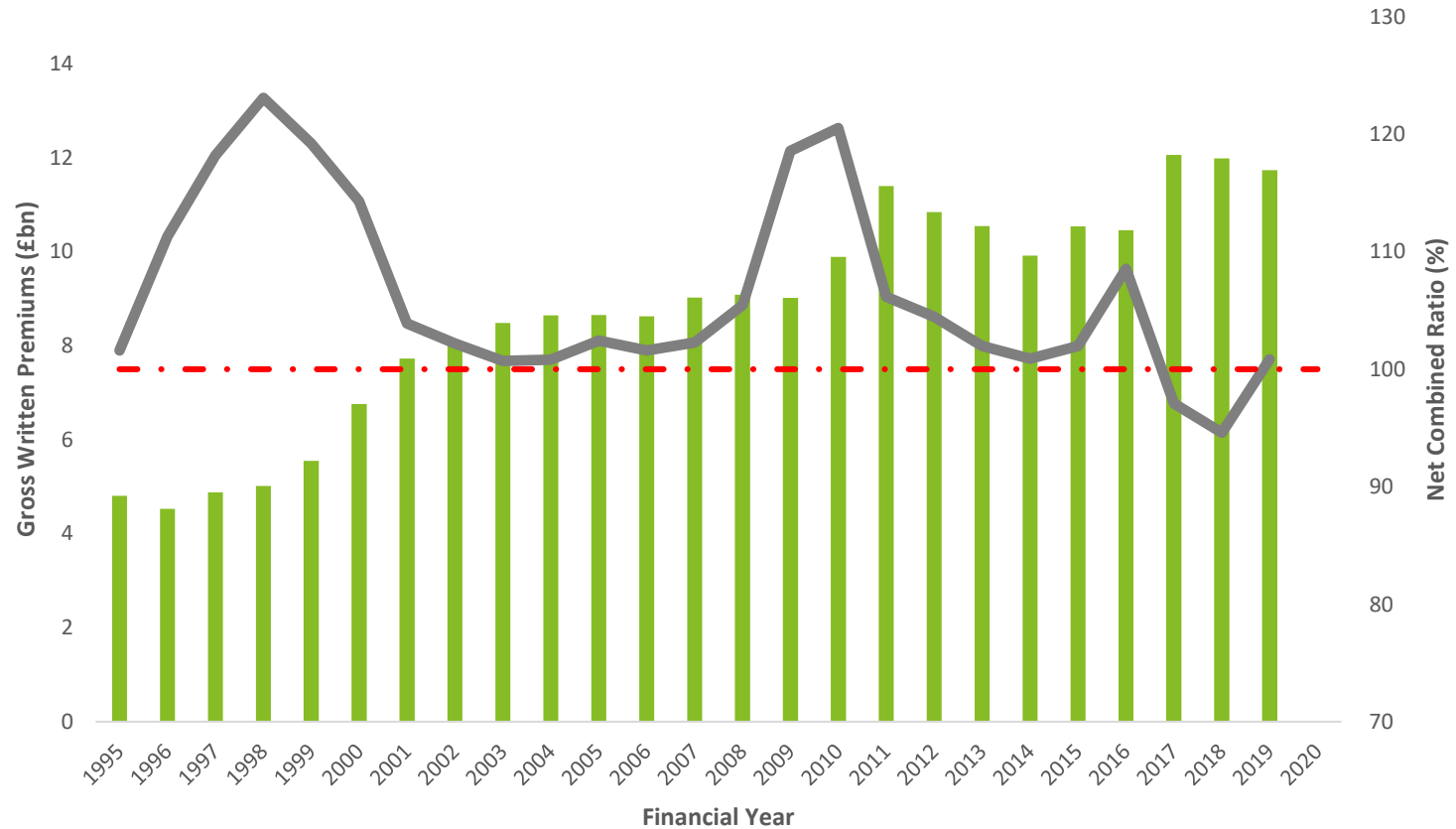
Gibraltar GWP growth and change in market share 2019-2020





Past Performance

Pre-COVID-19 Performance



Gross Written Premium



Net Combined Ratio

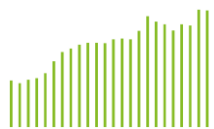
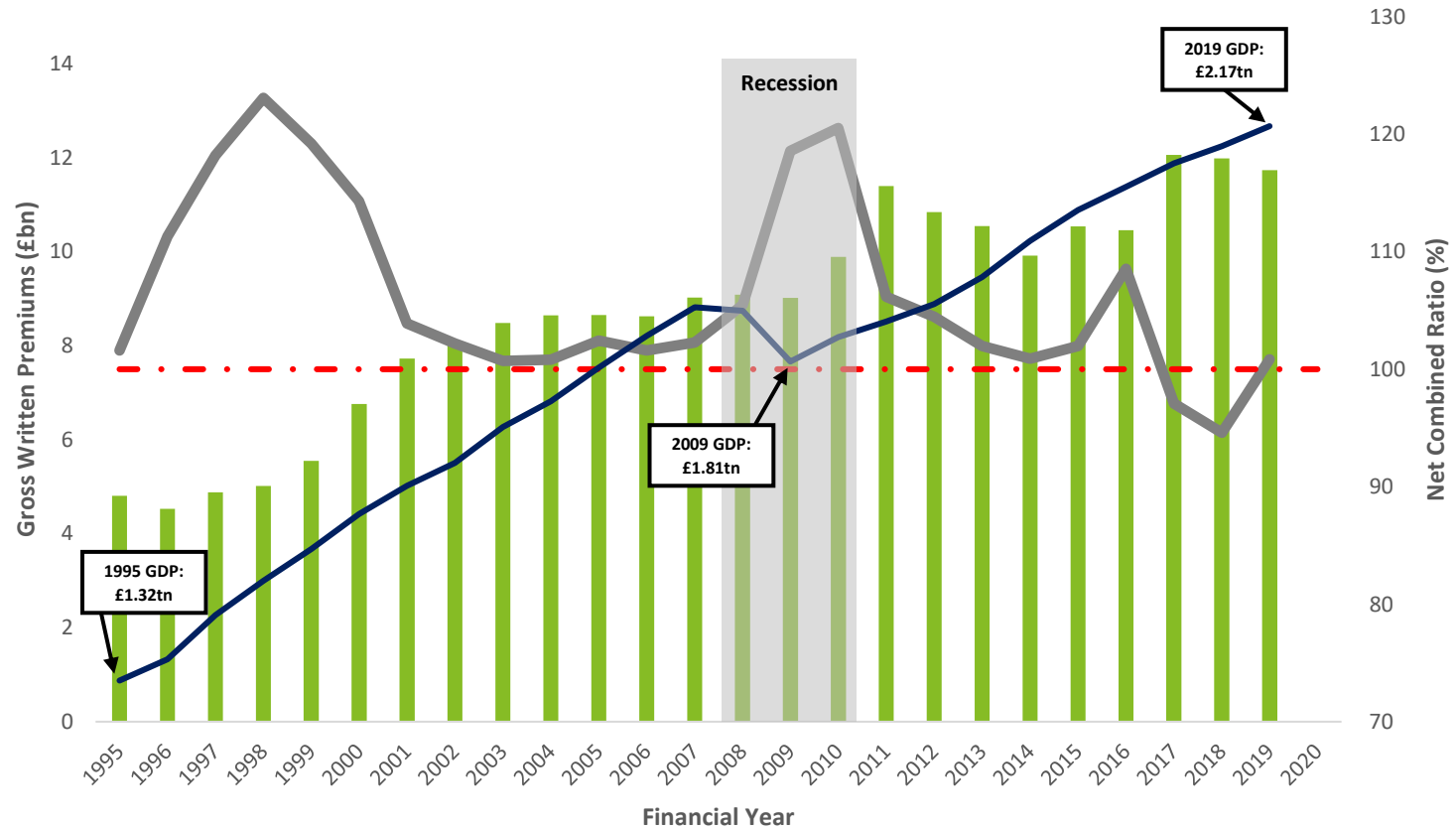


