wtw

Insurance Marketplace Realities

2025

wtwco.com

TABLE OF CONTENTS

1/ Introduction 3

Executive summary 4

View from the Top interview 6

2/ Major product lines 11

Property 12

Casualty 18

Middle market 31

Canada casualty 37

Canada property 40

Bermuda 42

3/ Professional liability lines 46

Cyber risk 48

Directors and officers liability 51

Employment practices liability 57

Errors and omissions 60

Fidelity/crime 62

Fiduciary liability 65

Financial institutions — FINEX 71

4/ Speciality lines and solutions 73

Alternative risk transfer 75

Architects and engineers 77

Aviation & space 80

Captive insurance 85

Construction 88

Crisis management 97

Energy 101

Environmental 105

Healthcare professional liability 107

Life sciences 109

Managed care E&O and D&O 111

Marine cargo 115

Marine hull and liability 117

Personal lines 119

Political risk 122

Product recall 125

Senior living and long-term care 127

Surety 130

Trade credit 133

Transactional risk 135

Introduction

Executive summary

Across any business there are always going to be periods of revolution that are vital to your long-term success.

And as many readers of Insurance Marketplace Realities likely know, there was an unmet desire in the risk management community that served as WTW's catalyst towards revolution in 2022 and 2023 — most notably in the development and rollout of our industry specialization strategy. But while continuous growth is necessary, revolution is not a sustainable state in which to operate. Periods of big change must give way to longer periods of incremental change, where the business can settle into the new way of doing things and find new ways to grow. In other words, revolution breaks the ground, but evolution paves the way toward longer-term goals.

Reflecting on 2024, the year could be characterized as one of evolution for WTW North America — incrementally building on the foundation we established over the previous two years. Consider our exclusive new excess liability policy, or the ongoing digitization of our broking platform, or the development and launch of a new client treaty, Client Edge Facility, that creates dedicated property capacity for our clients.

All are practical, carefully calibrated moves to further establish and develop our offerings, but they also demonstrate evolution of a broader strategy.

This theme of "evolution not revolution" is also discernible across the market. The industry has not categorically rewritten their position on any one line of business, but rather has taken micro-actions reacting to emerging trends. In property, the reinsurance community continues to bring capital back into first-party business and is even showing an expanded appetite through vehicles like insurance-linked securities (ILS) for CAT-exposed risk. The result has led to a demonstrable improvement in both the reinsurance and retail markets. It goes without saying that this state of affairs might only be one major hurricane away from being upended, which with Milton knocking on the door, the probability of disruption is growing.

The cyber and financial markets also remain relatively soft. Capital and capacity are both abundant in these markets but we're beginning to see the market take a discernible look at financial lines mid-excess layers.

Whereas capacity, be it from brick-and-mortar insurers or newly formed MGAs, once rushed into the excess towers, there is mounting trepidation for excess layers attaching between $20 million and $100 million. Insurers are questioning rate adequacy and ILFs more now than in the recent past.

Risk itself is not absolved from evolutionary change. The casualty marketplace demonstrates this powerfully. Not many risk managers or underwriters were talking about PFAs and forever chemicals ten years ago. Now, Praedicat is predicting this could become an $80 billion issue for both insurers and insureds, with a 1% chance that the total expense could exceed $200 billion. Unsurprisingly, this news — not to mention the ongoing pressures of social inflation — is driving a view in the sector that liability lines will not be enjoying a soft market any time soon. Whilst a return to 2020's rate and capacity challenges is not expected, tougher conditions are widely seen as probable.

Evolution is also visible in the pages of Insurance Marketplace Realities, and this edition sees the debut of our View from the Top interview section. Our first guest is Mo Tooker, Head of Commercial Lines at The Hartford. We're sure you will enjoy Mo's insights into the state of the market, evolving capital distribution, and where digitization is taking the industry. Do let us know what you think, as our plan is to make View from the Top a permanent fixture in future issues.

Change may well be the only constant in our business. Risk is evolving, the industry is evolving, and therefore our approach needs to keep evolving, too. From new, specialization-focused client engagement strategies to tighter underwriting conditions in casualty — all the way down to new sections in Insurance Marketplace Realities — every one of these evolutions is welcome evidence of our ongoing drive towards constant adaptation. For those navigating these winds of change, we hope this latest edition of Insurance Marketplace Realities helps you chart your course with confidence.

Contact

Jon Drummond
Senior Editor,
Insurance Marketplace Realities
Head of Broking, North America
+1 312 288 7892
jonathon.drummond@wtwco.com

For more insight on how you can prepare for a challenging marketplace, contact your local WTW representative.

View from the Top interview

WTW's Jon Drummond sits down with The Hartford's Mo Tooker and talks tech, talent, market cycles, the future of the industry, the state of the market and more.

Q **Jon Drummond:** Mo, thank you for joining us for our first View from the Top interview. We'll be covering a few topics today, so let's start with one that's close to the theme of Insurance Marketplace Realities: how would you characterize the market today?

A **Mo Tooker:** It's a competitive market with two predominant risk issues impacting the industry – extreme weather and legal system abuse. At The Hartford, we remain keenly focused on these two macroeconomic issues and the implications they may have for loss costs. However, barring a major catastrophic event, we believe the rational nature of this market will continue for the next few quarters with healthy competition for new business.

Q **JD:** Do you think there is any segment — middle market versus large accounts, for instance - that is stronger or better positioned from a rate adequacy standpoint?

A **MT:** We see an improving rate environment in the smaller commercial insurance segment. However, when we look at larger, more complex businesses, we see more and more competition in the field, and if this competition serves as a proxy for rate adequacy, it suggests that the market may believe large accounts have experienced appropriate remediation.

Q **JD:** Moving away from segment and looking at the market through a product lens, is there one line of business that you think is structured or priced better than the others?

A **MT:** The property market has been in a state of flux for the past three to five years. The terms are generally tight. Valuations have certainly improved, and recent years have brought rate momentum that has put us ahead of trend. We're also seeing reinsurance capacity coming back into the space, and that competition is driving better terms for retail insurers.

Q **JD:** At WTW, we've also seen a pursuit of property market share. That reveals another challenge facing our industry, which is market cyclicality. Market cyclicality makes it difficult for clients to manage budgets and costs. As an industry, how do we mitigate the excessive rate volatility that occurs when carriers push up rates and then chase them down? Are we ever going to kick this trend?

A **MT:** We're optimistic. As capital providers, it's not lost on us that this kind of cyclicality can be frustrating for our customers, and that it also creates challenges for our brokers and agents. The complexity of the capital chain — particularly in the reinsurance and retrocessional space, where alternative capital can quickly enter and exit the market — will inherently drive some levels of cyclicality. With that said, we believe data and analytics will help the industry attenuate this volatility, and there's already been some evidence pointing to this. Another factor that may help is that investors — certainly where our shareholders at The Hartford are concerned — are very much willing to pay for quality, consistent earnings. If the investor base is demanding more consistency, in both profitability and customer experience, it might lead to more stability from insurers.

Q **JD:** Given your view that we're in a rational market, is there a product line that makes you particularly uneasy?

A **MT:** Liability is probably the most challenging line of business today due to the unpredictable litigation environment. The impact of legal system abuse has been monumental. Claims that may have cost the industry $1 million in the past may now be multiples of this. We are focused on keeping up with claims trends, contractual risk transfer and managing capacity closely, as well as asking clients to assume more risk.

Q **JD:** That's an interesting point, and I would also suggest the industry needs to stay relevant. Over the past couple of years, our clients have successfully used their own balance sheet to finance risk. Not only does that pull premium out of the market, but it also challenges clients to think outside of conventional channels for addressing risk. Is that a good or bad thing?

A **MT:** It's hard to say. However, as far as the risk that these companies are taking on their own balance sheet, it is concerning because we don't think they're collecting enough price in their product to pay for it. The decision also seems like a short-term answer driven by the idea that if a company can assume their risk now, then you can control the cost. But, when we consider this decision over a decade, it is possible that the volatility of the risk can come through on an income statement in a different way.

We recently looked at the insurance industry's ROIs relative to every other segment in the S&P 500 such as financial services, real estate, and food, and we discovered that over 10 and 20-year periods, the insurance industry's ROIs lagged the S&P 500 ROIs by five points. Even in 2023, all industries ran an 18-percent ROI, and insurance ran a 13-percent. As an industry, we have a long way to go to match the profitability of other industries.

We recently looked at the insurance industry's ROIs relative to every other segment in the S&P 500 such as financial services, real estate, and food, and we discovered that over 10 and 20-year periods, the insurance industry's ROIs lagged the S&P 500 ROIs by five points. Even in 2023, all industries ran an 18-percent ROI, and insurance ran a 13-percent. As an industry, we have a long way to go to match the profitability of other industries.

Q **JD:** You have a diverse background that spans both reinsurance and retail insurance. How do you see the capital chain evolving, and why? Who do you think will be at the forefront of that change?

A **MT:** It's a fluid situation where traditional boundaries are coming down as some retail and wholesale brokers are finding ways to take risk in their own way with some of their own capital. You also have reinsurers trying to get close to the customer, and in terms of MGAs, there's a blurring of the traditional relationships of how capital was provided to an MGA through an insurer. People are generally trying to figure out how they can get paid for the capital they provide.

Q **JD:** The MGA movement is stronger now than ever before. How will this help the industry evolve? As a more conventional capital provider, do you have any concerns about the movement?

A **MT:** The data that we have reviewed over the past five-to-ten-year period shows that the capital provider behind an MGA ends up losing on average. While there are MGAs that make money for their capital providers, it has not been consistent. Customers may win because they're getting hyper-specialized underwriters and talent may also win because they get paid well for their underwriting skills, but it is not the case on average. While there are MGAs that succeed, where the alignment is perfect and everything works out well for everybody, that is not the case in every circumstance, especially when we look at the aggregate data over time.

Q **JD:** The Hartford has made a lot of investment and progress in the digital era. How do you expect digitization to impact the insurer, broker, and client relationship? How will digital trading improve the client experience?

A **MT:** The pace of investment is such that those who are ahead will likely stay ahead. Speed of transaction just means so much where small and medium-sized risk is concerned. Many of our brokers and producers want to get a quick, reasonable answer back to their customer. At The Hartford, we are focused on creating a stellar experience for the agent. We think our product offerings and customer-focused approach is a competitive advantage, and we believe it's how the industry will compete in the long-term.

Q **JD:** How do you still create that client experience - and are you worried about that client experience?

A **MT:** Sometimes a client will come in with high expectations, and while they might be met on one product, they might not be met on another product, or they might get something in one geography, but maybe not in another geography. So, there's opportunity to enhance that experience. We want to create consistency and we want things to feel as streamlined and frictionless as possible for clients when they need us.

For sure, we're already driving improvements in communication and creating ease wherever we can. We have third party data that's helping us around change detection and providing exposure data. We can see changes in an insured, whether they remember to tell us or not. And we can bring all that information forward at renewal, so it's already largely complete without needing more information from them. Hopefully, this will make customers feel that we're reducing the amount of work on their plates and making it easier for them to feel confident with their coverage.

The other bet that we're making is that with all the data that we are collecting, we will have more and more of an ability to bring the total cost of risk down for small, middle, and large customers.

Q **JD:** Meaning there's more to be won than lost on risk mitigation and risk management?

A **MT:** We're not just asking if we can we create a joyful experience, but also if we can create a frictionless experience that's helping customers manage their own risk. We think that's where it's going, just with the data we're all collecting. And if we can provide that experience for the customer, hopefully there will be a retention benefit over time as well. That would be good!

Q **JD:** The industry has seen a lot of Insurtech start-ups come and go over the past few years. What kinds of Insurtech do you think have staying power, and have proven valuable to The Hartford? What's worked for you when it comes to introducing technology into the insurance world, driving down lost costs, and improving overall risk control?

A **MT:** I agree with your characterization of Insurtech. As for what's working for us, we've found several firms that are bringing unique data solutions, and combining data sets in ways that are creating real value for us. One classic example is aerial imagery that can look at roof lines and see if a building has changed. Another one is in the world of IoT devices and data collection. Startups are asking, how can we capture data in a behavior-or-usage-based format that allows us to design solutions. This is because we're willing to pay for devices and technology solutions that can mitigate risk and help us provide data for both customers and risk management solutions. Those two areas - unique data sources and unique risk mitigation products — are where we have found particularly compelling products. And we're willing to pay for those because they help make the customer better — and they make us better, too.

Q **JD:** This is interesting, because of what you've seen with some behavior-based underwriting models, and how they haven't been as successful as you'd think.

A **MT:** Sometimes, it's about timing. It's not that these things are fundamentally flawed, but rather it's that they're going to take a lot longer to get right than some firms may have thought. What we have found is that there are some basic challenges such as my driver doesn't really want to be tracked, or my driver doesn't really want his data shared. We get it. It's playing out slowly, which is slowing progress right now. We suspect though that we'll move through it over time. It's premature to think that some things are going to take off right now when we haven't worked through some of these more fundamental questions.

Q **JD:** Finally, in the spirit of Marketplace Realities, I'd like to ask you to put on your Nostradamus hat and project market conditions for the next couple quarters. What do you think our readers can expect to see from the market?

A **MT:** I don't feel comfortable making macro predictions over five-to-ten-year periods. But, in the next two to three years, I think that some of the macros we've been talking about will still be present. For example, legal system abuse is still a risk we need to watch. As a result, the buyer of a casualty product is likely to be paying more year-on-year until we can mitigate for legal system abuse. In addition, if we have a stable property market, then we may have a little more capital coming in.

However, it's still going to be about supply and demand, especially in the specialty insurance market. For example, we're seeing some pressure on the cyber insurance market now as more competition enters. This will be helpful for buyers.

