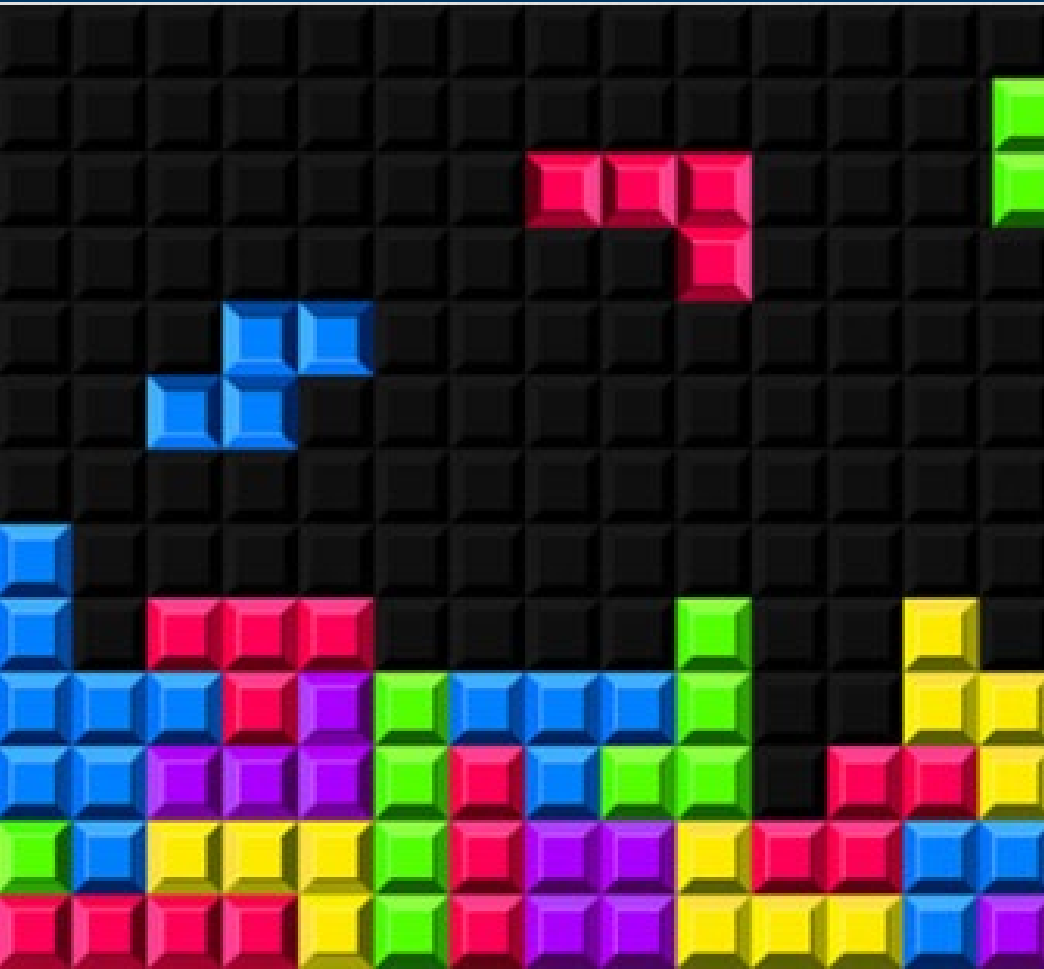


New Day, Same Old Headaches

**Navigating Coverage Issues
Involving Multiple Insurance Plans**

Anatomy of Multi-Layered Insurance Programs



- **Traditional Insurance**
- **Excess Insurance**
- **Risk Pools**
- **Reinsurance**