100% Net Combined Ratio



Past Performance

Pre-COVID-19 Performance



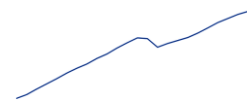
Gross Written Premium



Net Combined Ratio



100% Net Combined Ratio

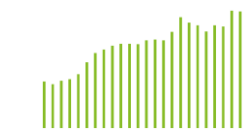
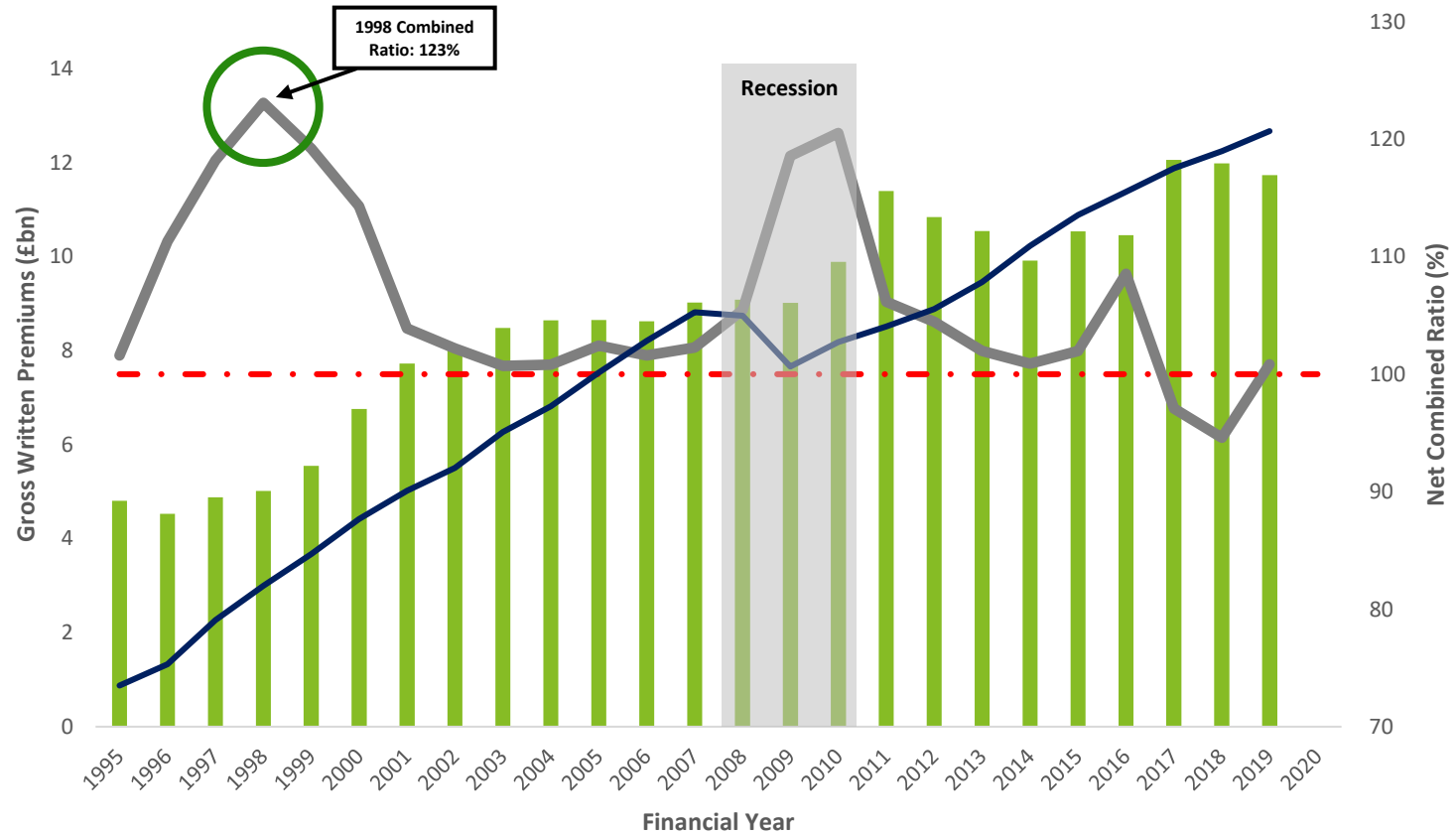