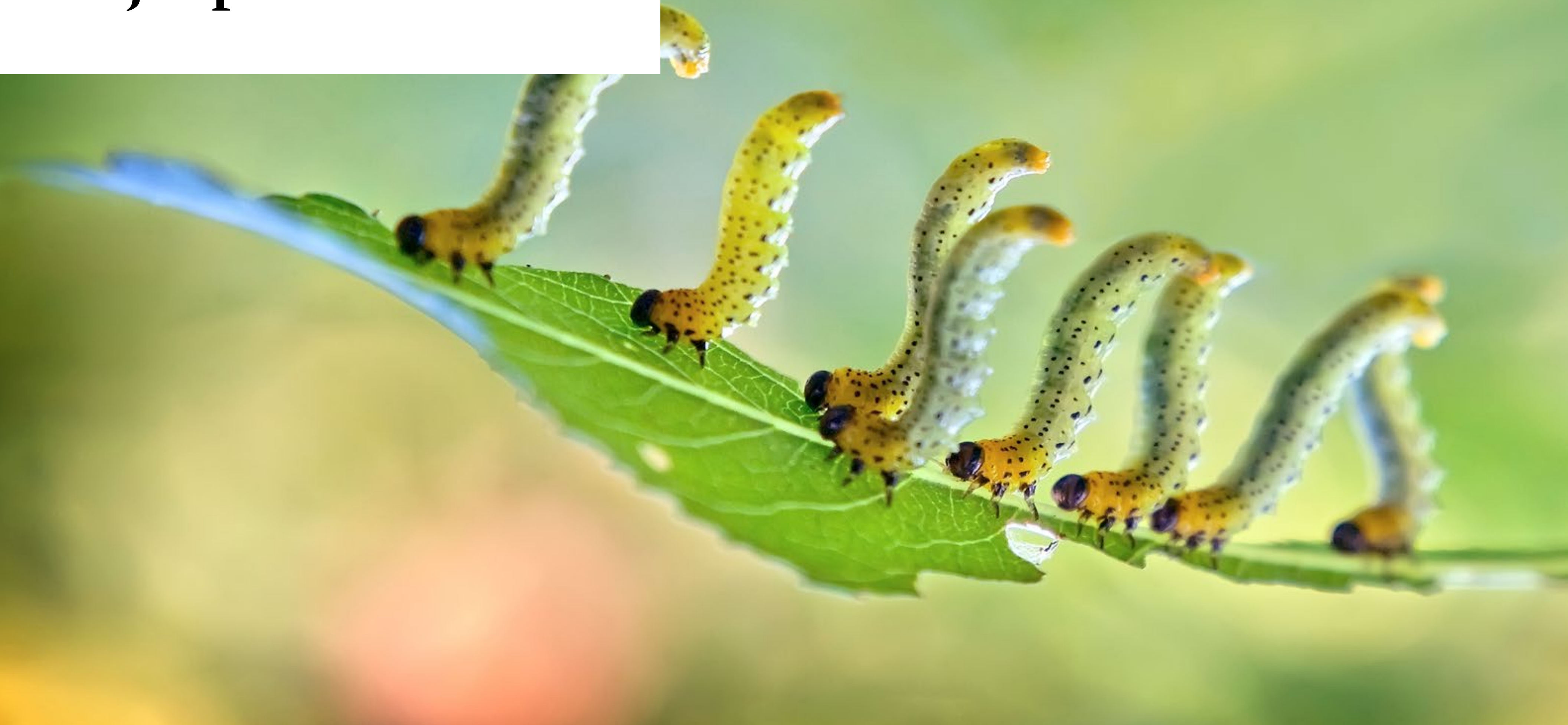
Meanwhile in workers compensation, we see downward trend for the foreseeable future with a continued focus on worker safety and greater improvements in risk management practices. Broadly, we think the insurance market has been able to take those advances in frequency and get paid for the severity risk in a way that is competitive, and we see that continuing.

Willis Towers Watson hopes you found the general information provided in this publication informative and helpful. The information contained herein is not intended to constitute legal or other professional advice and should not be relied upon in lieu of consultation with your own legal advisors. In the event you would like more information regarding your insurance coverage, please do not hesitate to reach out to us. In North America, Willis Towers Watson offers insurance products through licensed entities, including Willis Towers Watson Northeast, Inc. (in the United States) and Willis Canada Inc. (in Canada).

This article may contain information or materials created or provided by third parties over whom Willis Towers Watson has no control or responsibility. These third-party information or materials are not under Willis Towers Watson's control, and Willis Towers Watson is not responsible for the accuracy, copyright compliance, legality, or any other aspect of such third-party information or materials. The inclusion of such third-party information or materials does not imply endorsement of any third parties by Willis Towers Watson or any association of Willis Towers Watson with any third parties.

Click on the buttons to view each major product line.

Major product lines



Property

Rate predictions

Non-cat exposed	CAT exposed
−5% to +5%	−10% to +10%

Individual accounts may experience greater increases or reductions depending on account-specific metrics

Key takeaway

The property marketplace's transition into stabilization persisted through the second quarter of 2024. Factors reinforcing this trend include increased insurer competition, favorable 2024 treaty reinsurance renewals and a weaker than predicted Atlantic hurricane season to date.

- Extraordinarily tight property market conditions began to ease toward the end of Q4 2023, and we are seeing an acceleration in market competitiveness in the first half of ’24 as each renewal month passes.
- Insurers began 2024 reluctant to support a flattening of renewal rates. As the sequential months of ’24 have transpired, insurers have been compelled to readjust their approach to this more competitive market.
- The ’24 property market shift has brought the emergence of a new bifurcation in the market. Insureds that sustained the high levels of rate increase and restrictive terms in 2023 have seen the most competitive renewals in the first half of 2024. Insureds that experienced nominal rate/term adjustments in 2023, especially in the single carrier space, have remained stable in ’24 without the same level of fierce competition.
- The 2024 treaty reinsurance market has largely recovered from the tumultuous market cycle in 2023, where primary insurers were forced to accept substantial increases in reinsurance cost and attachment points along with term restrictions. Due to the changes in terms and pricing, new capital has been drawn into the treaty market in 2024. Substantial increases in available capacity from capital markets through instruments like insurance-linked securities (ILS) cat bonds and sidecar arrangements have led the charge. Increased access to reinsurance capital enables the direct insurer market to offer more stable and increased capacity on renewals or new business.
- Due to especially powerful El Niño conditions, the 2023 Atlantic hurricane season resulted in a large drop-off in landfalls along the U.S. East and Gulf Coasts. This lack of a large-magnitude industry event contributed greatly to insurer/reinsurer profitability and subsequent 2024 rate stabilization.
- As of September 30, the 2024 Atlantic hurricane season has seen only ten named storms, underperforming expectations.
- The Atlantic hurricane season runs until November 30, and a more active second half is anticipated if current conditions shift.
- Hurricane Helene is projected to have caused losses between $3 billion and $6 billion+ in Florida and Georgia, with additional claims expected from windstorm and flooding in the Carolinas and Tennessee.
- A familiar cycle of “what is achievable” on renewals has re-emerged in the property market environment. Traditionally, when the property market shifts to a more favorable condition for buyers, it begins with downward pressure on rates as the first achievable result. True to prior market trends, underwriting discipline has thus far been maintained on the more restrictive terms, coverages and deductibles that were achieved by insurers during the prior year’s hard market.

Insurers remain focused on valuations to demonstrate to their reinsurers that their portfolio data is robust, accurate and balanced when deploying capacity.

Index	2017	2018	2019	2020	2021	2022	2023	2024
ENR — Building cost index	3.30%	3.30%	1.74%	3.96%	13.94%	9.40%	2.90%	1.90%
FM Global — US industrial buildings average	1.20%	5.20%	1.73%	1.42%	18.40%	11.10%	1%	1%
RSMeans — 30 city average	4.00%	5.50%	2.05%	1.71%	15.83%	12.10%	1.90%	1.30%
Marshall & Swift — U.S. average	2.7 to 3.7%	3.2 to 6.0%	0 to 1.3%	3 to 6.1%	16 to 24.5%	11.10%	1.04%	1.20%

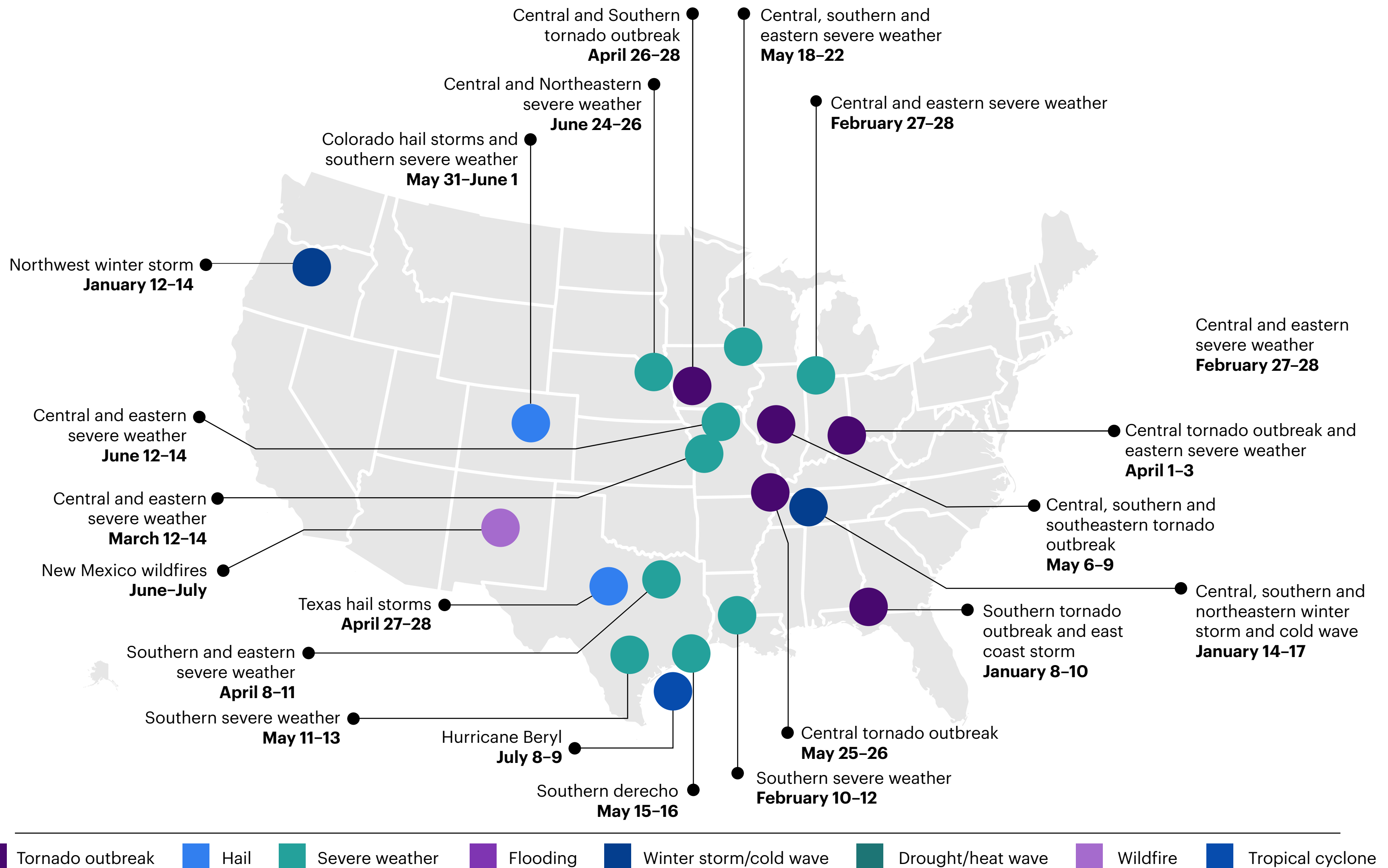
Data table showing industrial cost trend factors

- Inflationary pressures on building replacement costs have substantially eased through mid-2024 as evidenced by FM Global and Marshall & Swift average building cost inflation trends showing low single-digit increases. This disinflationary trend is a welcome relief for insureds who are no longer subject to substantial increases in premium on the same risk portfolio due solely to inflation of existing asset valuation.
- The imposition of margin clauses or occurrence limit of liability endorsements (OLLE) is reserved for accounts with obvious and drastic underreporting as we have seen a shift toward only adverse accounts being impacted.
- Appraisals and other back-up data to confirm the accuracy of the insureds statement of values provide insurers with more confidence regarding value accuracy and a greater comfort level in assessing risk.
- To that end, while replacement cost valuation increases seem to be stabilizing, proper asset valuation will remain an important issue and should be viewed as an annual risk assessment.

Catastrophe risk: The new normal is real

- As stated previously in our Insurance Marketplace Realities reports, the definition of natural catastrophe risk continues to be broadened from the traditional perils of earthquake, flood and windstorm in high hazard zones; a heightened concern from underwriters incorporates such secondary perils as severe convective storms, wildfires and freeze into the new definition.
- A total of 22 $1 billion+ losses have hit the U.S. insurance market so far in 2024. Of these losses, most (16) were due to secondary perils such as severe convective storms. These losses continue to be of great concern because they are primarily absorbed by direct insurers impacting profitability due to increases in reinsurance treaty retentions.
- The first half of 2024 was the second costliest on record for insured losses from severe thunderstorms at $42 billion globally; 87% higher than the 10-year average. Severe thunderstorms, mainly in the U.S., accounted for 70% of insured losses globally. This follows ~$60 billion in severe convective storm losses in the U.S. in 2023.
- The occurrence of a significant catastrophe (CAT) event with insured losses exceeding $40 billion to $60+ billion will have a profound impact on market predictions and dynamics. Such a major event is likely to prompt a shift in underwriting practices, reinsurance availability, and pricing across the industry.

Figure 1: **U.S. 2024 billion-dollar weather and climate disasters**



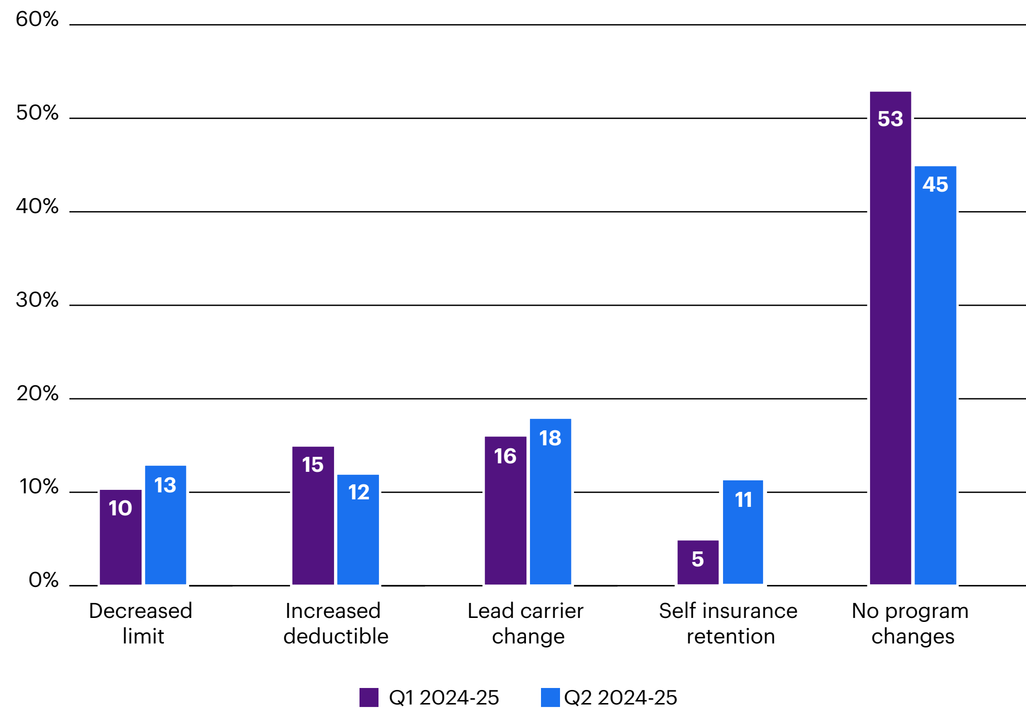
This map denotes the approximate location for each of the 20 separate billion-dollar weather and climate disasters that impacted the United States through August 2024
Source: National Centers for Environmental Information

In 2024 (as of September 30), there have been 22 confirmed weather/climate disasters with losses exceeding $1 billion each to affect the U.S. These events included 16 severe storms, three tropical cyclones, one wildfire and two winter storms.

The property market appears poised to move from stabilization to a softening phase in the second half of 2024 as capacity continues to come back into the market. This market shift will be evident during the renewal process and program delivery results.

- Losses from Hurricane Helene are not anticipated to trigger catastrophe (CAT) reinsurance treaties or significantly impact primary insurers within the large commercial property sector. The considerable damage extending far inland from coastal counties will continue to heighten insurers' concerns regarding secondary perils, such as windstorm and flooding. Despite these challenges, the property market is expected to continue its competitive trajectory.
- Many insurers are focused on expanding premium writings by aggressively pursuing new business and offering expanded lines on renewals. However, the overall risk profile of each individual insured remains crucial in determining renewal results, considering factors like catastrophe (CAT) footprint, loss history, capacity required and risk occupancies.
- Oversubscribing individual layers during the marketing process is key to leveraging incumbents and new markets to offer more aggressive pricing to secure renewal orders.
- Alternative risk transfer options continue to be in high demand, especially for clients with challenging risk profiles, poor loss experience and/or significant ROL in program structures.

