**Social inflation**

***Issue:*** Social inflation is a term that describes how insurers’ claims costs are increasing above general economic inflation.  This is generally thought to be due to a trend in increasing litigation costs brought by plaintiffs seeking large monetary relief for their injuries. The “social” aspect of the term represents shifting social and cultural attitudes about who is responsible for absorbing risk (the insurer or the plaintiff). The varying demographic makeup of jury pools, an increasing public distrust of large corporations, and the influences of social media and legal marketing can all influence jury verdicts and awards. There are several major contributors to increased litigation costs and social inflation, though.

Nuclear verdicts, generally defined as jury verdicts exceeding $10 million in punitive and compensatory awards, are one of the largest contributors to social inflation. Nuclear verdicts often arise from sympathetic juries who perceive big businesses as having deep pockets and responsible for plaintiffs’ injuries. A [**September 2022 study**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Finstituteforlegalreform.com%2Fresearch%2Fnuclear-verdicts-trends-causes-and-solutions%2F&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537681849%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=PkA1dDkp1z6A3vwWJDUCu3m2QnooR76DCnrAy5wEZnY%3D&reserved=0) by the Institute for Legal Reform found that nuclear verdicts were most frequently found in product liability (23.6%), auto accident (22.8%) and medical liability (20.6%) cases.

Third-party litigation funding (TPLF), i.e., litigation funded by outside parties like hedge funds and other financiers, also has an outsized effect on social inflation. Litigation funding has become a $17 million industry globally, with just over half that amount spent in the United States, according to a December 2021 [**report**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.claimsjournal.com%2Fapp%2Fuploads%2F2021%2F12%2Fswissre.litigation.funding2021.pdf.pdf&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537699671%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=aML91s9DfyfzUQIQLOAtDm2UDaIWdiz93GuR4KwnKmg%3D&reserved=0). A [**Swiss Re**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.claimsjournal.com%2Fnews%2Fnational%2F2021%2F12%2F10%2F307494.htm&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537720321%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=iw3P2NfCQYMZxwfxGKD%2BvIQVtwOOagHv5R1VQYNHx4U%3D&reserved=0) report found that third-party litigation funding is “contributing to growing loss ratios for excess liability, commercial auto, medical malpractice and general liability” and leading to increased premiums for consumers.

Others have suggested that the [**rollback**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.iii.org%2Fsites%2Fdefault%2Ffiles%2Fdocs%2Fpdf%2Ftriple-i_state_of_the_risk_social_inflation_02082022.pdf&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537739043%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=bdZv0RImoAFUguUn8dGhIR7k1fca5jVZCzLDj5rOMf0%3D&reserved=0) of tort reform measures, put in place during the 1980’s to protect insurers from insolvency causing losses, have led to an increase in social inflation, though the research on this is not conclusive. Nevertheless, the growing research surrounding social inflation indicates that it has become a pressing issue, meriting more discussion and debate.

***Overview:*** The lines of business [**most affected**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.iii.org%2Farticle%2Fsocial-inflation-hard-to-measure-important-to-understand&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537757828%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=t3oNz6AbkNYou4LICreXaWOD%2FEiZh%2FvTVirIACvCGeA%3D&reserved=0) by social inflation include commercial auto (especially the trucking industry), professional liability, product liability, and directors and officers liability insurance. A 2022 [**study**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.iii.org%2Fsites%2Fdefault%2Ffiles%2Fdocs%2Fpdf%2Fsocial_inflation_loss_development_wp_02082022.pdf&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537776152%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=ob2mcYj87TK3EFoiJs7FiVS7F%2BvByvZJQ4oc5Jv0Low%3D&reserved=0) by the Insurance Information Institute and the Casualty Actuarial Society found “social inflation accounted for $20 billion in commercial auto liability claims between 2010 and 2019.”  There is also [**mounting evidence**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.insurance-research.org%2Fsites%2Fdefault%2Ffiles%2Fnews_releases%2FIRCSocialInflation2020.pdf&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537794101%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=rHseWPGbzF2x0qfpP5Tckrp1KG8ds1E1%2FSSI%2BR3Ddns%3D&reserved=0) that the impact of social inflation is starting to impact personal auto lines as well.

Social inflation may appear to only affect insurers, but the costs can also trickle down to consumers and spread throughout the economy. For example, businesses and consumers could see the higher costs resulting from litigation being passed onto them by way of higher insurance premiums.  Because social inflation by nature is difficult to measure and plan for since it deals with cultural attitudes and public perceptions, insurers may not reserve appropriately and are at increased risk of insolvency.  Historically, the [**largest cause**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.actuary.org%2Fsites%2Fdefault%2Ffiles%2Fpdf%2Fcasualty%2FPC_Insurance_Company_Insolvencies_9_23_10.pdf&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537811425%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=NtXc4Lqf9c%2FpeZZlvx9Ib8%2Bom4xGC%2FXDuez14bFPSbo%3D&reserved=0) of liability insurer insolvency has been under-reserving.  Increased insurer insolvencies could have devastating global economic consequences.