GDP



Past Performance

Pre-COVID-19 Performance



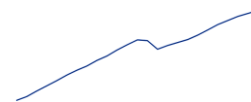
Gross Written Premium



Net Combined Ratio



100% Net Combined Ratio

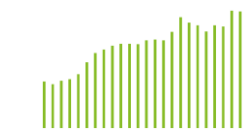
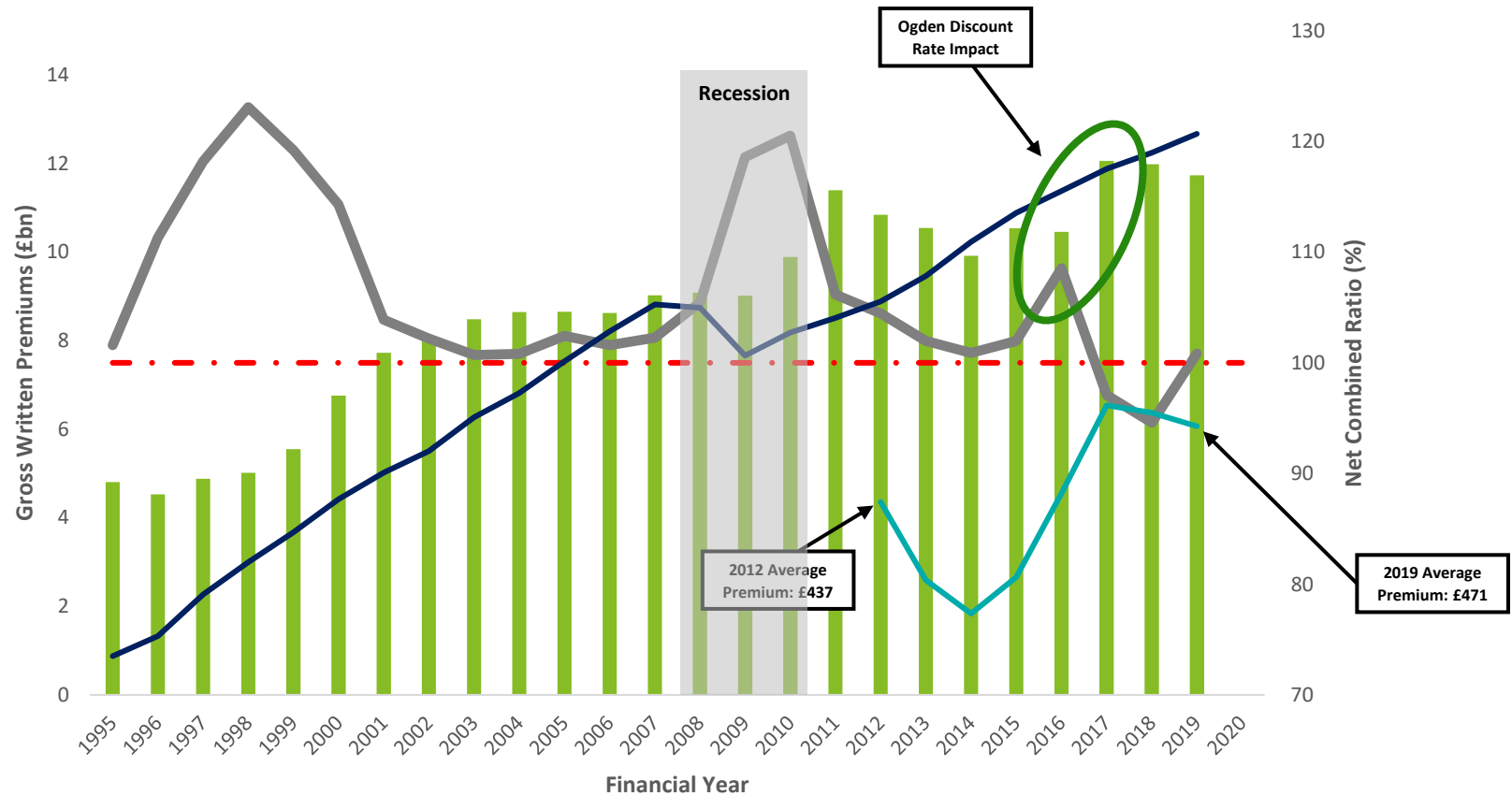


GDP



Past Performance

Pre-COVID-19 Performance



Gross Written Premium



Net Combined Ratio



100% Net Combined Ratio



GDP

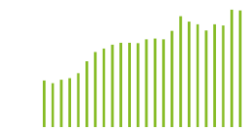
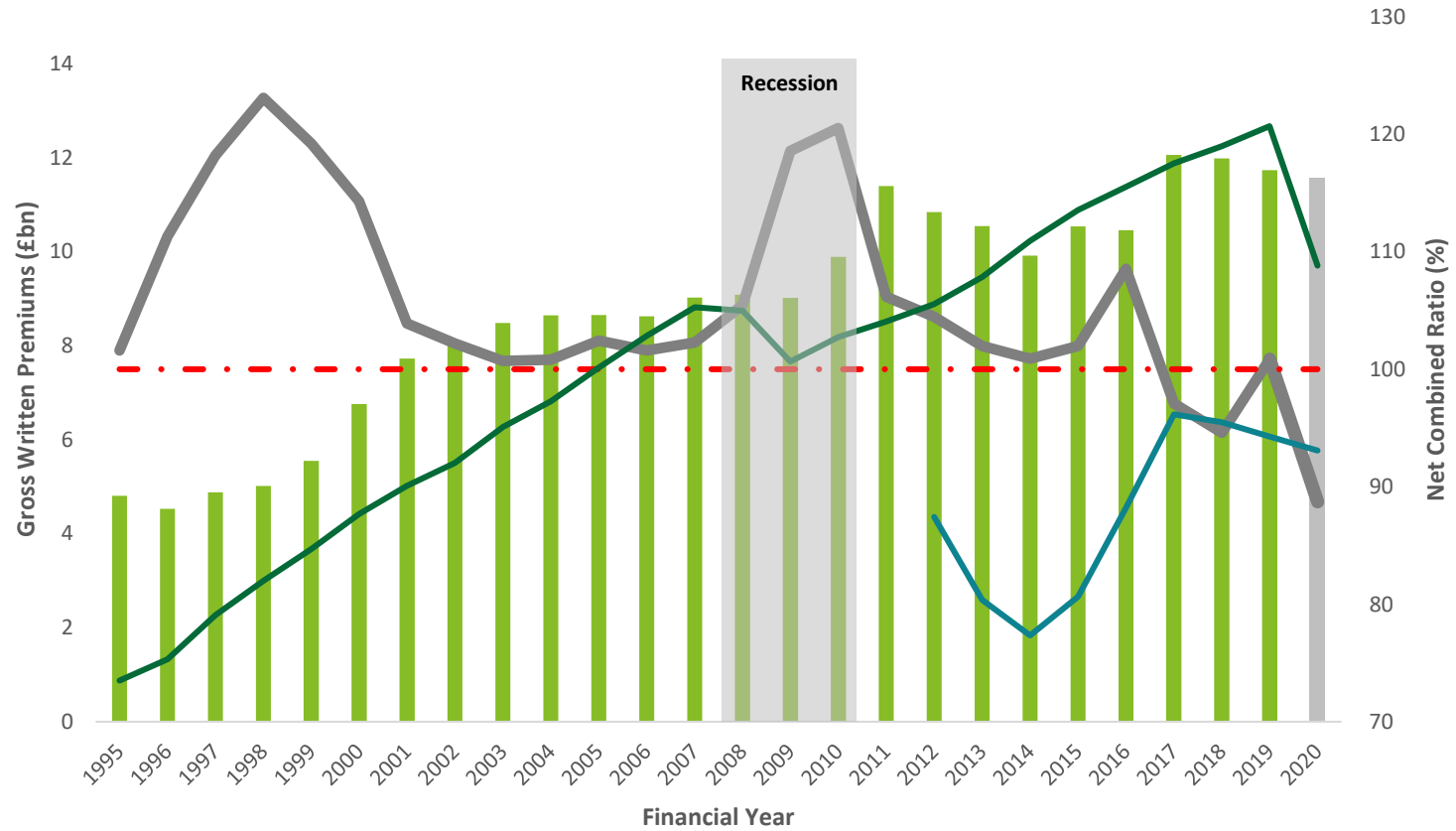