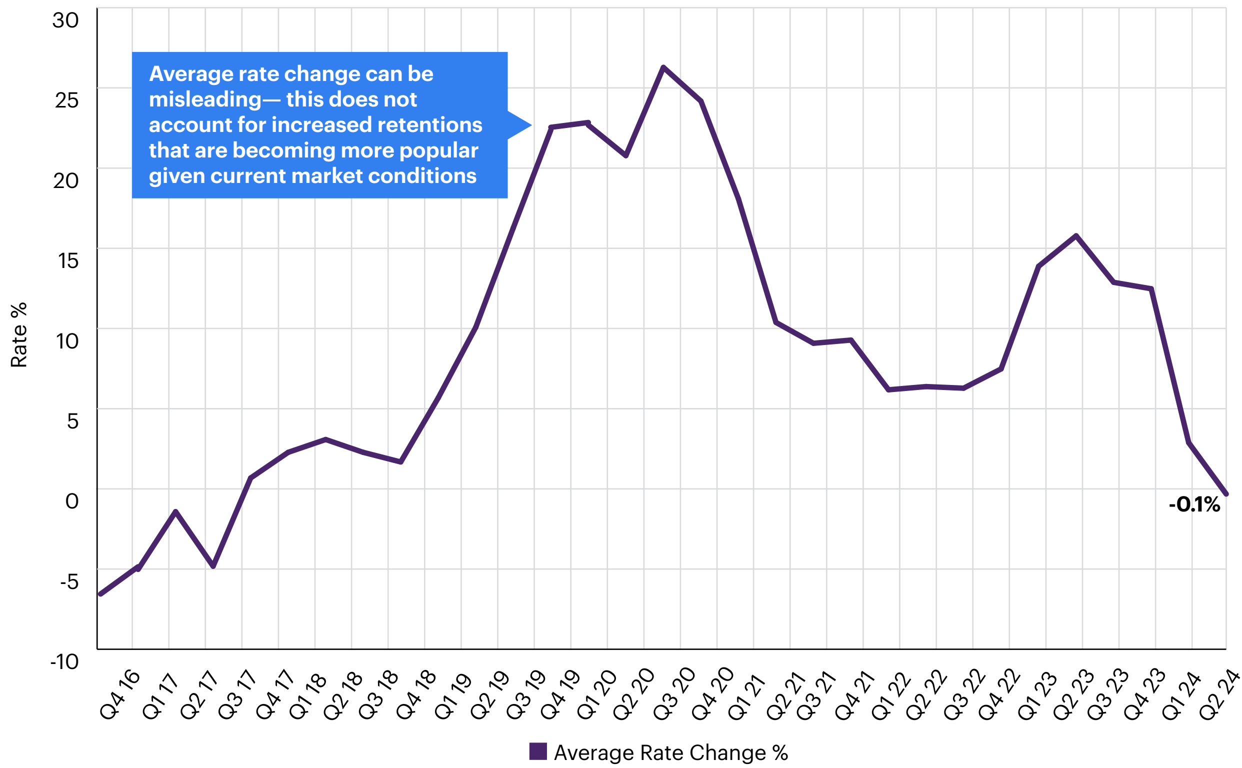
Figure 2. **Program changes Q1 2024 — Q2 2024**



Source: WTW internal data

- Annual or multiyear, parametric and structured solutions will continue to be the most traded ART products in 2024. The addition of these products helps address insurance gaps, disintermediate traditional placements, create diversification and help control volatility in the commercial market.
- Clients continue to evaluate program changes, such as increasing deductibles, self-insurance participation, policy limit and catastrophe limits purchased. Insureds taking this approach seek to further align their risk purchasing strategies rather than responding to marketplace restrictions.

Figure 3. **Quarterly average rate trends: January 2020 — March 31, 2024**



Source: WTW internal data

Contact

Scott C. Pizzi
Head of Property Broking
North America
scott.pizzi@wtwco.com

Casualty

Rate predictions for 2025

General liability
+2% to +8%

Auto
+5% to +10%+

Workers compensation
−5% to +2%

Umbrella liability
High hazard/challenged class: +10% to +20%

Low/moderate hazard: +8% to +15%

Excess liability
High hazard/challenged class: +20%+

Low/moderate hazard: +8% to +12%+

Key takeaway

The insurance industry has been seeing underwriting profit in year-end 2023 and Q1 2024 results driven by personal lines, exposure growth and new business. Casualty liability lines claim frequency and severity drive up loss ratios and subsequent premium while workers compensation results continue to mitigate those of liability and are leveraged accordingly. The marketplace is responding to increasing inflation and reserves while trying to competitively round out portfolios. Workers compensation reserve redundancy grew by $18 billion in 2023 with the industry net combined ratio hovering at 86%. WC continues to be the most profitable of all P&C lines.

In the liability arena, the high-rate environment is expected to persist with rising frequency and severity of nuclear verdict trends driven by auto and products liability. Third-party litigation funding is fueling these verdicts with annual investment expected to reach $31 billion by 2028. Capacity is trimming from insurers to reinsurers while rate pressure is climbing across the casualty industry. We continue to trade in a “two-tiered” market whereby challenged risk classes (heavy fleet/transportation, products or loss influenced) and/or lower primary attachment points have experienced greater rate increases. From a forecast perspective, high hazard/challenged classes can expect to see umbrella and excess increases in the double digits, especially where deployed capacity by a single carrier is over $10 million. Rate changes on lead umbrella placements have continued to show increases but can be minimized through restructuring, marketing and reflecting appropriate exposure growth. Additionally, there’s increased utilization of Bermuda and London markets to provide additional excess capacity and enhanced coverage offerings.

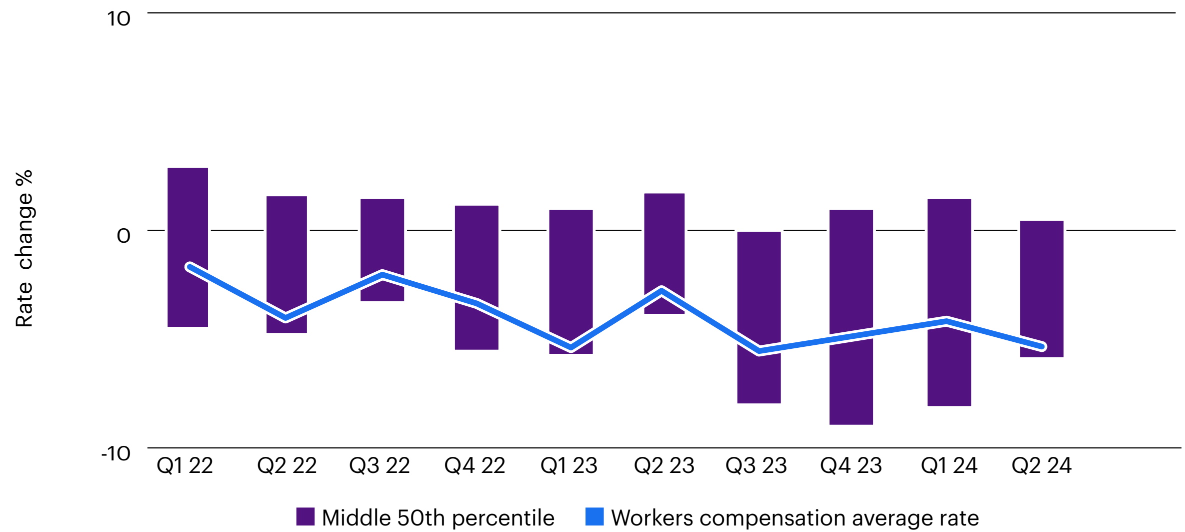
The popularity of the supported-lead umbrella continues to dictate movement in the primary casualty lines and provide additional rate relativity savings up-the-tower. If leveraged strategically, clients realize economies of scale and cost savings through portfolio pairing of various lines of business.

Workers compensation

WTW's loss-sensitive clients experienced their 13th consecutive quarter of negative average rate in Q2 2024 per its Casualty Insights & Analytics database. Average rate for Q2 was -5.5% for workers compensation and -3.3% for excess workers compensation.

NCCI's annual State of the Line Guide evidenced the 2023 calendar year's combined ratio at 86%, a two-point increase from 2022. This marks the seventh consecutive year of results under 90% and a decade of underwriting gains. WC reserve redundancy grew by $18 billion and net written premium increased by 1%, driven by payroll growth while offset by continued reduction in rate. Workers compensation continues to be the most profitable of all P&C lines. While these results are not carrier-uniform, 40% of carriers had combined ratios under 86% and two-thirds experienced underwriting gains in 2023 per NCCI. Private carriers and state funds have experienced a seventh consecutive year of loss ratio's under 50% with the 2% increase in the combined ratio primarily being the result of a marginally increasing loss ratio. WC investment gains on insurance transactions (IGIT) increased to 9% in 2023, below the long-term average of 11.4%, but above the P&C industry IGIT ratio of 8% per the NAIC's Annual Statement data.

Figure 1. **Workers compensation**



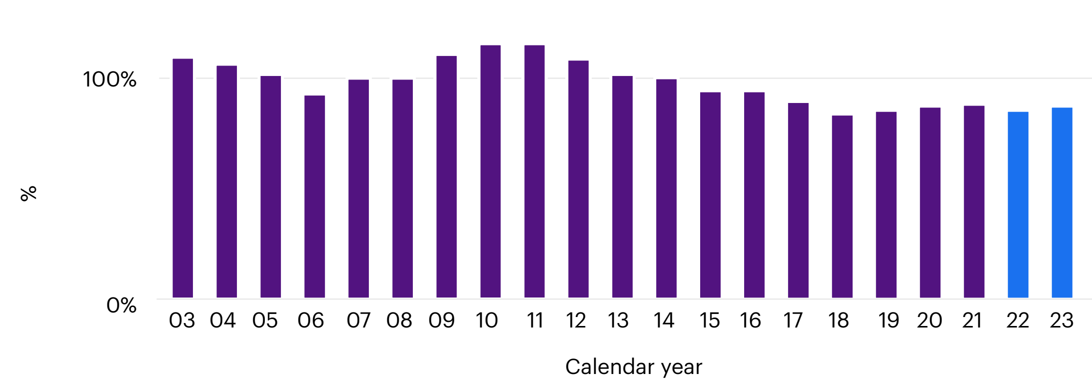
Source: WTW internal data

While WC continues to be a very healthy line of insurance for carriers as evidenced above, it does continue to provide a pressure-value for rate increases to general liability and auto liability programs. We anticipate continued rate reductions in WC in 2025 and potentially 2026, however, as combined ratios in WC compress due to rate reductions, there will come a point where it hits parity, and off-sets dissipate.

Automobile liability

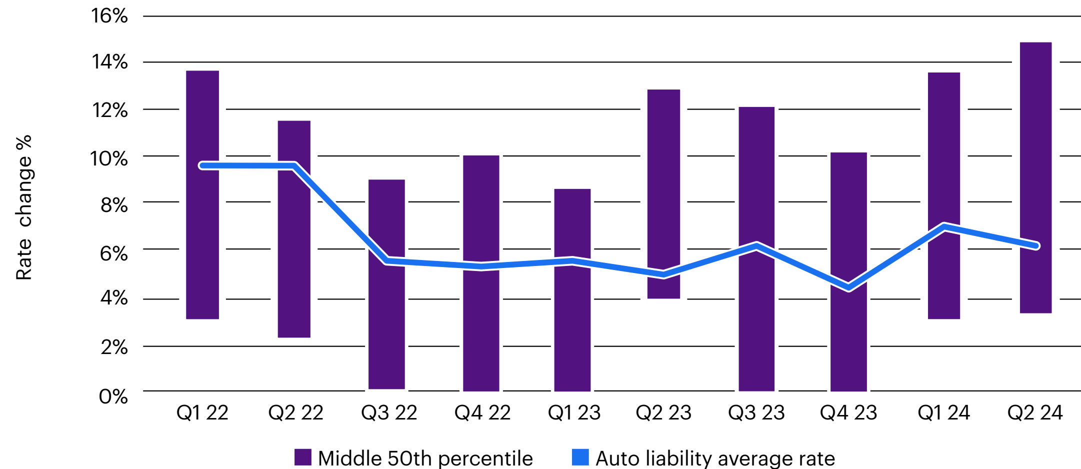
WTW's loss-sensitive clients experienced their 32nd consecutive quarter of positive average rate in Q2 2024 per its Casualty Insights & Analytics database. The average rate for Q2 was +6.4% for automobile liability. We are operating in a two-tiered marketplace, where large fleets both in composition and volume are experiencing rate increases in the upper single-digits to double-digits, in comparison to small corporate fleets experiencing rates in the mid-single digits.

Figure 2. **WC Net combined ratio — private carriers**



Source: NAIC's Annual Statement data

Figure 3. **Auto liability**



Source: WTW internal data

Contingent third-party auto hauling — A growing focus

Risks and potential liability from automobiles and trucks have dominated conversations between Insureds and insurers over the past decade. Societal dynamics of distracted driving, social inflation and nuclear verdicts, fueled in part by third-party litigation financing, have forever changed the underwriter's view of excess liability.

A new topic of concern has emerged in underwriting discussions regarding the liability that insureds face from hiring third parties to haul their property and products. At the same time, courts are considering the liability of third parties for accidents arising from the haulers.

We have started to see a number of large auto settlements/verdicts, many in excess of $20 million, due to this exposure.

Some recent cases that settled above the insured retention illustrate the point:

- A company hired a logistics company to transport its product. The driver was involved in an auto accident that resulted in severe injuries to a child and the death of a mother. The plaintiff sued the hiring company claiming negligent hiring of the logistics company.
- A company hired a third-party transporter, which sub-contracted the job to another driver who caused an auto accident that killed an elderly couple. The company was deemed to have granted "implicit" permission for the sub-contracting.
- A contract driver's medical condition resulted in an auto accident involving multiple fatalities and a severely injured child. The hiring company did not investigate the carrier's drivers, and the court ruled that the allegations of negligent hiring should be decided by jury

Source: Chubb Insurance Co., 3rd Party Hauling White Paper

What is consistent across the country is that plaintiff counsel is seeking additional recovery from deeper pockets and higher available insurance limits. Therefore, they are suing firms that contracted with a hauling firm, by alleging the contracting party was responsible for directing the third-party hauler, or negligent in properly credentialing the hired hauling firm to haul their property. These cases have included product manufacturers, wholesalers, trucking brokers, natural resource contractors and operators, and chemical companies. During the lawsuits, plaintiffs seek to establish an agency, employee or control relationship between the contracting firm and the third-party hauler, which would allow them to hold the contracting firm liable and obtain access to its insurance. This is an evolving issue, as litigation strategy and case law progress.