Traditional Insurance Plans

Traditional Insurance Plans



- **Risk Transfer**
- **Availability**
- **Solvency**

Traditional Insurance Plans

- **Markets**
- **Pricing**
- **Role of Insured**



Traditional Insurance Plans



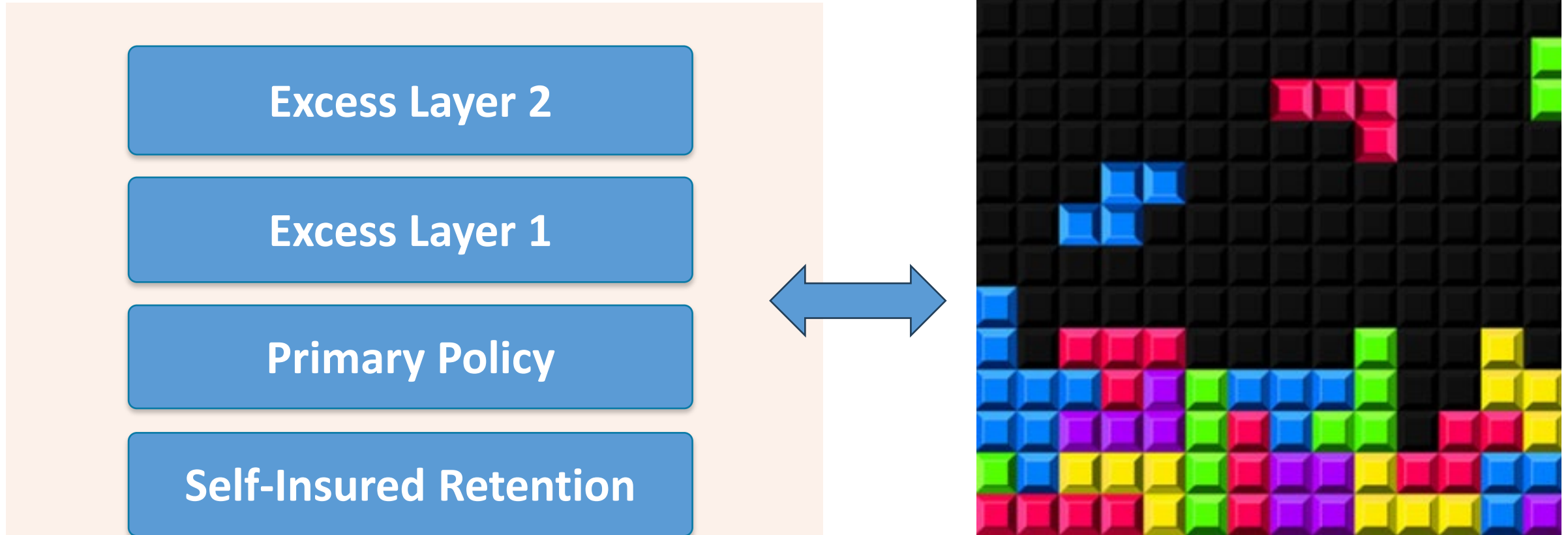
- **Deductibles**
- **Self-Insured Retentions**

Traditional Insurance Plans

- **Excess Insurance**
- **Umbrella Insurance**



Layered Insurance Tower





Risk Pools

Risk Pools



- **Alternative Insurance**
- **Public Entities**
- **Reinsurance**

Risk Pools

- **Non-Profit**
- **Cooperative**
- **Member Owned**
- **Member Governed**



Risk Pools



- **Pricing**
- **Claims Management**
- **Loss Prevention**

Risk Pools



- **Geographic Reach**
- **Financial Backing**
- **Direct Impact**

Risk Pools



Customization

- **Available Lines**
- **Trends**
- **Reinsurance**



Allocation Issues

Duty to Defend



- **The Obligation**
- **Modified Duties**
- **Consequences of Wrongful Denial**

Duty to Defend

Complications

- **Multiple Policies**
- **Multiple Years**
- **Targeted Tenders**





Trigger of Coverage

Trigger of Coverage



**When Does
Coverage Attach?**

Trigger of Coverage – Wrongful Incarceration



Single Occurrence

- **Date of Arrest**
- **Date Charges Filed**
- **Date of Conviction**

Trigger of Coverage – Wrongful Incarceration



- Rejected → Continuous Occurrence
- Outlier? → Multiple Occurrences
- Trend → Damages-Based Trigger



Allocation Issues

Methods of Allocation



- **Pro Rata Time-On-The-Risk**
- **Pro Rata By Limits**
- **All Sums**

Methods of Allocation

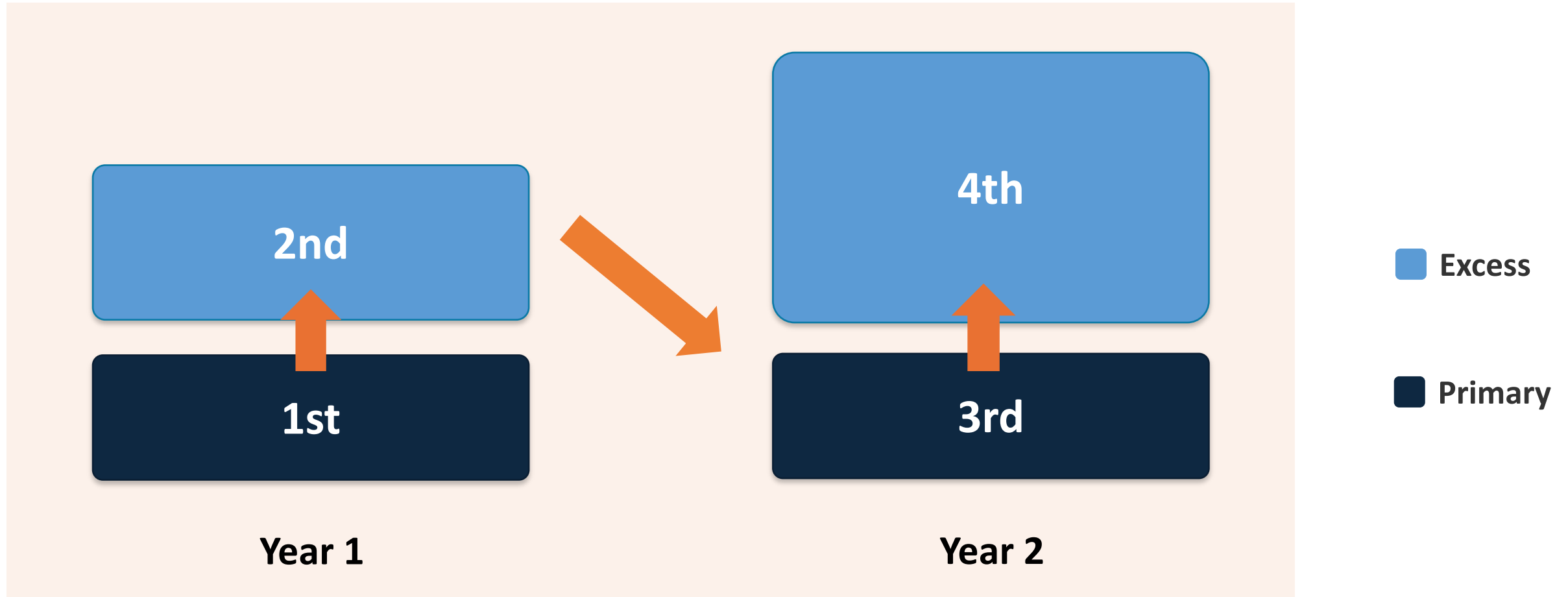
- **Hybrid**
- **Policy Language Dictates**