Average Premium



Past Performance

2020 Performance



Gross Written Premium



Net Combined Ratio



100% Net Combined Ratio



GDP



Average Premium



Past Performance

Data Sources

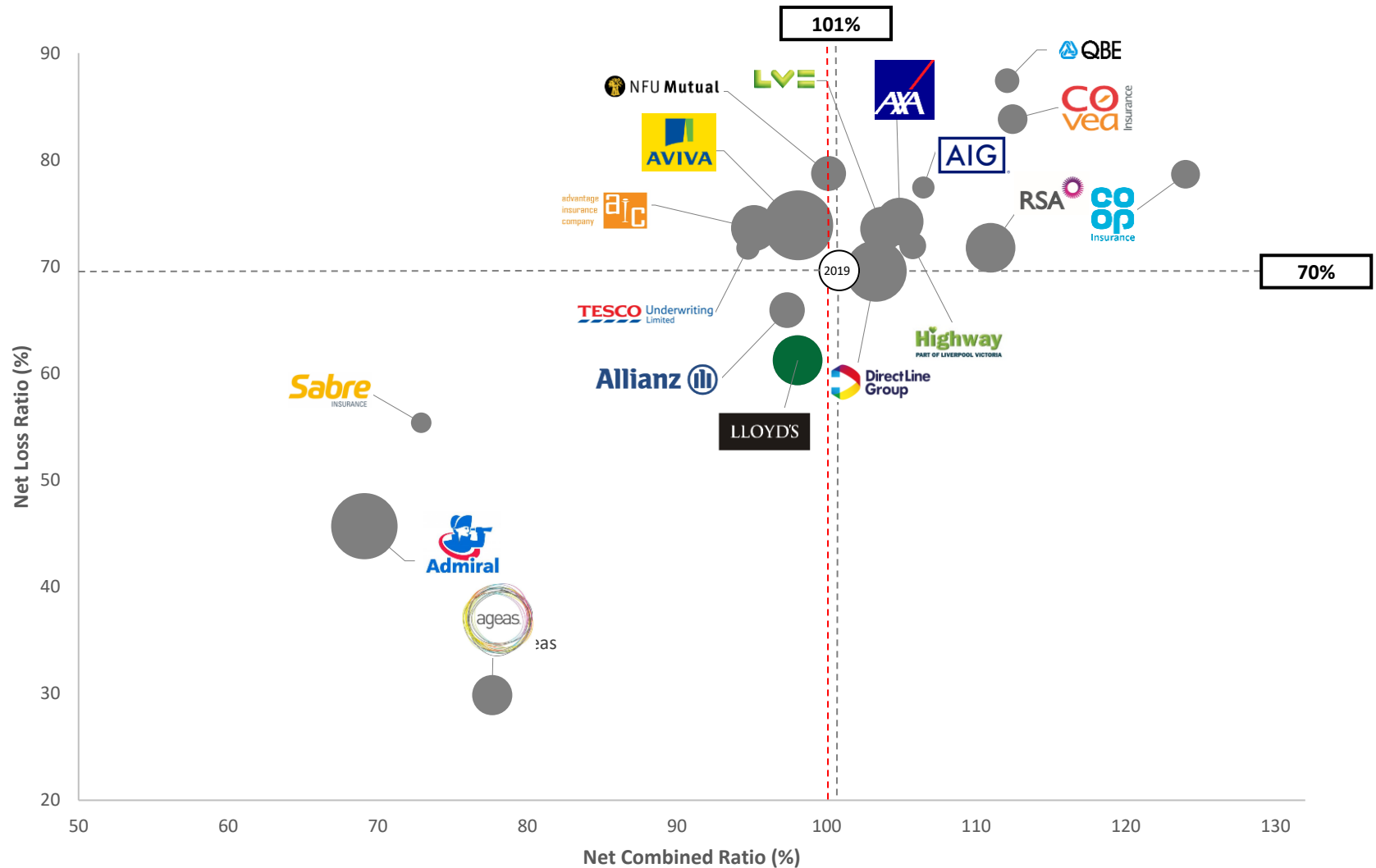
Sources	Companies (UK)	Companies (Gibraltar)
Solvency and Financial Condition Report (SFCR)	Admiral Advantage Ageas AIG AIOI Allianz Aviva AXA Covea DLG esure Highway Liverpool Victoria NFU Mutual QBE RSA Sabre Soteria Tesco Underwriting Lloyd's (Not included in Peer Group)	AA Acromas Admiral Advantage Alwyn Argus Calpe Carraig Collingwood Haven Markerstudy Mulsanne Premier Skyfire Southern Rock Watford Zenith Red Sands

The SFCR numbers presented in the following slides consist of Motor Vehicle Liability and Other Motor