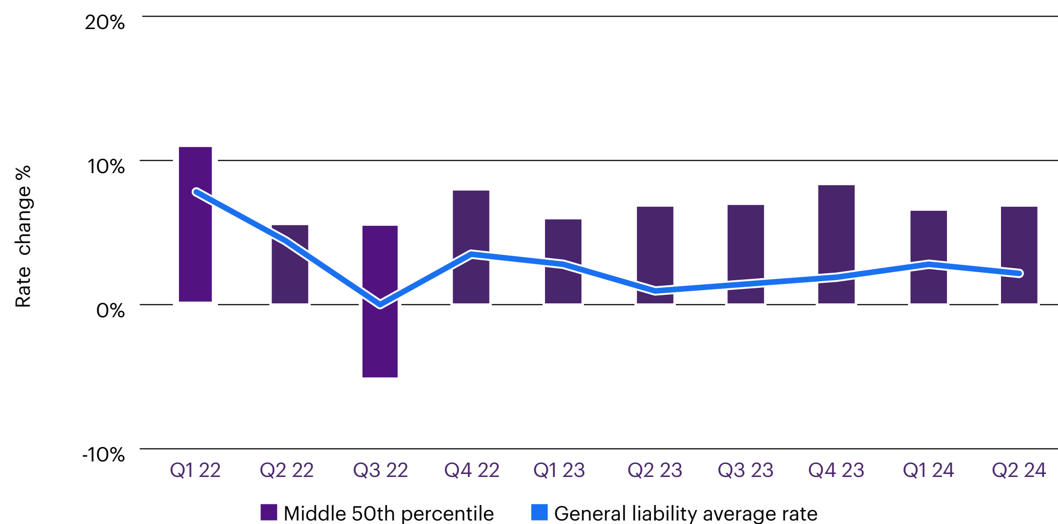
Carriers are also attempting to address this emerging trend by excluding hired auto liability on general liability policies, in an attempt to push coverage solely towards traditional auto liability cover. In addition, some markets are also looking to impose minimum attachment points on third-party hauling exposures or instituting one-time corridor retentions below their capacity.

General liability

General liability's Q2 2024 average renewal rate per WTW's Casualty Insights & Analytics experienced a +2.6% increase, down from Q1's +3%. European reinsurance concern over recent GL loss development could influence a firming market for 2024 globally.

Additional focus on coverage with ISO releases pertaining to BIPA (Biometric Information Privacy Act), cyber, PFAS and other exposures continue to restrict and clarify coverage for our insureds (updates to the right).

Figure 4. **General liability**



Source: WTW internal data

Intellectual property and commercial general liability

The insurance markets are diligently monitoring commercial general liability claims as the average nuclear verdict has reached $89 million with GL comprising 37.6% of cases. Amongst several other GL emerging risks, insurers are monitoring intellectual property and advertising injury litigation, and their underwriting discipline will soon show through rates and coverage restrictions. Lawsuits involving representations on the internet, specifically social media, pose new risks to companies who use social media and user generated content for advertising. Over 90% of U.S. companies utilize social media marketing, with over 90% of marketers using influencers as part of their strategy as of 2023. This means that today's advertising and marketing professionals are relinquishing control to outside parties that are encouraged to use their authentic voices in marketing a product, service or brand. The messaging doesn't necessarily go through the same rigor as traditional advertisements and can trigger CGL personal and advertising injury (Coverage B) in many ways, such as using protected audio, slogans, images, messages, and more.

The CGL coverage form affirms narrow coverage for the use of another party's advertising idea in an insured's "advertisement" and infringing upon another's copyright, trade dress or slogan in their "advertisement." It does not cover infringement of copyright, patent, trademark, or trade secret for insureds in media and internet type businesses, although placing advertisements on the internet is not considered to be in the business of advertising. Some carriers even have proprietary forms to further restrict coverage to omit infringement coverage entirely.

This means CGL policies do not protect against intellectual property infringement liability exposures outside of advertisements. Intangible assets are worth over $57 trillion, of which less than 20% are insured.

Generally, CGL personal and advertising injury also does not cover financial loss resulting from non-legal events directly impacting a broader range of intangible assets. Insureds should exercise extra diligence around intangible asset exposures and work with their brokers to articulate their controls to the marketplace. Additionally, clients can best protect themselves by purchasing standalone IP infringement insurance to cover IP infringement liability exposures more broadly. Clients can protect their non-public proprietary intangible assets against financial loss by purchasing intangible asset protection (IAP) insurance. Intangible assets typically comprise 99% of enterprise value for technology companies and 70% of enterprise value for all industries, but CGL insurance does not protect these valuable assets against financial loss.

Legislative and regulatory updates to emerging exposures

BIPA: Amendment to Illinois statute

In our Spring IMR, we provided an overview of Illinois' Biometric Information Privacy Act, including a discussion of key case law developments and relevant endorsements. Since then, insurers continue to apply the new endorsements limiting coverage for losses arising out of BIPA violations. However, a recent relevant development as to the BIPA statute is likely to significantly affect liability, damages, and coverage issues moving forward.

On August 2, 2024, Illinois Governor J.B. Pritzker passed Senate Bill 2979 into law, which included major amendments to the BIPA statute. Many commentators see this legislation as a direct response to a judicial decision issued last year. In Cothron v. White Castle System, Inc., 216 N.E.3d 918 (Ill. 2023), the Illinois Supreme Court held that BIPA allowed separate damages for each scan/collection of biometric identifiers or biometric information per plaintiff. Thus, each instance of biometric data collection was considered a separate violation of BIPA. The statute imposes a penalty of $1,000 per violation, or $5,000 per intentional or reckless violation.

The August 2 amendment modified BIPA, to provide that where an entity obtains the "same biometric identifier or biometric information from the same person using the same method of collection" from a plaintiff, that plaintiff is entitled to at most a single recovery.

The same is true for disclosure of biometric information — the maximum recovery is per plaintiff. Essentially, an aggrieved individual is entitled to a single recovery for the collective violation.

The Amendment also allows individuals to consent to biometric collection via electronic signature, defined as "an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record."

Overall, the Amendment is likely to decrease potential liability for future litigation based on BIPA violations. It remains to be seen whether the Amendment will be applied retroactively to litigation which had commenced prior to the change in the law, since the text of the bill is silent on that issue. There are arguments on both sides as to whether the Amendment will be applied retroactively — on the one hand, some Illinois law applies a general presumption against retroactive application of amendments. However, as this change impacts the damages, and not whether there was a substantive violation of BIPA, it may be applied retroactively under Illinois law. This is likely to be litigated in future disputes and will likely require a ruling from appellate courts before it is finally decided. In the meantime, commentators will keep a close watch on how plaintiffs' counsel react to this new damages landscape.

PFAS regulatory updates

We have previously identified various coverage implications around the so-called "forever chemicals" which are increasingly the subject of news reports and studies:

PFAS litigation insurance coverage implications

What have we seen?

- Generally, either pollution or product-liability claims, implicating GGL and PLL policies
- Product liability claims are on the rise.
- Allegations of progressive exposure to PFAS or pollution that occurs over multiple years may trigger numerous policies, including legacy policies issued decades ago.

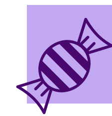
How have insurers responded?

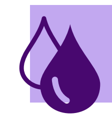
- They look to exclude wherever possible (fearing "the next asbestos").
- Initial insurer reliance on application of pollution/contamination exclusions.
  - *However, court rulings have diverged.*
  - *Harm from direct exposure to products often not excluded.*
- June 2023: ISO published endorsements expressly excluding PFAS-related claims for insurers to use in their CGL policies.

What should policyholders do?

- Carefully review their existing and legacy liability and pollution policies to identify potential coverage.
- Promptly place potentially responsive insurers on notice.
- Reconstruct relevant historical insurance programs.
- Challenge insurer denials of coverage where appropriate

Products that contain PFAS


Candy wrappers


Water resistant clothing

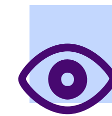
Pesticides

Fast food packaging/ wrappers

Paints, sealants and varnishes

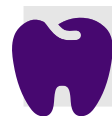
Firefighting foams

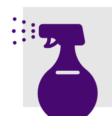
Microwave popcorn bags


Eye makeup

Stain resistant products

Pizza boxes


Dental floss


Cleaning products

In recent months, PFAS has been the subject of a number of regulatory and legislative developments.

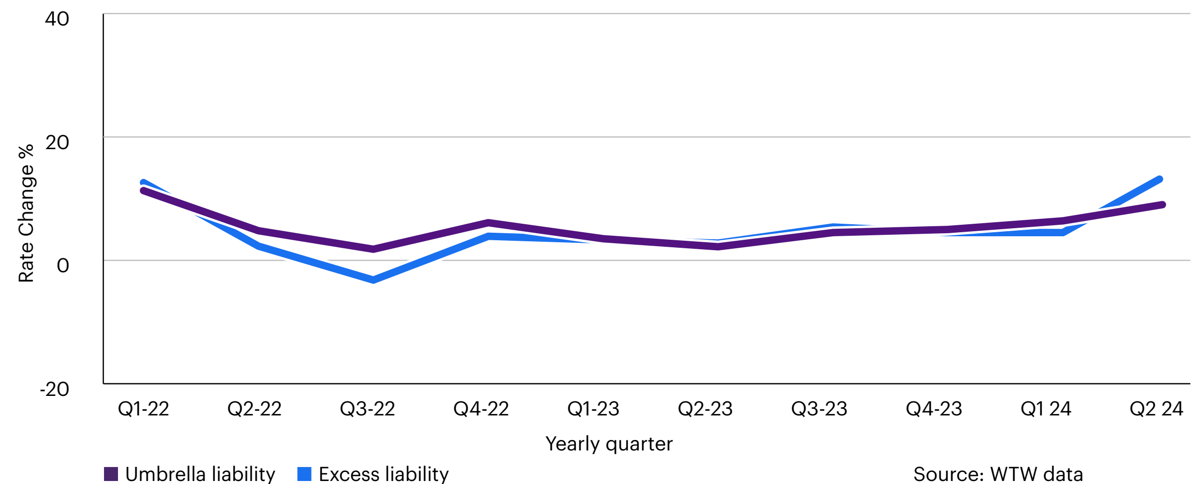
In February 2024, the FDA announced that manufacturers voluntarily agreed to a ban on PFAS-containing food packaging, which was previously used as a grease-proofing agent. These containers such as takeout boxes, microwave popcorn bags, and fast-food wrappers, now no longer contain PFAS after a phase out which began in 2020.

In April 2024, the Environmental Protection Agency took a number of steps to closely regulate certain categories of PFAS. Two types of PFAS — PFOA and PFOS — were designated as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund, which opens the door to future contribution actions under environmental cost-recovery statutes. Separately, the EPA also issued a memorandum on CERCLA enforcement discretion, which focuses on entities that contributed to the release of PFAS contamination into the environment, including parties that have manufactured PFAS or used PFAS in the manufacturing process.

Also in April, the EPA announced the first regulatory limits on six types of PFAS in drinking water. This national, legally enforceable drinking water standard is aimed at reducing PFAS exposure through monitoring requirements and Maximum Contaminant Levels for PFAS. Within the next three years, public water systems will have to institute monitoring systems and begin reporting results.

In addition to federal developments, states have also enacted laws and regulations directed at PFAS use and sale. For example, in August 2024, New Hampshire Governor Chris Sununu signed a law which will prohibit the sale of certain products if they have intentionally added PFAS. This law will take effect in 2027. Importantly, the law also instituted a strict liability standard for manufacturers, who will be liable to the state "for containment, cleanup, restoration, or other remediation related to the release or threatened release of hazardous waste or hazardous material in accordance with applicable law and departmental rules." This is just one recent example of states taking a proactive approach to PFAS regulation, in addition to nationwide requirements.

Figure 4. **Quarterly umbrella/excess rate trend**

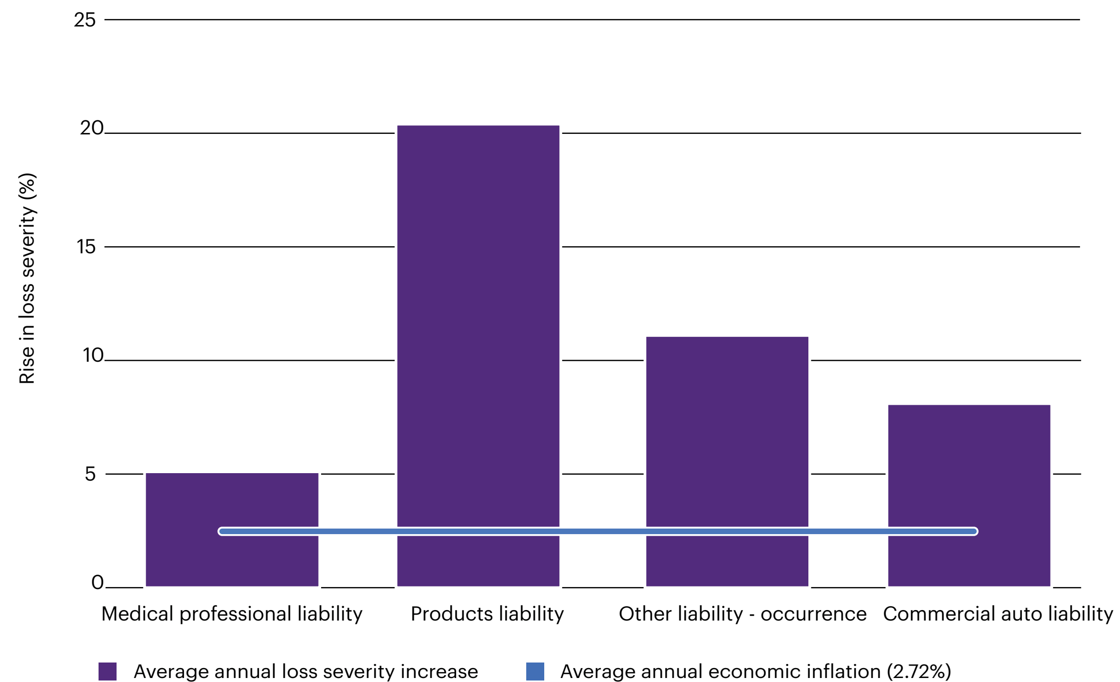


Umbrella and excess liability

- **Umbrella and excess liability lines continue to see pressure on both pricing and capacity.** Despite the considerable amount of new capacity that has entered the excess market, largely through the formation of MGAs, we continue to see markets withdrawing or reducing deployed limits creating upward pressure on rates. Unprecedented severity trends continue to bring into question the adequacy of excess rates, despite the increases the market has experienced since 2019.

- With property, cyber and D&O all showing moderation in 2024, U.S. casualty business has become the area of concern for both insurers and reinsurers. While automobile liability is still a major concern, we are starting to see the trends in general liability adding fuel to the fire.
- All signals from the annual reinsurance meetings in Monte Carlo point to U.S. casualty as a pain point for 2024 treaty negotiations:
  - Scor Re's Thierry Leger was quoted as saying "We think U.S. casualty is going to be a segment where we see significant, difficult discussion," he said. Mr. Léger cited a "lack of tort reform" and a "litigation industry" in the U.S. as driving up loss costs.
  - Munich Reinsurance Co. is prepared to walk away from some U.S. liability business, said Thomas Blunck, chair of the reinsurance committee of the reinsurer's board of management.
  - Swiss Re Ltd.'s U.S liability combined ratio is "not a pretty number," Gianfranco Lot, chief underwriting officer, property/casualty reinsurance, for the reinsurer, said without giving specific figures. "It wasn't a profitable book."
- Chubb's CEO Evan Greenberg has been pointing to excess casualty as the one of the biggest concerns in their portfolio and he pointed specifically to large account excess casualty as one of the drivers of the $95 million of long tail reserve strengthening the company posted in the 1st quarter of '24.