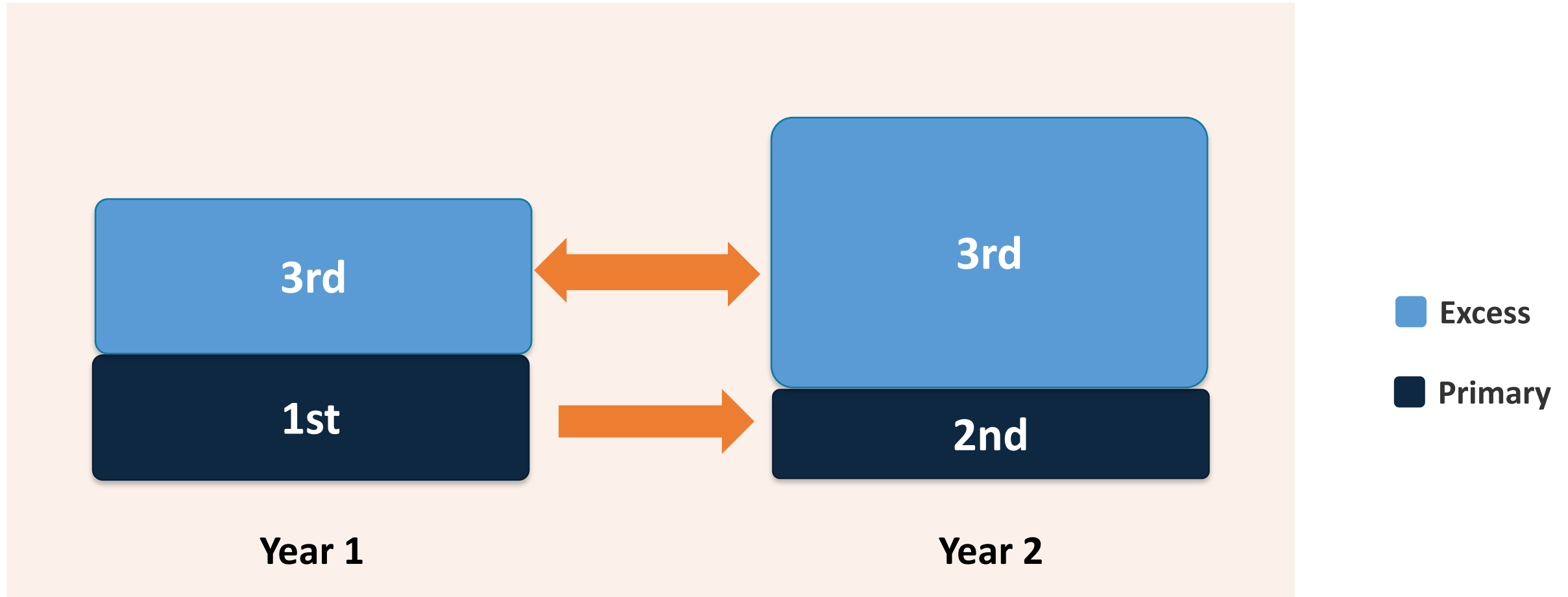


Exhaustion Issues

Vertical Exhaustion



Horizontal Exhaustion





Ethical Considerations

Ethical Considerations



Impacts on Allocation

- **Factual Development**
- **Timing/Number of Occurrences**
- **Settlement Structure**

Ethical Considerations



- **Good Faith/Fair Dealing**
- **Clear Communication**
- **Insured's Interests**



Practical Strategies for Successful Outcomes

From Migraine to Manageable

- **Clear, Timely Communication to Insured**
- **Investigate Other Potential Coverage**
- **Collaborate with Insured**



From Migraine to Manageable

- **Outline Available Coverage**
- **Overlaps and Gaps**
- **Communicate with Other Insurers**
- **Reevaluate As-Needed**



From Migraine to Manageable

- **Think Creatively**
- **Collaborate, Where Possible**
- **Civility**





Questions?

Thank You

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