2020 year-end results

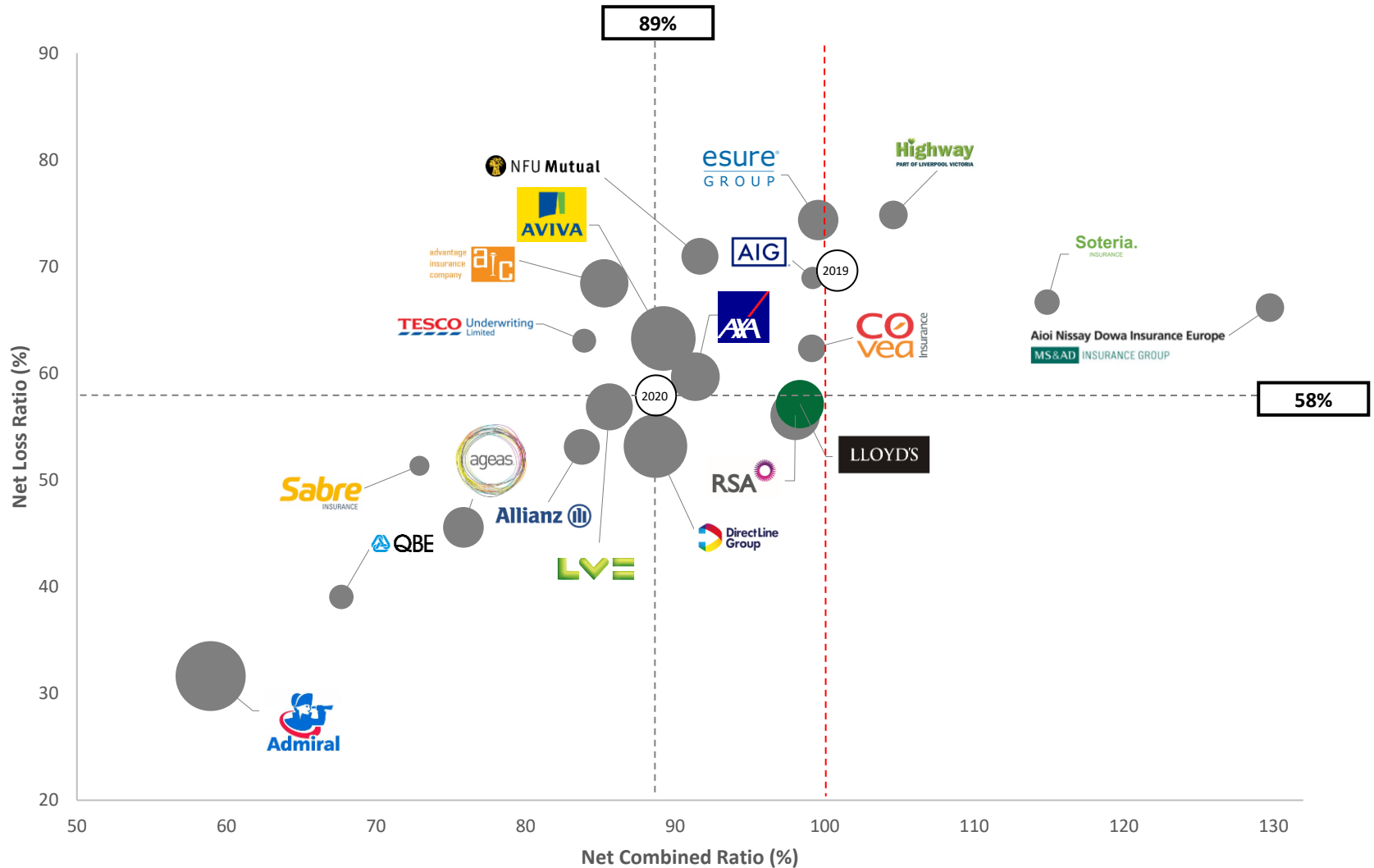
2019 Performance - UK





2020 year-end results

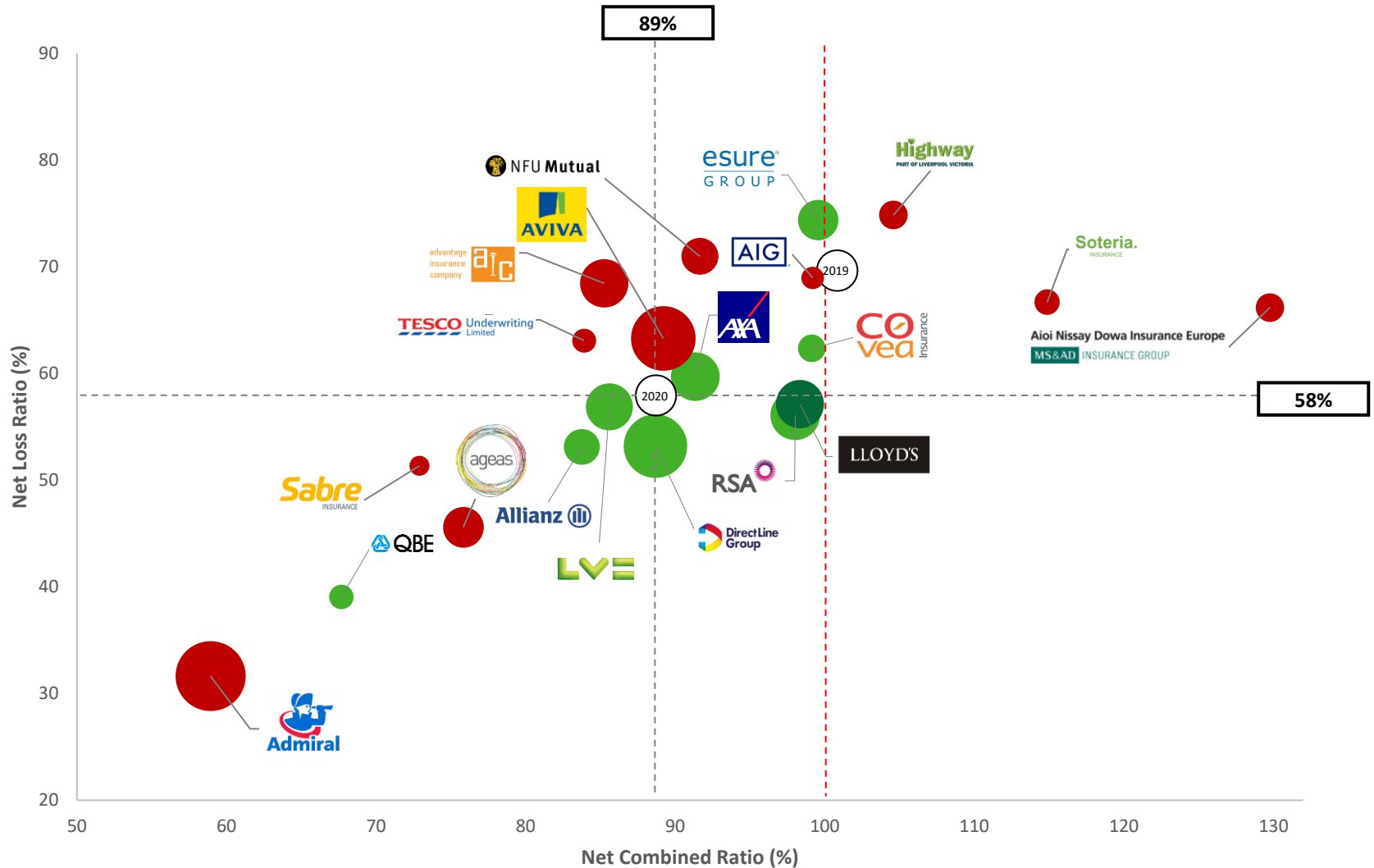
2020 Performance - UK





2020 year-end results

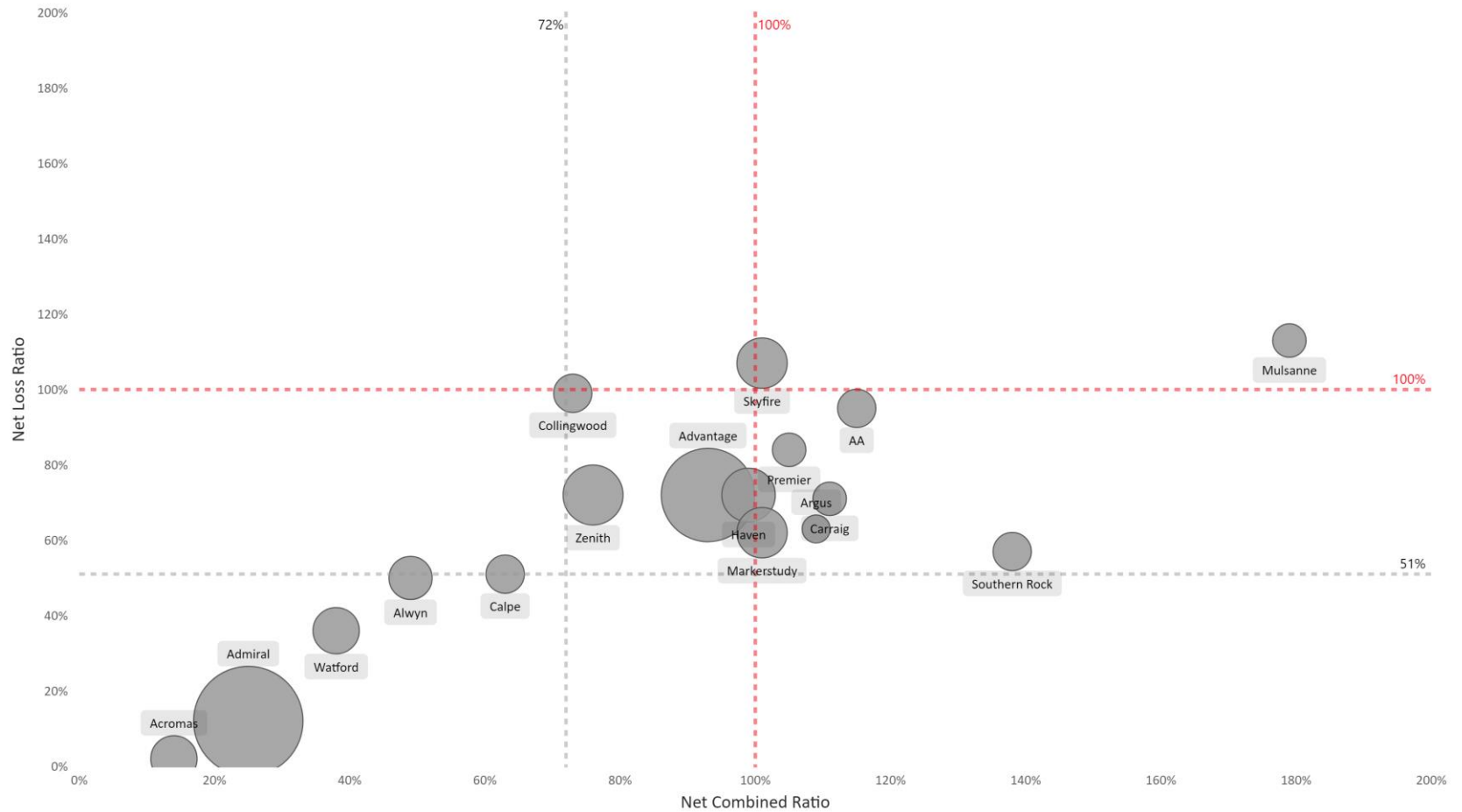
2020 Performance - UK