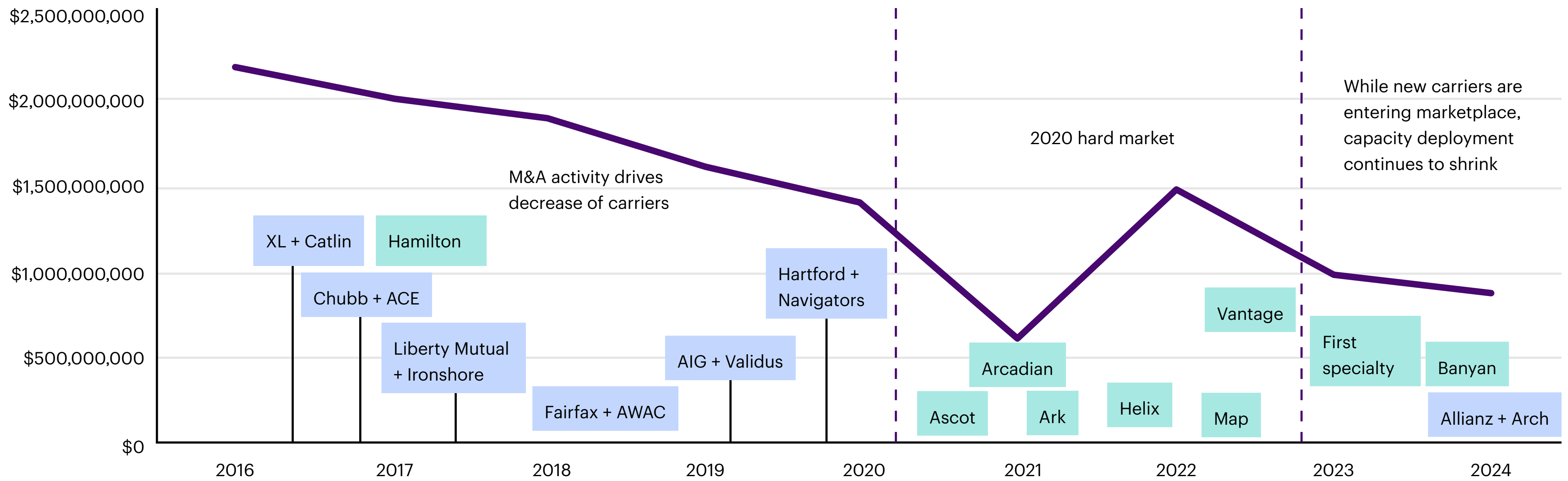
Figure 1. **Average annual loss severity increase by casualty line of business, 2013–2022**



Source: AM Best data and research

Excess liability capacity and coverage trends updated

Typically deployed excess liability capacity



New capacity in marketplace | Reduction of capacity

Note: Total market capacity available is risk dependent

Catastrophic liability losses and exposures impacting carriers:

- Contingent third-party auto
- PFAS and other “forever” chemicals
- Talcum powder
- Wildfire
- Active assailant events
- Traumatic brain injury (TBI)
- Auto/truck accidents
- Opioids
- Sexual assault and molestation
- Vape/tobacco/CBD
- Biometric information (BIPA)

Some carriers are implementing last-minute exclusions at renewals

- “Typically deployed" capacity is often less than a carrier's maximum capacity and has decreased in recent years due to markets pulling back as a result of increasing large loss activity and decreasing profitability in the excess space.
- Total available capacity is dependent on industry class (for example, certain energy & rail risks have dedicated market capacity).
- Carriers prefer to deploy their capacity in multiple ventilated layers and not necessarily in a single tranche.
- Despite several new entrants in the U.S. and Bermuda/London marketplace, overall 'available' market capacity is down from recent highs.

Concerns around loss trends have kept capacity out of the market despite Year-over-year (YOY) rate increases since 2019.

Historically, carriers would grow their portfolios by expanding deployed capacity Year-over-year (YOY), but that trend has reversed and even the newer carriers are reducing lines on the larger and higher hazard placements. Promises of expanded capacity from some of the newly formed MGAs have not materialized as carriers are looking at their more recent loss years as potentially unprofitable as they await the resolution of mass tort and large litigated actions. The excess and surplus lines market has absorbed some of the additional capacity. E&S premiums grew to over $45 billion in 2023, accounting for 35% of all liability premiums, up from 26% in 2018.

Attractive alternative structures — Structured buffer solutions

The increased pressure on lead umbrella attachment points and pricing due to the rising trends and lack of competitively priced reinsurance has created a gap between the traditional primary liability limits and the lead umbrella market. Carriers are increasingly forcing funding of pessimistic expected loss scenarios.

The structured market is the go-to solution for these situations.

Structured solutions

These multiyear programs blend risk financing and risk transfer into a single policy offering define per event, annual and term limits. They are suitable for distressed layers, such as products/premises liability and auto buffer layers, especially where insurers seek to raise attachments and/or reduce capacity.

- Deployed where premium to policy limit ratios exceeds 40% annually
  - Swing premium options can lower up-front costs below this threshold allowing an upward swing if claims occur
- Where claim activity has been severity driven or where there is a large gap in risk perception between the insured and the insurer
- Where an insured wishes to leverage its risk tolerance to retain risk, but requires a cap on those retentions

This approach is also frequently deployed on a multiline basis across layers or as reinsurance of captive insurance companies allowing clients to explore larger self-insured retentions. The purpose is to reduce volatility in financial statements, protect against erosion of capital & surplus, and leverage a captive to reduce frictional transaction costs. We also implement structural options that allow the Insured to benefit from interest on risk financing funds through the use of corridors or funds withheld features.

Contact

James Sallada
Casualty Leader, North America
Cell: +1 917 622 0203
james.sallada@wtwco.com

Industry spotlight

Higher education

Education institutions are facing a broader range of challenges than ever before, from social inflation to active assailant to the statute of limitations expanding in many states for sexual abuse. Over the last year, political tensions related to the war led to donor disputes, executive terminations, increased student discipline, mental health issues, student unionization and increased police scrutiny.

Looking forward, carriers are concerned with the potential threat of anti-trust, discrimination and professional liability suits arising from both the new Title IX and the new NIL (name, image and likeness) regulations that took effect on August 1, 2024.

When an institution faces a severe claim, there can be concerns about consistency in excess liability policy language across different layers, including the need to obtain approval from multiple insurers for the selection of counsel, law firm rates, defense costs, settlement discussions, exhaustion of limits and claim cooperation provisions. Overall, these issues have caused many carriers to add additional exclusions, reduce capacity or exit the market all together.

Understanding the headwinds and insurance nuances in the higher education arena is key to avoiding exclusions, insuring broad coverage and defense cost treatment. WTW's proactive education-focused insurance approach can close gaps and introduce new carrier solutions to our clients' insurance programs.

Contact

James Sallada
Casualty Leader, North America
+1 917 622 0203
james.sallada@wtwco.com

Middle market

Rate predictions for 2025

Favorable risks

Property	General liability	Automobile
+2% to +10%	Flat to +5%	+5% to +10%
Workers compensation	**Umbrella**	**Excess**
–5% to flat	Flat to +10%	Flat to +10%

Challenging risks

Property	General liability	Automobile
+10% to +20%	+10% to +15%	+20% to +30%
Workers compensation	**Umbrella**	**Excess**
+5% to +10%	+10% to +15%	+10% to +15%

Key takeaway

While the property landscape has continued to trend favorably, carriers began 2024 by refocusing their attention to deteriorating results across their casualty books. The challenges in the casualty space follow persistent trends, such as legal system abuse and third-party litigation funding, which have added significant pressure to insurers' liability reserves. Despite these warning signs, casualty pricing remained predictable in Q2, and capacity remained stable for most classes of business. Property rate adequacy and scrutiny on risk quality and selection will remain paramount, but the previous market corrections have already had a positive impact on insurer profitability, which should lend itself to more capacity and stabilized rates. Amid these shifting dynamics, we still foresee a competitive market for favorable risks, while challenged accounts (e.g., catastrophe (CAT) exposed, heavy losses, habitational) will feel continued pressure to differentiate their risks to achieve measured results.

As predicted in the beginning of the year, we continue to experience positive signs of stability in the property space. Casualty market conditions entered the forefront of renewal discussions as insurers face pressure on liability reserves; however, pricing has remained predictably competitive for several classes of business.

Marketplace overview

- When the property market was most challenged, markets reduced rates on the casualty lines to offset property increases. This trend has now put pressure on general liability pricing as losses continue to develop.
- While middle market is an established segment in the broker and carrier community, additional markets continue to enter the space. Many of these carriers are aligning loss-sensitive program solutions and expertise to their middle market teams to offer alternative program structures to this client base.
- Amid these new entrants, the market has also seen major disruption with some large carriers pulling out of middle market or primary casualty entirely. Others are undergoing a casualty re-underwriting strategy with general liability focused accounts facing structural changes or non-renewals.
- Several middle market carriers have implemented and/or continued an industry specialization strategy and are moving away from a generalist model. This specialization has led to the creation of bespoke products and enhancements for target industries.
- Carriers have introduced more accessible, specialized offerings in the middle market space, such as reputational risk, pandemic, active assailant and parametric catastrophe (CAT) coverage. These solutions can provide affirmative coverage in response to emerging risks.
- Many carriers have substantial 2024 premium growth goals amid the pressures to rebalance their books and maintain profitability, which has fortunately created a competitive landscape.
- While M&A activity has yet to return in full force, carriers continue to invest in private equity practices, and they are eager to grow in this space.
- Two-tiered marketplace dynamics persist. Carriers are eager to keep "desirable" industries and classes of business out of the market, and we are seeing significant reductions when competition is introduced (e.g., financial institutions, technology, commercial real estate).
- The insureds that continue to experience hard market pressures either fall within specific industry segments (e.g., multifamily real estate, transportation, social services, food and beverage.) or have significant losses and/or heavy catastrophe (CAT) exposures.

Proactive measures on risk control will play a key role for accounts in these categories.

- Property rates have continued to level off, but capacity constraints will continue to be a challenge, particularly for catastrophe-exposed, challenged occupancies or schedules with valuation concerns. With increased scrutiny around capacity deployment, middle market clients are faced with considerable shifts to their historical program structures.
- Multiline solutions can help establish profitability at an account level, leading to sustainability in programs. With that mindset, carriers are strategically leveraging property capacity to influence their participation on casualty lines. Additional capacity is being carefully reinstated by umbrella and excess markets to gain a competitive edge on clean accounts.

Property

- Higher frequency, more severe natural catastrophes and mounting losses from unmodeled perils (such as wildfires, floods, convective storms) have strained insurer profitability. These perils are no longer viewed as secondary and account for most of the >$1 billion disasters in 2023.[1]
- In comparison, the Atlantic hurricane season turned out to be relatively benign compared to initial predictions, which will hopefully bode well for renewed named storm capacity. However, the CSU (Colorado State University) Tropical Weather and Climate Research Team is predicting a very active 2024 Atlantic Hurricane Season with 23 named storms, five major named storms, including damaging Atlantic Coast landfalls.[2]

[1] https://www.climate.gov/news-features/blogs/beyond-data/2023-historic-year-us-billion-dollar-weather-and-climate-disasters
[2] Ibid.

- Property valuations continue to be of concern; however, the desired year over year (YOY) increases are not as dramatic as building cost inflation concerns recede. Nevertheless, for schedules that have not been trended appropriately, corrective action is being taken via rate, increased values and coverage wording, such as specific limits or margin clauses (e.g., Occurrence Limit of Liability (OLLE).
- Uncertainty around valuation has also extended to business income and extra expense. With that, carriers have become more stringent on their requirements of a completed business income and extra expense worksheet.
- 2024 treaty renewals have been substantially more stable than in 2023. In 2023, cedents were forced to retain more on a net basis, thus increasing rates and reducing capacity to manage margin erosion.
- Tougher property risks that were written on a 100% single-carrier basis are being pushed to shared/layered programs due to their risk profiles and the market's reluctance to deploy full capacity. These program restructures are prompting middle market insureds to reevaluate the cost efficiency of retaining more risk, as year-over-year increases can be dramatic.
- A proactive strategy on valuation, accurate construction, occupancy, protection, exposure (COPE), capacity and program structure will help brokers and their clients navigate these challenges. This should include a focus on both outstanding risk control recommendations and coordination of prospective carrier visits.
- Water damage coverage is experiencing higher deductibles and lowered sub-limits, and water damage mitigation is a focus.
- Given the property market landscape, alternative strategies, such as parametrics and facilities, are becoming more prevalent in the middle market space.

General liability

- While the liability market is still seeing single-digit increases, adverse reserve development is challenging insurers' profitability. If reinsurance pressures amplify as predicted, this increased rate trend has the potential to shift in the next few quarters.
- Clients with heavy foot traffic have already begun to see a shift in pricing and limited willingness from carriers to provide additional limits on a primary basis.
- Social inflation continues to challenge the liability market as the amount of litigation and size of verdicts have increased dramatically. While most of these nuclear verdicts have been relegated to the large-client base, middle market clients will still realize the impact on general liability rates.
- Carriers are struggling to accurately project these losses in this legislative landscape and, in turn, are focused on claim management tactics and limiting capacity on challenged classes.
- Sexual abuse & molestation coverage continues to see capacity reductions and scrutinized underwriting. For hospitality and real estate accounts, there is a heightened concern surrounding human trafficking exposures.
- Habitational real estate is an extremely challenged class necessitating E&S support with more frequency. Most admitted carriers will not consider a habitational schedule due to expected loss activity.
- PFAS (Per- and polyfluoroalkyl substances) and biometric exclusions are becoming more prevalent; increased scrutiny is expected. With respect to PFAS, some carriers are willing to remove with confirmation of no exposure; however, others are taking a more stringent approach. These are both emerging topics, and carriers are concerned regarding the potential for class-action suits and the cost to defend.
- Alternative solutions, such as captives, have become more prevalent in the middle market space and will continue to be developed to fit the needs of the middle market customer.

Automobile

- The challenging legislative landscape is also the primary driver of challenged auto marketplace conditions. As aggressive marketing tactics ramp up, more attorneys are engaged in following accidents — thus directly impacting claim costs. Paradoxically, claimants are receiving less and less while attorneys' fees increase.[3]
- The increased average size (gross vehicle weight) and horsepower of vehicles have increased the severity of collisions. Enhanced technology in newer vehicles has also increased the cost of physical damage claims.
- Mono-line auto risks are exceedingly challenging to place and should always be leveraged with other lines of business. Even for supported auto, carriers have remarked that 10% to 12% rate increases are the "new flat."
- Auto combined ratios continue to rise well above 100%, challenging insurers' profitability.
- Clients with large fleets and/or fleet makeups outside of private passenger vehicles continue to see a hard market with limited capacity and an increase in cost for that capacity.
- Hired and non-owned auto continues to be heavily underwritten, and higher exposure accounts are less desirable.
- The introduction of telematics in fleets has become a risk management norm for insureds.
- The labor shortage in the trucking space has led some companies to loosen their hiring standards, thus negatively impacting loss experience.

Workers compensation

- Carriers continue to view workers compensation as a profitable line and are looking to balance their books of business by writing more of this business.
- According to NCCI, 2023 was the 10th consecutive year of profitability and the seventh consecutive year in which insurers record a combined ratio below 90%.[4]
- Middle market carriers continue to improve their program structure and dividend capabilities to differentiate themselves in a highly regulated, competitive workers compensation market.
- For guaranteed cost accounts, the continued reduction of state rates and loss costs has put pressure on carriers to adequately price certain risks.
- Auto accidents have more frequently become the cause of severe workers compensation claims over the past few years.
- Carriers are strong proponents of technological advancements that can improve worker safety and claim outcomes, such as automation, cameras, wearable devices and equipment and AI solutions.