The Insurance Information Institute listed social inflation as an [**emerging insurance issue**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.iii.org%2Fpress-release%2Ftriple-is-2021-insurance-fact-book-chronicles-a-historic-2020-011321&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537827832%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=J2tDjDfj8UtwiEFdXhZ9Ct2nbjOEXYnIhzwcwckgMss%3D&reserved=0) to watch in 2021, along with business interruption insurance, extreme weather, and cybersecurity.   Social inflation is mostly concentrated in the United States but it is also [**growing globally**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.agcs.allianz.com%2Fnews-and-insights%2Fexpert-risk-articles%2Fgrd-social-inflation.html&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537843300%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=pbdk3T4LDNraZKjwQ5cNjJ1M0eS%2FPRH8zrZjtIS0Koc%3D&reserved=0).

Proposed solutions to social inflation [**include**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.iii.org%2Farticle%2Fwhat-can-we-do-about-social-inflation&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537856966%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=fhjMiHru%2Fi3QKU3VVjLZTBBRn0ofTINgQ6rM1%2FxUPeQ%3D&reserved=0) robust local corporate social responsibility (CSR) campaigns to counteract anti-corporate bias and maintain a positive image in local communities. Raising awareness on how social inflation impacts consumers through skyrocketing insurance costs may also be an effective strategy to raise awareness.

[**Some experts**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.reinsurancene.ws%2Ftort-reform-needed-to-combat-social-inflation-jefferies%2F&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537870840%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=mrHoEsS%2FZ3mPjFWqS5rOeqL4mO%2BW3Pg5XLEgObF2G%2Fw%3D&reserved=0) conclude tort reform, [**similar**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Far.casact.org%2Ftipping-the-scales-measuring-the-impact-of-social-inflation%2F&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537884735%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=0seEEF0PoEXDRiXbQpbkps64HmGpJEVExGji1LbJvZo%3D&reserved=0) to the kind introduced during the 1970’s and 1980’s, might be needed to halt the rapid rise of lawsuits contributing to social inflation and increased insurance costs.   [**Other experts**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.propertycasualty360.com%2Fmedia%2Fdigitaleditions%2Fpnc%2FPNC1021%2Findex.html%23p%3D27&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537898045%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=MpqECe%2FnlUc5M1cZhK2ZFxYrEpVPzJByaOKnCd%2B3ViI%3D&reserved=0) say tort reform historically has not slowed down the current trend of nuclear verdicts and are cautious that moving in that direction would do little to ease the burden.

Disclosure and regulation of third-party litigation funders is another potential solution to reign in social inflation.  Currently, TPLF is a largely [**unregulated industry**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.americanbar.org%2Fgroups%2Fbusiness_law%2Fpublications%2Fcommittee_newsletters%2Fconsumer%2F2020%2F202011%2Fthird-party%2F&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537909995%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=pD%2BH9BHdsZQcYBQVr4SbeFzsudsoFd7SW7uPeBHikTg%3D&reserved=0) in most states, though [**25 out of 94 U.S. district courts**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.claimsjournal.com%2Fnews%2Fnational%2F2021%2F12%2F10%2F307494.htm&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537922320%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=1WwIOOygRBc1RgggpBHQeOErcjdWNc4ovxxX1wlc2b4%3D&reserved=0) have rules requiring attorney disclosure of TPLF agreements in civil cases.  Organizations such as the U.S. Chamber of Commerce Institute for Legal Reform and [**APCIA**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.apci.org%2F65485%2F&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537934403%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=p0zB41nEOPT6WDZ7wQOk2P1yVplf7U0o2HIr8h7Kmic%3D&reserved=0) advocate for more transparency and disclosure of third-party litigation funders in lawsuits.  Some legislation, such as the [**Litigation Funding Transparency Act of 2021**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.congress.gov%2Fbill%2F117th-congress%2Fsenate-bill%2F840%2Fcosponsors%3FsearchResultViewType%3Dexpanded&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537945300%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=GXNJ9XtVIWfzSalOzYHQP9lh6AYi%2B%2Bb1eLvWY4cO3Yc%3D&reserved=0) has been introduced at the federal level; however, there has been little momentum in moving forward with federal government intervention.

***Status:*** The CIPR has explored social inflation in depth as part of its [**Regulator Insight**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fnaic.soutronglobal.net%2FPortal%2FPublic%2Fen-us%2FRecordView%2FIndex%2F26283%2522HYPERLINK%2520%2522https%3A%2F%2Fnaic.soutronglobal.net%2FPortal%2FPublic%2Fen-GB%2FRecordView%2FIndex%2F26283&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537953884%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=FCDi2sEHr1Lq3bIBTOc%2F6RkuZ0E3WoR6E5AezYRgltY%3D&reserved=0) series and through other events. During the 2021 NAIC Summer National Meeting, The CIPR held a presentation [**addressing**](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fnaic.soutronglobal.net%2FPortal%2FPublic%2Fen-US%2FRecordView%2FIndex%2F24186&data=05%7C02%7CMeg%40sctrucking.org%7C341621f0d41d4a003f9308dc7b22508d%7C18a8eb341d9645f8b78460c4f35036e6%7C0%7C0%7C638520634537961806%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=DRg5jwLHYotk%2FwwEi5pwTZvG5Gy%2FO4OWaGPmSY331N4%3D&reserved=0) U.S. Property/Casualty losses and emerging casualty and catastrophe risks through the lens of social inflation. The NAIC’s Property and Casualty (C) Insurance Committee is charged with monitoring and responding to issues in the P&C insurance market.  Additionally, the Financial Condition (E) Committee coordinates and monitors solvency-related issues for all lines of business in the U.S. insurance