2020 year-end results

2019 Performance – Gibraltar





2020 year-end results

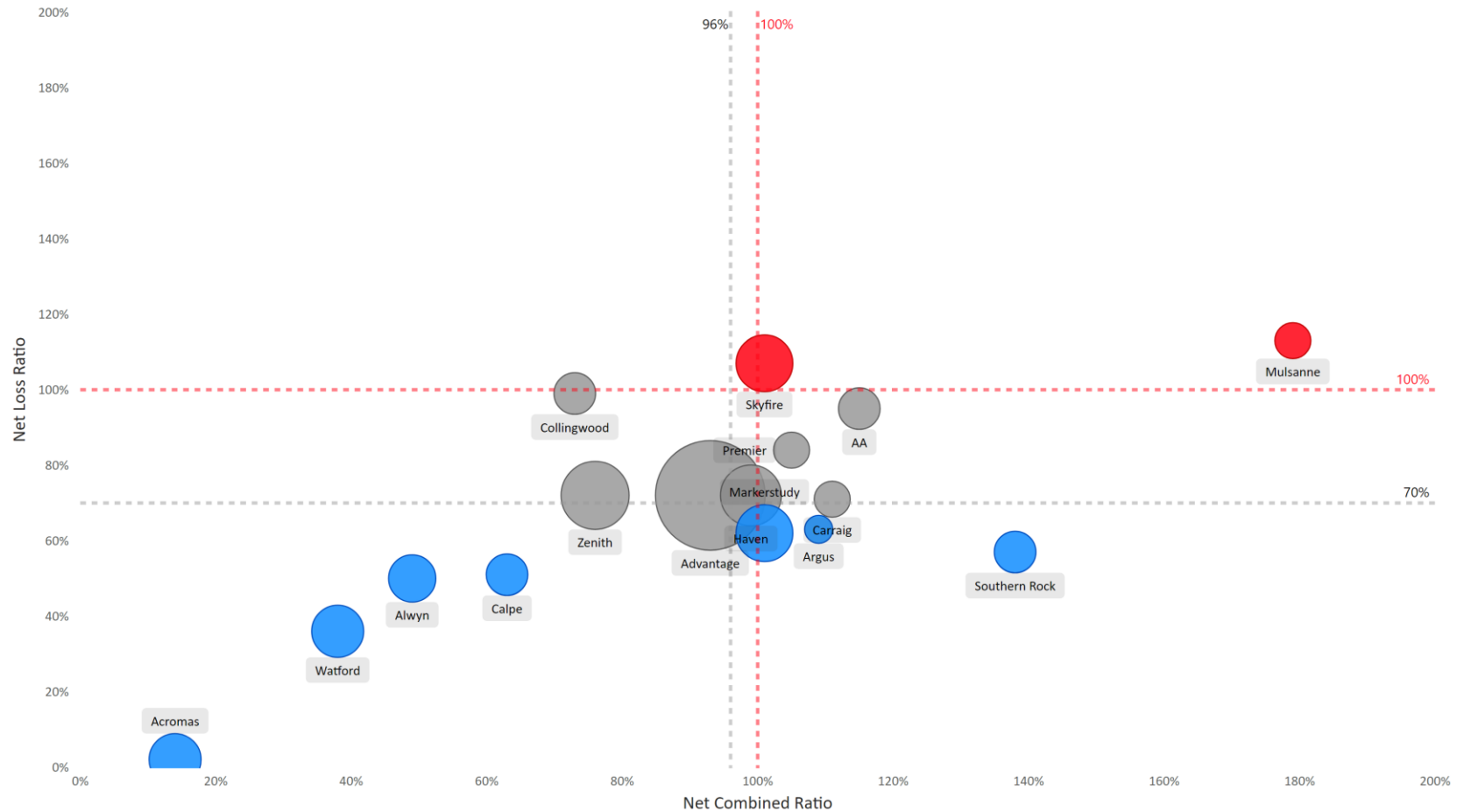
2020 Performance – Gibraltar





2020 year-end results

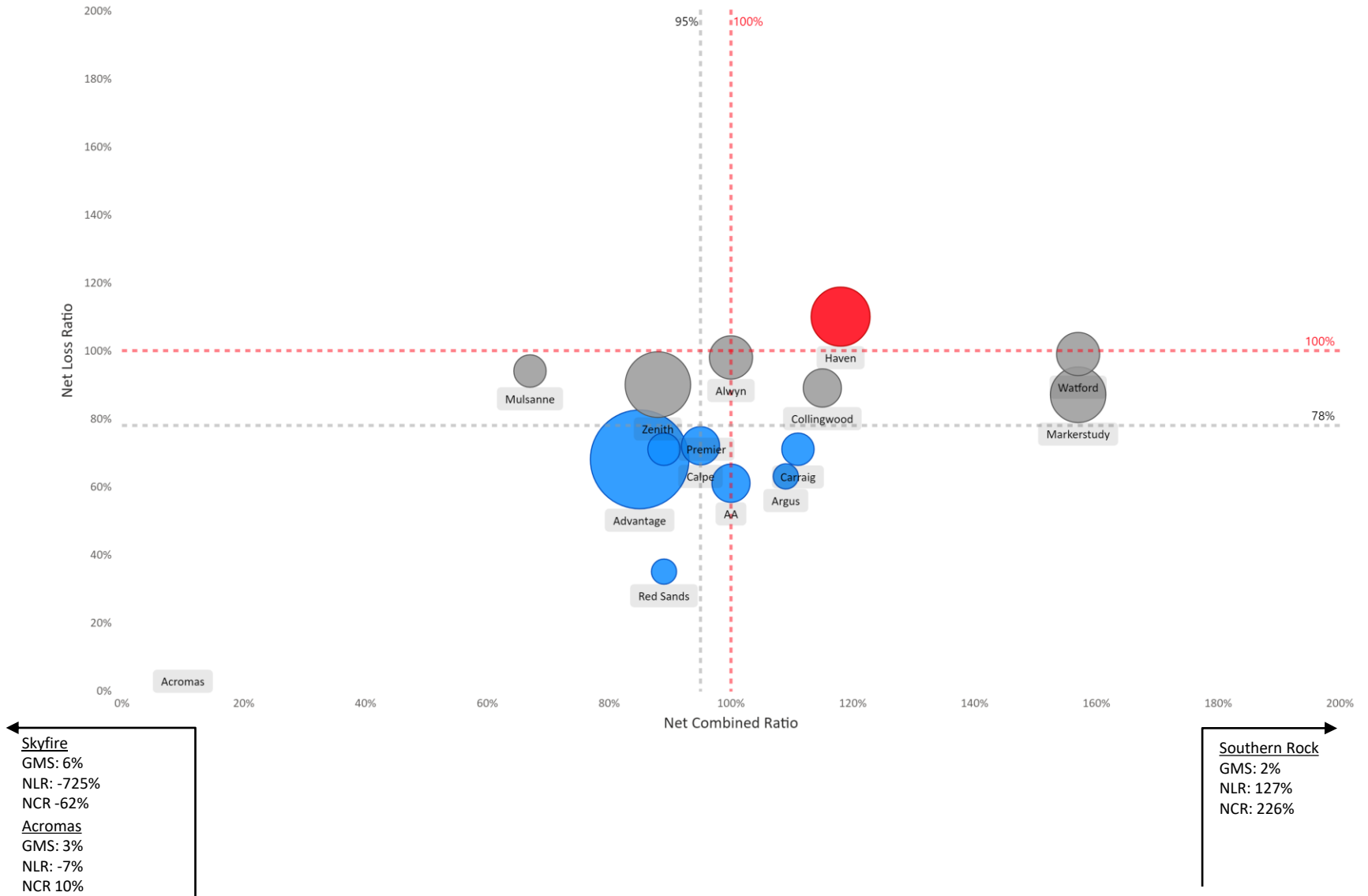
2019 Performance – Gibraltar without Admiral