[3] https://www.iii.org/press-release/legal-system-abuse-adding-to-increasing-auto-insurance-costs-creating-a-new-asset-class-of-investors-betting-on-litigation-022724
[4] https://www.ncci.com/Articles/Documents/AIS2024-SOTL-Presentation.pdf

- Potential headwinds might arise from the shift in the workplace demographic and working patterns (e.g., aging population and more remote workforce). Mental health challenges have also become more prevalent.
- In today's inflationary environment, there is concern that medical inflation could rise at similar levels as Consumer Price Index (CPI). Despite this concern, medical claim severity only rose 2% in 2023.[5]

Umbrella and excess liability

- Additional capacity is being carefully reinstated by umbrella and excess markets to gain a competitive edge for desirable accounts. This capacity deployment coincides with stringent underwriting, and we expect this to continue.
- We should expect that the pressures impacting the primary casualty lines (legal system abuse, adverse reserve development, etc.) will have a commensurate effect on umbrella/excess conditions, if these trends persist; markets have begun to limit capacity on classes with heavy foot traffic as well as on classes with a large fleet exposure.
- Higher attachment points are being required by lead markets on both general liability and auto policies for higher risk industries. In these scenarios, buffer layers are being introduced more often.
- While capacity for lead umbrellas has stabilized, there is still a lack of monoline umbrella or "unsupported" lead market appetite.
- Supported leads tend to be more competitive as carriers leverage the primary lines with their umbrella capacity. In these competitive scenarios, insureds have been able to secure increased umbrella limits undoing retractions that may have happened in recent years.
- Risk purchasing groups continue to be inconsistent with increased underwriting, appetite changes, reduced capacity, large increases and market participation changes.
- Clients continue to review contractual requirements, risk transfer and limits purchased. If insured has a history of large losses, they should also be prepared to differentiate what risk management practices have been implemented to prevent similar claims.
- PFAS (Per- and polyfluoroalkyl substances or forever chemicals), abuse and molestation, traumatic brain injury, wildfire, assault and battery, sex trafficking and biometric exclusions are being added, or coverage and capacity have been limited, especially where exposure exists.
- Uptick in frequency of punitive awards necessitates the need for affirmative coverage (via punitive wraps or "most favorable venue" language). Punitive damage awards are the driving force behind nuclear verdicts.
- Minimum premiums have increased significantly, driving pricing higher for excess layers.

Contact

Krista Cinotti
Head of Middle Market and Select, North America
+1 212 915 7783
krista.cinotti@wtwco.com

Beth Cohon
Head of Middle Market Industry and Broking
+1 212 915 7898
elizabeth.cohon@wtwco.com

[5] Ibid.

Middle market: Industry spotlight – Healthcare

Rate predictions for 2025

Property	Auto	Workers compensation
+5% to +10%	+10% to +15%	–5% to +5%

Property

- Loss control visits are still frequently required prior to quoting, especially for hospital systems with higher values.
- Markets for senior living risks are limited and experience higher-than-average rate increases. Frame construction or buildings without adequate sprinkler protections are even more challenging.
- Water damage and catastrophe (CAT) coverage continue to experience higher deductibles.

Auto liability

- Patient transport exposure is underwritten stringently, and carriers are comfortable with an incidental amount if any. Both non-emergency and emergency patient transport exposures are often placed separately from main fleet programs. Market options for these exposures are limited.
- Mono-line auto risks are challenging to place and should be leveraged with other lines of business.

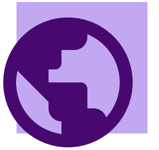
Workers compensation

- Underwriters continue to focus on controls, safety culture and claim reconciliation or lessons learned post loss.
- Monoline placements are common, as some markets have broad comp appetites and are comfortable writing without supporting business.

Contact

Adam Widdop, CPCU
Middle Market Broking
Leader — Healthcare
+1 603 369 9122
adam.widdop@wtwco.com

Canada casualty



Rate predictions

Casualty

General liability, low/moderate risks
–5% to +5%

General liability, high hazard risks
Flat to +10%

Umbrella/excess liability, low/moderate risks
–5% to +5%

Umbrella/excess liability, high hazard risks
Flat to +10%

Auto liability
Flat to +10%

Key takeaway

The Canadian casualty marketplace remains highly competitive, with insurers balancing the challenges of a less price-sensitive environment, abundant capacity and the pressure to expand market share. They are navigating these dynamics amid evolving threats, complex regulatory changes, and escalating defense and settlement costs.

Casualty

General liability

- In a moderately stable, buyer-friendly market, carriers are focused on balancing the retention of risk portfolios in key industry sectors while maintaining rate sustainability amid growing competition. As competition increases, many markets are adjusting their underwriting strategies, adopting a more flexible approach to capitalize on new business opportunities.
- The use of larger primary limits and pairing primary lines with the umbrella lines in single-carrier solutions are making a notable resurgence. There is greater flexibility to restructure programs and consider more customized solutions.
- Review of deductible and retention structures remains prevalent to focus on long-term program sustainability and profitability.
- There is an elevated emphasis on enhancing and expanding casualty analytical capabilities to significantly refine pricing and underwriting sophistication and as a tool to tackle new business acquisition and overall client retention.
- As key interest rates continue to be downgraded and its impact on future inflationary factors are realized, carriers will still look to apply pressure on rate to support anticipated increased future claim costs.

Automobile liability

- Focus continues on driver hiring, safety protocols and vehicle maintenance procedures.
- Minor deceleration in the deterioration of claim trends is due to carriers working to actively right-size rating.
- Persistent vigilance on rate maintenance continues to address the high cost of repair and replacements costs.
- The surge in vehicle theft claims has prompted carriers to develop innovative vehicle tagging solutions, offering premium credits to insureds who adopt these security and safety measures.
- With ongoing challenges in maintaining profitability, new capacity remains limited and is typically offered only as a complement to key existing lines of business.

Umbrella/excess liability

- Carriers maintain a cautious approach toward extensive U.S. and international exposure, preferring to focus primarily on risks centered in Canada.
- An increase in claims penetrating the umbrella layer, particularly in high-risk sectors, such as construction, heavy fleet/transportation, and healthcare, has resulted in more restrictive underwriting and continued rate increases.
- Despite capacity viewed in abundance, carriers are facing higher reinsurance costs and reduced reinsurance capacity due to rising claim expenses and the growing frequency of severe losses, leading to a more conservative approach.
- Insurance buyers continue to see the umbrella and low-attaching excess liability layers as an opportunity to seek the best value in balancing coverage limits with premium costs, creating re-marketing opportunities without disrupting primary layers.

There is a renewed emphasis on innovative risk management strategies tailored specifically for the casualty insurance sector.

- Carriers look to develop sophisticated risk management and resilience-building solutions for their clients through on-site and desk-top risk assessments, safety and employee training, and compliance protocols. Development and high adoption of practices look to be accompanied by premium discounts or other incentives for businesses with strong risk management practices.
- There is a growing attention on normalizing the employment of carrier risk reviews for casualty-related exposures.
- Per- and polyfluoroalkyl substances (PFAS) and forever chemical exposures continue as a critical emerging threat. Within a prevailing competitive marketplace, carriers face challenges in applying exclusions while combating internal pressures, especially for key industries where the exposure is highly relevant.

Social inflation and socio-economic issues will continue to deeply influence and shape a new insurance landscape.

- As public interest and regulatory/policy change around environmental preservation, human rights and consumer protection issues continue to grow; carriers are pressured to modify their risk management and underwriting methodologies, which will continue to test their accuracy of pricing risks.
- Carriers look to adopt stronger defense cost-management strategies, including reducing litigation risk and costs, reassessing their reserving practices, managing inflated settlement costs and developing stronger dispute resolution mechanisms.
- The rise in such litigation trends is prompting insureds to rethink their insurance buying behavior as they consider purchasing standalone coverage tailored to address specific liabilities that traditional general liability policies may not fully cover, such as environmental impairment, employment practices liability, product recall and cyber policies.

Growing unpredictability in forecasting the frequency and severity of Canadian natural catastrophe patterns creates pause in carrier approach to market, changes to appetite and ability to support clients.

- After a challenging second and third quarter of 2024, marked by severe weather events and catastrophic disasters, carriers are adopting a conservative approach to their portfolios to ensure long-term sustainability.
- Carriers are challenged to maintain critical claim service levels as the industry continues to peak with change to claim volume and intensity, increasingly necessitating the need for redeployment of employees and employing third-party resourcing.
- Difficulties in upholding critical claim service levels as the industry faces peaks in claim volume and intensity are driving the need for redeploying employees and leveraging third-party resources.

Contact

Vicki Sukhu
Director, Head of Casualty Broking (Canada)
vicki.sukhu@wtwco.com

Canada property

Rate predictions for 2025

Non-catastrophe exposed	Catastrophe exposed
–5% to +5%	+10% to +20%

Key takeaway

Despite Canadian insurers suffering their worst year on record for natural catastrophe losses exceeding CAD $7.6 billion at Q3 2024, there is still ample capacity in the Canadian property market for commercial risks. That said, we anticipate that insurers may deploy capacity more judiciously at upcoming Q4 2024 renewals as the losses experienced in Q3 2024 start to impact insurer loss ratios and in anticipation of the 1/1/25 reinsurance treaty renewals.

Insurers maintain heightened focus on natural catastrophe perils.

- Following the flooding in Quebec in early August from the remnants of Hurricane Debby and flash flooding in Southern Ontario in July, we can anticipate that insurers will manage flood capacity for assets in Ontario and Quebec.
- Wildfire and hail claims continue to cause catastrophic losses in Western Canada; however, these claims are not subject to aggregated limits or increased % of loss deductibles as are earthquake and flood. We anticipate insurers will charge for and manage capacity deployed in Western Canada, noting the increased frequency and severity of losses in this region.
- When this section was initially submitted, the 2024 Gulf of Mexico hurricane season had been relatively mild; we anticipated that would likely help insurers with their upcoming 2025 reinsurance treaty renewals. Since then, Hurricane Helene has had a devastating impact in the Southeastern U.S. This may have an impact on the 2025 reinsurance treaty renewals and potentially drive rates at the key 1/1/2025 date as loss quantums from this event develop.

Increased competition for quality risks

- Insurers will compete for insureds with low natural catastrophe exposure and good loss histories, which will drive rate reductions to -5% (and perhaps lower depending on the amount of alternate market competition). Insurers are feeling pressure to maintain premium levels in an increasingly competitive marketplace, and they are offering more capacity and competing on risks to maintain and grow overall premium levels.
- We expect capacity in the Canadian market in 2025 to remain as per 2024. Additional market capacity from both incumbent markets deploying more capacity plus new market entrants, including managing general agents, bringing new capacity into the market (backed by stable reinsurance), should keep capacity levels at current levels.
- Loss control and site surveys remain important for insurers to write a risk. Some underwriters will not come onto a risk without updated engineering — or will make a site survey a subjectivity to come on risk. Quality engineering also helps insurers to deploy their maximum capacity, meet target premium and/or consider alternate terms such as lower deductibles and increased sublimits.

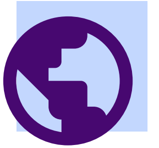
Insurers looking to differentiate themselves

- Insurers are developing solutions for challenging risks, such as wood frame residential property and emerging technologies to diversify their offering to brokers and insureds. With the backing of reinsurance, they are emboldened to take on risks they would not have a few years ago during the harder market.
- To maintain and grow premium levels, insurers are diversifying into industry sectors they have not historically written. They are doing this by poaching underwriters from competitors that have specific expertise, or by slowly building their books through excess attachments.
- Insurers are also looking to non-traditional insurance solutions to support and/or enhance their traditional property offerings, such as fronting for global programs, captives and parametric solutions.

Contact

Jennifer Davis
Director, Property Broking Head (Canada)
403 261 1427
jennifer.e.davis@wtwco.com

Bermuda



Rate predictions for 2025

Casualty

Low hazard
+1% to +3%

High hazard
+20%

Property

Non-CAT
-10% to flat

Distressed or CAT exposed
-5% to +5%

Financial lines

EPL
Flat to +5%

D&O/management liability
-15% to flat

Cyber
–15% to flat

Wage & hour
Flat to +20%

Key takeaway

In 2024, the Bermuda insurance market continues to navigate a challenging but competitive environment across all lines of business. Carriers are striving to maintain underwriting discipline while adapting to changing market dynamics. The property sector faces intense competition, driven by abundant capacity in preferred risks, while casualty markets see pressure from nuclear settlements and capacity reduction. Financial lines, particularly D&O and cyber, benefit from strong competition, with rates stabilizing or declining and capacity holding steady. Sophisticated clients increasingly participate in their own programs, employing captives or self-insuring to manage gaps caused by capacity constraints. The emergence of new capacity and products, such as CyProtect Bermuda, underscores the market's adaptability.

Casualty

Rate trends: Casualty rates are rising by 5% to 10% across the board, mirroring trends in London and the U.S. Lower-risk accounts are seeing minimal increases (1% to 3%), while higher-risk or loss-affected accounts are experiencing rate increases of up to 20% to 30%, driven by capacity constraints.

Nuclear settlements: Large nuclear settlements are driving additional rate pressure. These settlements tend to happen quickly, often spurred by concerns over reputational harm and social inflation, resulting in faster and larger-than-normal outcomes.

Capacity shifts: Despite new entrants to the Bermuda excess casualty market, overall capacity is flat or slightly shrinking. Existing markets are pulling back, with the average deployed limit now between $10 million and $15 million, down from the previous $25 million minimum. New entrants are offering even smaller capacities, typically between $5 million and $10 million.

Client risk participation: As capacity continues to decline, sophisticated clients are taking on more risk through captives or self-insuring. This is particularly common in high-hazard sectors, where clients are assuming entire layers or portions of layers within their programs.

Terms and conditions: Terms and conditions remain stable, though PFAS continues to present a challenge. Underwriters are responding with increased inquiries, questionnaires and exclusionary language.

Property

Increased competition: The North American property market has become more competitive, with renewal rates varying significantly based on program structures, occupancy, CAT footprint and loss experience. For preferred occupancies, abundant capacity is exerting downward pressure on rates, leading to flat to double digit decreases. Modest reductions are achievable for loss-free accounts with a light CAT footprint.

Challenging risks: Rates for more challenging occupancies (e.g., food, waste, primary habitational, semiconductors, auto) and loss-impacted accounts continue to face upward pressure. However, the introduction of new capacity, increased retentions, captive usage and alternative risk transfer (ART) products can yield more favorable outcomes for insureds.

Non-traditional CAT exposures: Markets remain focused on non-traditional CAT exposures, such as wildfire, severe convective storms (SCS)/hail and atmospheric rivers. These risks are closely monitored due to their rising impact on profitability.

Carrier growth strategies: Carriers increasingly view property insurance as a key growth area. Underwriters are balancing rate adequacy with market share and diversification strategies, including expanding lines, new layers and careful capacity deployment. This trend is adding to the competitive environment and challenging underwriting discipline.

Hurricane season impact: The outcome of the 2024 North Atlantic hurricane season will play a critical role in shaping the market's direction in H2 2024 and into 2025.

Distressed renewals: For distressed renewals and occupancies with heavy CAT exposure and/or negative loss experience, underwriters will continue to push for rate increases, though these are likely to be more restrained than in prior years.

Underwriting focuses: Despite an easing of capacity, underwriting bandwidth remains stretched. Quality of submission and clarity of placement strategy are vital in producing favourable outcomes.

Capacity

Competitive landscape: By the close of Q2, competition became more pronounced across the market, especially for preferred risks. This competition is expected to intensify as carriers seek to protect and grow their premium base. Factors influencing capacity deployment include risk quality, CAT footprint, rate adequacy, profitability and relationship length.

New business: Capacity restrictions for new business have eased as carriers actively look for growth areas. The pursuit of premium growth is driving more flexibility in capacity deployment.

General comments

Submission quality: A quality submission and clear placement strategy are essential to securing favorable outcomes. Early engagement with incumbents and a clear demonstration of progress on risk recommendations can be key differentiators in negotiations.

ESG factors: Environmental, social and governance (ESG) considerations are becoming an integral part of the underwriting review process, with a wide range of areas under scrutiny.

Accurate valuations: Ensuring accurate declared values and employing robust valuation methodologies remain critical to avoiding restrictive policy language and coverage limitations.

Financial lines

Competition among financial line placements remains strong, keeping the Bermuda financial lines market stable. Most of the established financial lines products, with the exception of wage & hour and lawyers E&O, are in softer market conditions. The extent of rate increases or decreases will still be determined by many factors, including industry and loss history.

Employment practice liability

- **Rate environment:** Assuming no change in risk profile and no losses, rate increases are more likely to be close to or at flat. California continues to be the most problematic jurisdiction for insurers.
- **Capacity:** Overall capacity in the EPL market is stable. We are aware a new entrant is coming to the market in Q4 with $5 million to $10 million in capacity for middle market opportunities (lower headcount).
- **Limits/retentions:** Carriers continue to manage capacity on any given risk with maximum limits of between $10 million to $15 million. Separate retentions for class actions, especially in California, are still being enforced.

Wage & hour insurance

- **Rate environment:** Given significant losses and the current legal environment, the rate environment is such that many markets are imposing increases, particularly if in a difficult industry and/or in California.
- **Capacity:** Overall capacity is stable, with some changes in how the capacity is deployed — one of the leading carriers is currently only offering coverage on a standalone basis with no blended EPL option.
- **Limits/retentions:** Many markets have increased retentions and implemented separate, higher retentions for California risks. While many of the primary markets have capacity to offer up to $25 million in limits, the average limits are between $10 million and $15 million.

D&O/management liability

- **Rate environment:** We continue to see rate decreases in H2 of 2024; however, we foresee challenges obtaining material decreases particularly on high excess, whereas we are nearing minimum rate adequacy requirements for capital deployment.
- **Capacity:** (no changes) 20 carriers and over $400 million in capacity.
- **Focus on coverage:** Insurers have been more willing to expand coverage. Carriers have also been busy amending their base forms to bring in line with market leading coverages. In line with our retail teams, we continue to explore expansion of coverage during the 2024 renewal cycles.

- **New! Executive compensation clawback:** One Bermuda carrier has released its policy form in Q3, and we are waiting on two others to release theirs imminently. With new regulations by the SEC these products look to fill the gap in coverage for non-fraudulent receipt of performance bonuses for officers based on misstated financials.

Cyber

Market stabilization continues into H2 2024 largely due to intense competition between cyber markets looking to retain their renewals and meet growth goals. There are no signs of this dynamic shifting as previously alluded to in prior update.

- **Rate environment:** We are continuing to see material rate reductions in the excess capacity for the second year in a row. primaries may be holding flat or even going at a slight increase, the excess is still being targeted for reductions, and we are seeing those range from -5% to -20%.
- **Capacity:** Bermuda markets are stable with 12 carriers and $130 million in capacity. Carriers are continuing to offer between $5 million to $15 million on any one risk. Incumbents remain eager to retain business and excess carriers are looking to maintain renewals and/or undercut each other if given the chance.
- **New! CyProtect Bermuda:** This new proprietary excess follow-form product released in Q1 2024 was developed for large and complex risks. All 11 traditional cyber markets supported this WTW Bermuda initiative, and we have bound a few opportunities already year to date.

Summation

For core renewal business we expect high levels of competition to continue to drive the market as carriers will remain flexible to maintain the renewal including offering coverage grants/expansions. Terms and conditions will also be driven by the length and quality of the relationship and/or multi-line touch points. Capacity for new business is generally widely available globally except wage & hour capacity which remains finite to Bermuda as a Bermuda-only offering.

Contact

Tommy Edwards
Head of FINEX, Bermuda
+1 441 278 0065
tommy.edwards@wtwco.com

Chris Heinicke
Head of Casualty, Bermuda
+1 441 278 0098
chris.heinicke@wtwco.com

Chris Rafferty
Head of Property, Bermuda
+1 441 278 0061
chris.rafferty@wtwco.com

Kirsten Beasley
Head of Office, Bermuda
+1 441 278 0999
kirsten.beasley@wtwco.com

Disclaimer

WTW offers insurance-related services through its appropriately licensed and authorised companies in each country in which WTW operates. For further authorisation and regulatory details about our WTW legal entities, operating in your country, please refer to our WTW website. It is a regulatory requirement for us to consider our local licensing requirements. [https://www.willistowerswatson.com/en-GB/Notices/global-regulatory-disclosures]

The information given in this publication is believed to be accurate at the date of publication shown at the top of this document. This information may have subsequently changed or have been superseded and should not be relied upon to be accurate or suitable after this date. This publication offers a general overview of its subject matter. It does not necessarily address every aspect of its subject or every product available in the market and we disclaimer all liability to the fullest extent permitted by law. It is not intended to be, and should not be, used to replace specific advice relating to individual situations and we do not offer, and this should not be seen as, legal, accounting or tax advice. If you intend to take any action or make any decision on the basis of the content of this publication you should first seek specific advice from an appropriate professional. Some of the information in this publication may be compiled from third party sources we consider to be reliable, however we do not guarantee and are not responsible for the accuracy of such. The views expressed are not necessarily those of WTW. Copyright WTW 2024. All rights reserved.

Professional liability lines

Click on the buttons to view each professional liability line

Cyber risk

Rate predictions

Cyber risk
–5% to flat

Key takeaway

Market stabilization has continued through the third quarter of 2024, even in the face of an ever-expanding threat landscape, including a slight uptick in ransomware activity, notifications around several widespread vulnerabilities (e.g., MOVEiT, Change Healthcare, CrowdStrike) and other headline cyber breaches. This is largely due to intense competition between cyber markets looking to retain their renewals and meet aggressive growth goals.

We are currently seeing flat primary and excess cyber renewals and, in some instances, even decreases, and capacity continues to be readily available.

- Premium stabilization has continued through the third quarter of 2024. Increases, if any, are typically seen by those organizations that cannot demonstrate strong ransomware controls.
- Underwriting decisions are heavily influenced by the security controls a company has in place in conjunction with pricing and attachment points.
- Competition is strong among markets and certain risks may receive multiple quotes. Incumbents are eager to retain business.
- Increased limit factors (ILFs) have come down in excess placements due to intense competition, especially on large towers, where there have been significant premium decreases.
- Capacity is plentiful in the market, and carriers are pushing to increase their participation back to $10 million blocks on programs.
- Many policyholders are electing either to purchase additional limits or lower retentions when there are premium savings on renewals.
- We are seeing carriers more willing to underwrite to the gray area between yes/no within the applications.

Despite organizations taking more precautions to increase their cyber security, ransomware attacks show no sign of slowing down.

- According to Coveware, while median ransom payments fell 32% between Q1 and Q2 of 2024, the average ransom payment rose 2.4% during the same period.
- More groups are conducting ransomware attacks and ramping up pressure on alleged victims, as the number of ransomware groups posting to data leak sites increased 67% during the six-month period ending in June. (Rapid7 Ransomware Radar Report 2024).
- Ransomware affected 59% of organizations in 2024. (Sophos The State of Ransomware 2024).

Markets continue to grapple with how to address claims and losses that may result from state-sponsored cyber-attacks, as well as exposures stemming from wrongful collection, the use of artificial intelligence and new SEC rules

- There are a wide variety of approaches to wrongful collection coverage, as markets assess how biometric information legislation, as well as chat bot and meta pixel litigation, increased exposure to certain organizations.
- A recognition of how organizations are using AI, the extent of the new risks associated with the technology and an examination of where coverage for these exposures lie continues to be a theme in 2024.
- Although the threat of cyber warfare continues to be a concern, more markets are showing flexibility when it comes to war exclusions, recognizing that clients have varying opinions on the options available.
- In light of new SEC rules adopted in 2023, requiring that public companies disclose cyber security breaches within four days after a determination of a material incident, we are seeing several markets offering sub-limited coverage for SEC disclosure costs.

Specific industry trends

- **Financial institutions:** The Moveit transfer application vulnerability had a significant impact on this industry, since more than 30.86% of the hosts running the application were financial services organizations. Hard market corrections were made to this class in the prior year, so decreases are flattening. FIs are generally viewed as better risks than other industry classes, so there tends to be more competition among markets for this business. Further, according to Parametrix, a modeling and insurance services firm, Fortune 500 companies in the banking industry will suffer the second largest direct financial loss ($1.149 billion) due to the CrowdStrike incident.
- **Healthcare:** In February, we saw the real-time devasting consequences of a ransomware cyber-attack on a large healthcare organization, as well as the downstream impact to the network of healthcare providers relying on that organization to process claims and make payments. As the extent of this event is still unknown, it will take time for carriers to understand fully what pricing or coverage adjustments, if any, need to be made to their healthcare book. Further, according to Parametrix, Fortune 500 companies in the healthcare sector will suffer the largest direct financial loss ($1.938 billion) due to the CrowdStrike incident.
- **Retail:** Our retail clients have seen a unique blend of exposures, as they regularly handle a significant amount of customer data while using social media and influencers, which involves reliance on third-party vendors to deliver their products and AI on their websites and at distribution centers.
- **Construction:** Ransomware continues to impact the construction and architects & engineers industry classes, particularly in the small and middle market space. Wire transfer fraud is the most problematic exposure in this industry class and impacts all sized companies.
- **Manufacturing:** More companies are grappling with how to protect operational technology (OT) systems, which, if left vulnerable, can lead to large business interruption claims and information technology (IT) systems being affected during an incident. Carriers are becoming more interested in collecting OT-specific underwriting information, including whether OT and IT networks are properly segmented to prevent lateral movement should a bad actor infiltrate one system or the other.
- **M&A:** Organizations are lately focused on industry-specific enhancements and a more efficient process/approach to writing portfolio companies, which carriers have been willing to accommodate.
- **Higher education:** Underwriter scrutiny around end of life (EOL) systems has ramped up based on the custom software used by many educational institutions. Carriers want to see protections in place or the replacement of these systems with something more secure.

Contact

Jason Warmbir
National Cyber/E&O Practice Leader
+1 312 607 0096
jason.warmbir@wtwco.com

Jason D. Krauss
FINEX NA Cyber Thought & Product Coverage Leader
+1 212 915 8374
jason.krauss@wtwco.com

Directors and officers liability

Rate predictions for 2025

Public company: primary/excess/Side A	Private company: primary/excess/Side A
–5% to flat	**–10% to flat**

Key takeaway

After several years of rate deterioration, historic and new markets are beginning to cite an inability to support further reductions, particularly at the excess layers. Nevertheless, the availability of capacity continues to drive competitive market dynamics, with favorable risks still experiencing flattened-to-reduced D&O premium outcomes well into 2024.

Underwriting

Public company

- **Rate environment:** We expect modest rate decreases to continue in the second half of 2024; however, we foresee challenges obtaining decreases with incumbents, particularly on excess layers, where incumbents are likely to hold the line on continued rate deterioration.
- **Focus on coverage:** As insurers may take firmer positions on continued premium relief, opportunities persist to expand coverage. We recommend that our clients explore the potential for broader coverage during their 2024-2025 renewal cycles.

Private company

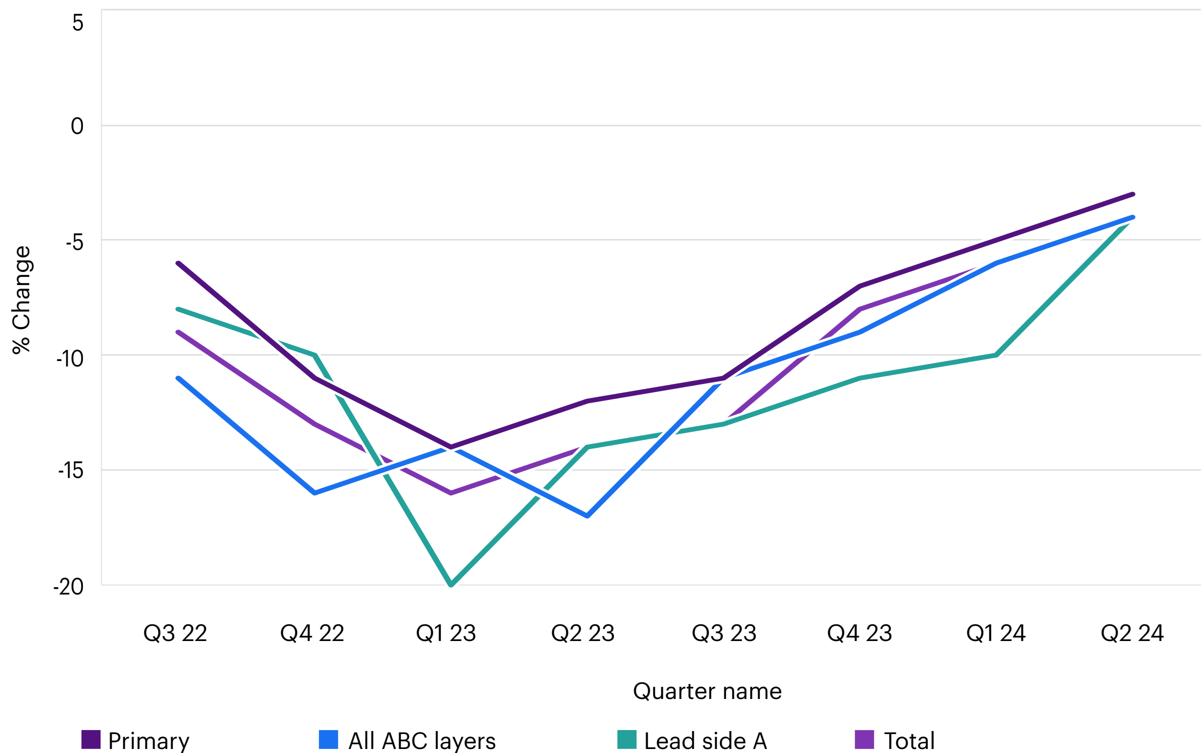
- **Primary:** Insureds with stable risk profiles continue to see enhanced competition, with a floor of flat renewals and decreases when marketed. While decreases may still be available, we don't anticipate the more drastic rate decreases we saw in 2023. Carriers may also offer guaranteed renewals and multiyear policy terms, with a refreshed annual aggregate. The market for higher risk profiles is improving but can still be challenging.
- **Excess:** For larger risks, excess markets have maintained recently lowered increased limits factors (ILFs).
- **Retentions:** For challenged risks, those with large exposure increases and/or claims experience, carriers continue to press for higher retentions. Minimum retentions continue to be scrutinized but have moderated over the past six months. Severity of increases most often depends on prior renewal increases and the need, if any, for continued correction.
- **Increased deployment:** Carriers are willing to regularly deploy capacity for preferred risks. Additional capacity can be found for more risks. This is having an impact on market conditions more broadly, especially for more desirable risks.

Challenged risk profiles

- Non-U.S. parent with U.S. exposures
- Liquidity challenged and pre-restructuring/ bankruptcy risks
- Challenged industries, e.g., oil and gas, healthcare, life sciences, higher education, cryptocurrency, cannabis, retail, restaurants, sports/entertainment
- IPOs and SPACs

Despite challenges and anticipated potential for increases, capacity remains available.