2020 year-end results

2020 Performance – Gibraltar without Admiral





2020 year-end results

Top 5 movers Gibraltar – 2019 to 2020

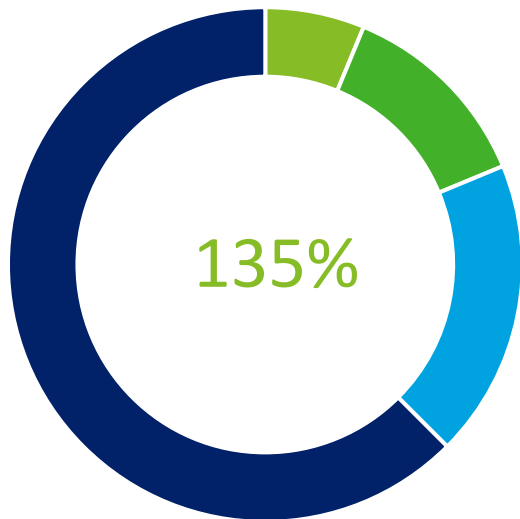




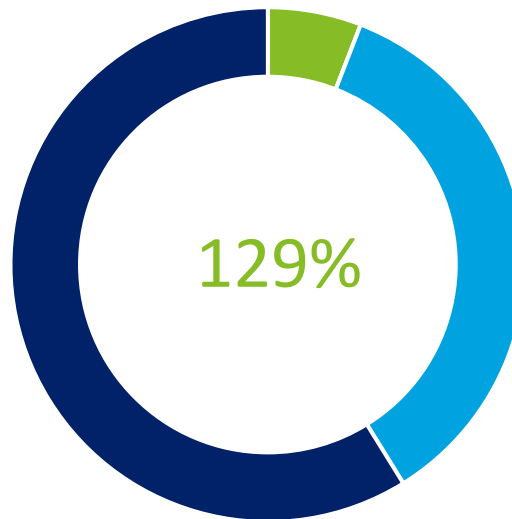
2020 year-end results

Capital

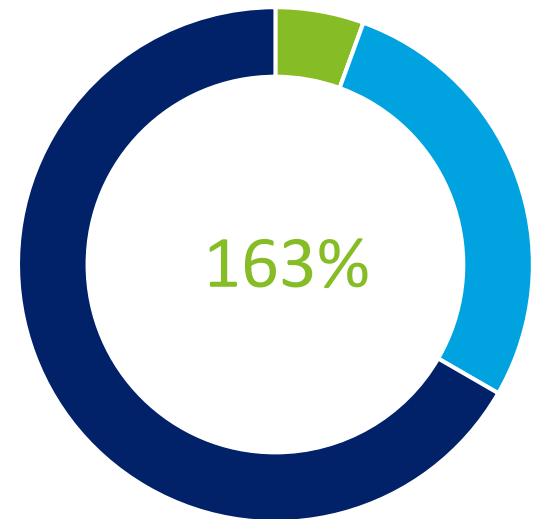
2018



2019



2020



■ 0% - 100% ■ 101% - 110%
■ 111% - 150% ■ 150% +

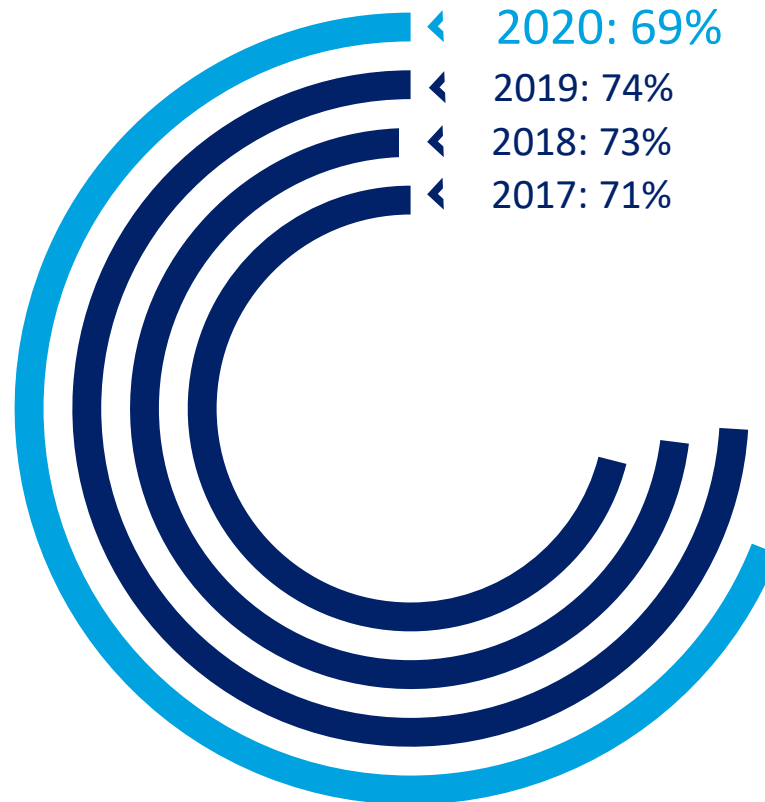
■ 0% - 100% ■ 101% - 110%
■ 111% - 150% ■ 150% +

■ 0% - 100% ■ 101% - 110%
■ 111% - 150% ■ 150% +



Reinsurance

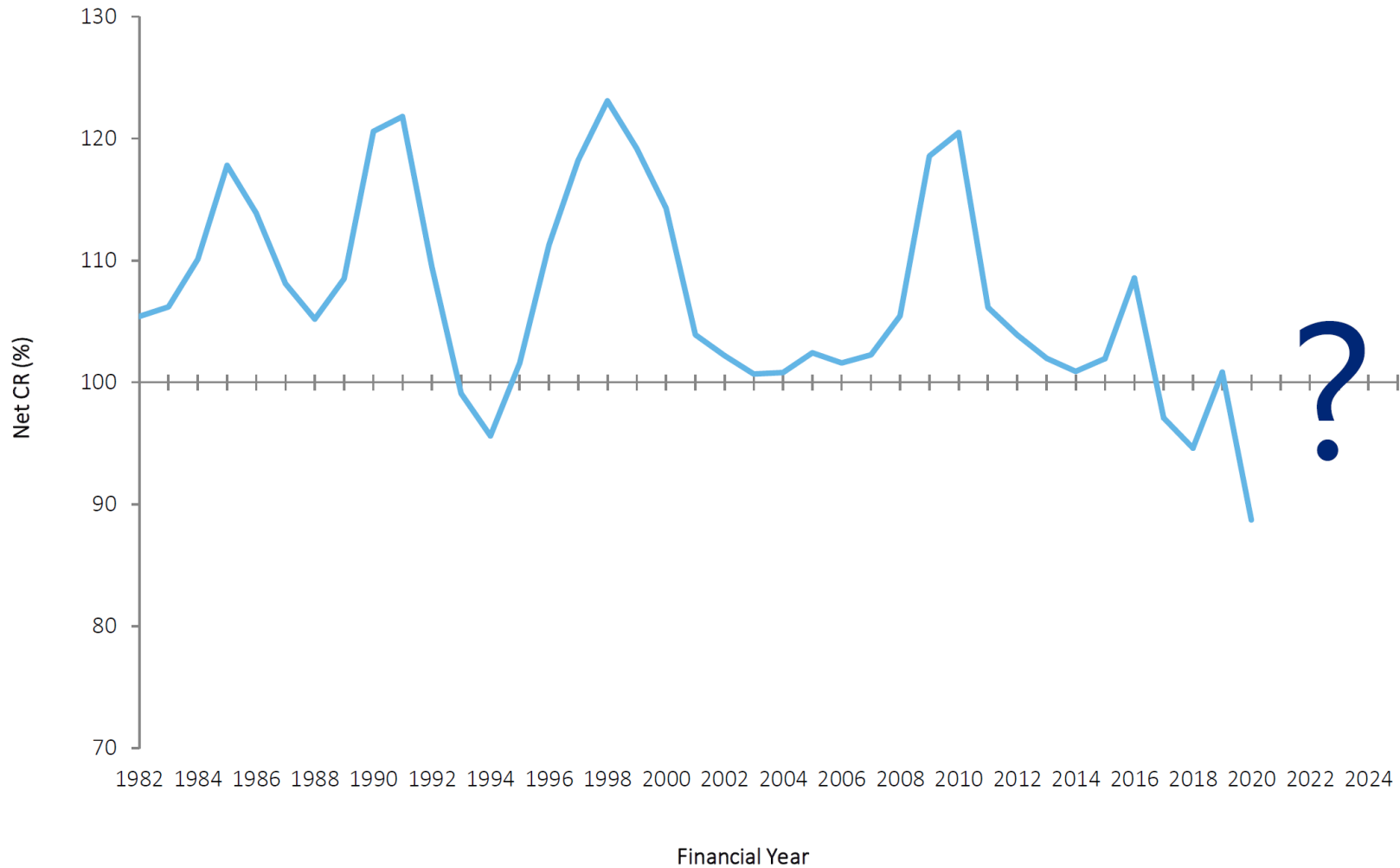
The first contraction in degree of cession in four years





Future Performance

Net combined ratios – what happens next?



Appendix



Financial year 2020 market ratios

Motor vehicle liability and other motor - UK

	Gross Written Premium £000s	Net Earned Premium £000s	Combined Ratio %	Expense Ratio %	Net Loss Ratio %
Admiral Group plc (C)	2,127,809	663,311	58.9	27.3	31.6
Advantage Insurance Company Limited	1,016,921	481,842	85.3	16.8	68.4
Ageas Insurance Limited	725,457	301,366	75.8	30.3	45.6
AIG Holdings Europe Limited	220,449	205,638	99.2	30.3	68.9
Aioi Nissay Dowa Ins Co of Europe SE (CS)	354,450	164,872	129.8	63.6	66.2
Allianz Insurance plc	558,156	327,285	83.8	30.6	53.1
Aviva Insurance Limited	1,823,352	897,546	89.2	25.9	63.3
AXA Insurance UK plc	1,035,455	1,038,459	91.4	31.7	59.7
Covea Insurance Plc	330,887	257,282	99.1	36.8	62.3
Direct Line Insurance Group plc (C)	1,760,408	1,599,313	88.7	35.5	53.2
esure Insurance Limited	712,709	441,235	99.6	25.2	74.4
Highway Insurance Company Limited	360,907	267,539	104.6	29.8	74.8
Liverpool Victoria Insurance Company Ltd	958,353	727,156	85.6	28.7	56.9
National Farmers Union Mutual Ins Soc	590,147	552,393	91.7	20.7	71.0
QBE UK Limited	260,507	246,221	67.7	28.6	39.1
Royal & Sun Alliance Insurance Limited	1,075,827	675,856	98.0	42.0	56.1
Sabre Insurance Company Limited	173,235	165,707	72.9	21.6	51.3
Soteria Insurance Limited	280,687	232,191	114.9	48.2	66.7
Tesco Underwriting Limited	247,175	153,967	83.9	20.9	63.1
Total	14,612,891	9,399,179	88.7	30.8	57.9



Financial year 2020 market ratios

Motor vehicle liability and other motor - Gibraltar

	Gross Written Premium £000s	Net Earned Premium £000s	Combined Ratio %	Expense Ratio %	Net Loss Ratio %
AA Underwriting Insurance Company Ltd	112,556	663,311	101.2	39.3	61.9
Acromas Insurance Company Limited	164,659	481,842	9.6	17.2	-7.5
Admiral Insurance (Gibraltar) Limited	1,456,370	301,366	40.3	29.8	10.5
Advantage Insurance Company Limited	1,016,921	205,638	85.3	16.8	68.4
Alwyn Insurance Company Limited	143,471	164,872	19.2	0.4	18.8
Argus Insurance Company (Europe) Limited	8,876	327,285	109.2	46.1	63.0
Calpe Insurance Company Ltd	86,011	897,546	94.9	23.0	71.9
Carraig Insurance Company Limited	23,818	1,038,459	111.5	40.6	70.9
Collingwood Insurance Company Limited	77,470	257,282	114.9	25.8	89.1
Haven Insurance Company Ltd	319,919	1,599,313	117.8	7.8	109.9
Markerstudy Insurance Company Limited	261,741	441,235	156.6	69.8	86.8
Mulsanne Insurance Company Ltd	54,126	267,539	66.9	-27.6	94.5
Premier Insurance Co Ltd	33,208	727,156	89.5	18.1	71.3
Skyfire Insurance Company Limited	294,124	552,393	-62.5	663.0	-725.5
Southern Rock Insurance Company Limited	91,147	246,221	225.8	98.8	127.0
Watford Insurance Company Europe Ltd	165,243	675,856	157.4	58.7	98.7
Zenith Insurance Plc	416,611	165,707	88.2	-2.2	90.4
Red Sands Insurance Company (Europe) Limited (Red Sands Group Holdings Limited)	664	232,191	53.3	53.3	0.0
Total	4,726,935	1,205,858	77.5	20.3	57.2



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