Figure 1. **D&O premiums**



Source: WTW proprietary premium tracking data, public company commercials placements, updated on a quarterly basis

Risk profile focus

- Cyber/privacy: Adequacy of disclosures, business dependency and board oversight
- Financial strength (especially liquidity)
- AI integration and adaptedness
- Management of guidance in the context of inflation, interest rates, among other factors
- Industry
- Claim history
- Loss-cost escalation
- Human capital, labor retention
- Systemic exposures
- Regulatory uncertainty
- Conflicting shareholder/political pressures surrounding ESG practices, including DEI

Industry notes

- **Healthcare:** As to private/NFP (primary), potentially heightened premium depending on claims activity or M&A. As to private/NFP (excess), potentially heightened premium depending on claims activity or M&A. Also, there is some pressure on antitrust retention and co-insurance.
- **Life sciences:** There is still significant downward pressure on premiums but it is dependent on the level of past adjustments. We are still able to achieve retention reductions in some cases. Companies with a recent IPO may see larger reductions in the -20% to 30% range and high IPO retentions are regularly being reduced.
- **Natural resources:** There has not been meaningful deviation for the natural resources vertical. Anecdotally, we have continued to see robust competition for primary and first excess capacity. Competition for mid- and high-excess layers tends only to be constrained by minimum premiums levels, where applicable.
- **Retail & distribution:** There has been no meaningful difference in the renewal expectations for retail & distribution clients as compared to what is provided generally for our public company clients. Potential increase in bankruptcies within this sector as we move throughout the year.
- **Technology, media & telecommunications:** There has been no meaningful difference in the renewal expectations for tech clients compared to what we provide generally for our public company clients.

Industry-specific D&O rate predictions and notes

Industry	Primary (Public)	Excess/Side A (Public)	Primary (Private, NFP)	Excess (Private, NFP)
Aerospace	-5% to flat	-5% to flat	-10% to flat	-10% to flat
Construction	-5% to flat	-5% to Flat	-10% to flat	-10% to flat
Government contracting	-5% to flat	-5% to flat	-10% to flat	-10% to flat
Healthcare	-5% to flat	-5% to flat	-5% to +5%	-5% to +5%
Higher education	-5% to flat	-5% to flat	+5% to +15%	Flat to +10%
Life sciences	-5% to flat	-5% to flat	-10% to flat	-10% to flat
Marine	-5% to flat	-5% to flat	-10% to flat	-10% to flat
Natural resources	-5% to flat	-5% to flat	-10% to flat	-10% to flat
Public entities	-5% to flat	-5% to flat	Flat to +10%	Flat to +5%
Real estate, hospitality, leisure	-5% to flat	-5% to flat	-10% to flat	-10% to flat
Retail & distribution	-5% to flat	-5% to flat	-10% to flat	-10% to flat
Technology, media, telecommunications	-5% to flat	-5% to flat	-10% to flat	-10% to flat
Transportation	-5% to flat	-5% to flat	-10% to flat	-10% to flat

Developments and market driving issues

- U.S. Supreme Court decisions impacting federal agency rulemaking and enforcement authority
  - In June 2024, the U.S. Supreme Court issued its ruling in the Jarkesy v. SEC litigation, ruling against the SEC in a case challenging the agency's ability to use administrative law tribunals to seek civil penalties against defendants for securities fraud. The court found that, in cases alleging fraud, the agency must bring civil-penalty actions in federal court, where the defendant is entitled to a jury trial, and cannot do so in in-house administrative courts.
  - Days later, the court in Loper Bright Enterprises et al. v. Raimondo, Secretary of Commerce, et al. held that the Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority. In overturning longstanding Supreme Court precedent from the 1984 decision in Chevron USA Inc. v. Natural Resources Defense Council, Inc., the Court held that courts may not defer to agency interpretation of the law simply because a statute is ambiguous.
  - The Jarkesy and Loper decisions are wins for those who have sought to diminish the scope of regulatory agencies' rulemaking and enforcement powers. The immediate impact on companies and their directors and officers is less evident, but it is foreseeable that overall exposure may diminish if defendants have greater success in federal court or if the possibility of that reduces the severity of pre-trial settlements. It will also be interesting to see if enforcement proceeding filing frequency diminishes if the SEC, in fact, becomes more scrutinizing in the cases it decides to assert.
- U.S. Supreme Court decision on whether pure omissions can establish Rule 10b-5(b) liability
  - In April 2024, the U.S. Supreme Court issued its opinion in Macquarie Infrastructure Corp. v. Moab Partners. The Court held that a failure to disclose information required by Item 303 in Regulation S-K cannot support a private action under Rule 10b-5(b) as long as the failure does not render prior statements misleading. In order to reach that conclusion, the Court found that Rule 10b-5(b) does not create liability for pure omissions.
  - The decision is a win for companies and their directors and officers, likely to stem the previously rising tide of securities class actions resting on Item 303-related allegations. However, the decision may turn out to be even more of a loss for plaintiffs than might be immediately obvious. In this regard, it seems to call into question the continued vitality of the Court's decision in Affiliated Ute Citizens of Utah v. United States, a case often cited for the propositions that a claim for liability under Rule 10b-5 can be predicated purely on omissions, and that such a claim doesn't require positive proof of reliance.
- Securities class action (SCA) filing frequency and severity: SCA filings slightly increased in the first half of 2024, with 112 filings which, annualized, would be 224 filings, as compared to 216 total filings in 2023. Of note is the continued and dramatic decline of M&A-related class actions, from 102 in H2 2017 to only two in H1 2024. The average settlement in H1 2024 was $26 million, reflecting a steady decline from 2023 ($35 million) and 2022 ($40 million). The median settlement in H1 2024 was $9 million ($15 million in 2023, $14 million in 2022).

We caution that settlement data in any given year may not be reflective of current D&O market conditions. They are lagging indicators, often more accurately reflecting facts specific to cases filed in previous years and without reference to the amount of D&O insurance proceeds used to resolve the litigation.

- Broader U.S. economy and D&O risk: The broader economy has been resilient. Fears of a recession have diminished, GDP growth has exceeded expectations and stock market indices have hit record highs. Nevertheless, interest rates, global hostilities, supply chain, labor supply, as well as lingering inflation are factors that continue to weigh on businesses. Chapter 11 bankruptcy filings for the 12 months ending June 30, 2024, were 46% higher than the same period last year. To the extent securities litigation can arise – and has arisen – relative to the adequacy and accuracy of risk disclosures by public companies as to how macroeconomic factors are affecting them, deficient disclosures on these subjects can create D&O exposures.
- D&O risks emerging from artificial intelligence
  - AI – from traditional AI to augmented to fully autonomous AI – presents risks to companies across numerous lines of insurance coverage. As a D&O risk, AI can be used to provide data and support to corporate decision makers, leading potentially to questions as to the adequacy of oversight and due diligence. The adequacy and accuracy of investor disclosures relating to the use and scope of AI are also potential areas of risk.
  - The SEC has initiated enforcement actions, and shareholders have filed securities litigation against companies and their directors and officers relating to alleged practices known as "AI washing" — or the overstatement or the misleading of investors as to a company's AI capabilities, or the extent to which the company has incorporated AI into its operations or products.
  - To date, the totality of AI-related D&O liabilities is less known but are sure to be areas of further scrutiny, from the SEC and other regulatory bodies, courts, legislatures or otherwise, going forward.
- Cyber as a D&O risk
  - CrowdStrike: In July 2024, organizations across industries grappled with the impacts of the technology outage attributed to the cybersecurity firm CrowdStrike. As a D&O risk, impacted companies that experience a material stock drop may soon see securities class actions and/or shareholder derivative lawsuits relating to disclosures and oversight of systems viability and security. As of this writing, CrowdStrike itself has become the subject of securities litigation but we are not aware of additional filings or agency enforcement activity. We will monitor developments as they occur.
  - WTW has undertaken research into the relationship between cyber and D&O risk. Below are a few key takeaways:
    - Cyber incidents increase the likelihood of D&O claims: the risk of a large public company having a securities class action in a given year goes from 5% to 68% if there is a substantial cyber incident.
    - Cyber incidents often lead to corporate derivative suits which allege that the directors and officers failed to provide sufficient oversight. The majority of the alleged damages in such derivative suits can be mitigated by recoveries from cyber policies, reducing the D&O exposure.
    - WTW analytics suggest growing evidence of a correlation between D&O events and the state of a company's cyber hygiene as a proxy measure for governance generally.
    - State of the art analytics can be most helpful in designing optimal insurance programs, particularly if they take into account the follow-on exposure which cyber incidents pose to directors and officers. (Source: WTW proprietary data)
  - Recently, several insurers have been willing to offer coverage enhancements for cyber and D&O policies (for example, coordinated retention credit on D&O policies, SEC disclosure costs on cyber policies) which perform optimally when coordinated.
- Fiduciary duties of controlling stockholders (In re: Sears Hometown and Outlet Stores, Inc. S'holder Litigation): In January 2024, the Delaware Court of Chancery addressed duties that a controlling stockholder owes when it exercises its powers as a stockholder – taking actions such as seeking to remove directors or enacting bylaw changes. In a first-of-its-kind decision, the court introduced a framework designed to help determine when fiduciary duties are owed by a controlling stockholder and to better define the boundaries of those duties. The decision is crucial to controlling stockholders, such as private equity funds, to the extent their actions may require additional analysis of whether newly articulated duties have been satisfied.

- Final SEC rules relating to SPACs and de-SPAC combinations: In January 2024, the SEC adopted final rules to enhance disclosure and investor protection in initial public offerings by special purpose acquisition companies ("SPACs") and in business combination transactions involving shell companies and private operating companies (i.e., "de-SPAC combinations"). In so doing, the SEC adopted disclosure requirements pertaining to SPAC sponsors, conflicts of interest, stockholder dilution, and board determination and fairness of the transaction to SPAC investors. The new rules also clarify and provide guidance related to potential liability relating to these disclosures. A sharp downward trend in SPAC IPO activity began in 2022, in part due to emerging SEC scrutiny into SPACs and de-SPAC combinations, including the issuance of draft rules. With final SEC rules now in place, we will monitor the extent to which private companies will continue to see de-SPAC combinations as a viable alternative to other avenues for going public, including traditional IPOs.

Contact

John M. Orr
D&O Liability Product Leader,
FINEX North America
+1 415 955 0196
john.orr@wtwco.com

Lawrence Fine
Management Liability Coverage Leader,
FINEX North America
+1 212 309 3623
larry.fine@wtwco.com

Employment practices liability

Rate predictions

Domestic markets	Bermuda markets
-5% to +5%	Flat to +5%

Key takeaway

The EPL market continues to be competitive with markets eager to write new business and maintain their renewals (with some markets offering modest decreases or remaining flat to keep the account). However, significant loss history and/or a significant change in exposure factors will still elicit rate increases on the higher end.

Competition is still strong and keeping the EPL market stable.

- **Rates:** The extent of rate increases will be determined by many factors, particularly industry, loss history and location of employees. Assuming no change in risk profile and no losses, rate increases are more likely to be close to or at flat. California continues to be the most problematic jurisdiction for insurers. New Jersey, New York and Florida remain challenging as well.
- **Retentions:** While many retentions have been stabilized, loss history and location of employees may still lead to increases in retentions. Markets continue to seek separate retentions for class actions, especially in California. Moreover, some domestic markets have also sought separate retentions for states (e.g., California, Illinois, New York and New Jersey) and sometimes even county-specific retentions. In many instances, there are separate (higher) retentions for highly compensated employees in certain industries.
- **Limits:** Both Bermuda and the domestic markets are managing their capacity on any given risk. Domestically, markets are providing between $5 million and $10 million. In Bermuda, markets are cutting back to $15 million ($10 million in some instances).
- **Excess:** EPL markets are generally following primary increases in addition to looking to adjust increased limit factors (ILFs) for certain risks.
- **Capacity:** Overall capacity in the EPL market is stable. Additional capacity (Relm) has recently been added in the Bermuda market.
- **Underwriting:** Expect some questions regarding ESG (specifically, diversity, equity and inclusion initiatives), pay equity audits, adherence to new pay transparency laws and labor shortages. Some markets may ask about the use of AI in employment decisions. Many markets have separate questionnaires for biometrics, sexual harassment and pay equity.
- **Coverage:** Coverage remains intact; markets continue to add privacy/biometrics exclusions, and in some cases, broaden existing exclusions. Small sublimits for defense cost coverage are available from certain insurers upon satisfactory completion of the previously mentioned biometric questionnaires.

Focus continues on use of artificial intelligence in employment.

- Earlier this year, Colorado passed a law aimed at regulating the use of AI systems and imposing certain obligations on employers. This law is a first of its kind and is set to go into effect in February 2026.
- Legislators in several other states have proposed bills aimed at regulating the use of AI systems to make, or to assist an employer in making, employment decisions. More specifically, these bills seek to mitigate the risk of algorithmic discrimination arising from an employer's use of an AI system.
- In addition to state legislators, the EEOC included guidance on the use of AI in its updated Strategic Enforcement Plan.
  - The EEOC guidance is "limited to the assessment of whether an employer's 'selection procedures' — the procedures it uses to make employment decisions, such as hiring, promotion, and firing, have a disproportionately large negative effect on a basis that is prohibited by Title VII." Essentially, it is focused on disparate impact claims.

DEI initiatives could lead to reverse discrimination claims.

- The Harvard and UNC Supreme Court decisions have cast a watchful eye on diversity, equity and inclusion (DEI) initiatives within organizations.
- While the decision was specifically limited to affirmative action in admissions processes in higher education and the legality of same under Title VI and the Fourteenth Amendment, the decision has led to more scrutiny of corporate DEI programs and their hiring processes, as well as reverse discrimination claims.
- Companies should continuously examine their DEI policies and initiatives to ensure they do not inadvertently lead to reverse discrimination claims.

Contact

Talene M. Carter
Employment Practices
Liability Product Leader
FINEX North America
+1 212 915 8721
talene.carter@wtwco.com

Errors and omissions

Rate predictions

Large law firms	Mid-size law firms	Management consulting firms
+2 to +8%	Flat to -5%	-5% to +15%

Key takeaway

While primary markets have realigned their pricing to account for long-term loss trends, rate increases for large law firms have been lower in this cycle.

While London markets continue to seek increases on primary and excess business, Bermuda markets are seeking high single-digit to low double-digit rate increases on excess business and cutting capacity, creating challenges for larger law firms.

Lawyers

- The market is stable, and carriers are taking measured rate action to adjust for inflation and individual firm loss experience. Although excess carriers continue to seek rate adjustments, most primary carriers are reaching rate adequacy and moderating their premium targets based on underwriting criteria.
- Excess markets are still experiencing claim penetration and continue to correct historically low premiums.
- Carriers are continuing to push for higher retentions and using a firm's revenue as a basis for this increase.
- Underwriters are paying particular attention to:
  - Financial stability of law firms
  - Artificial intelligence and law firm's controls over its use
  - Cyber security and ensuring that redundancies are in place (several firms were impacted by CrowdStrike)
  - Law firm's working with entities in sanctioned countries
  - Law firm growth through lateral hires and the integration of these new hires into firm culture, while avoiding the creation of new offices that operate outside of a firm's structure and culture.
  - Managing client selection

Consulting firms

- Underwriters have continuing concerns over consultants working with clients in the tobacco and opioid industries, and potentially crossing the line into proposing or operationally supporting high-risk strategies for regulated or high-risk products.
- High profile claims against consultants, such as Ernst & Young's audit failures in Wirecard and McKinsey's in Silicon Valley Bank, have generated additional levels of underwriting scrutiny for consultants providing these types of services.
- Underwriters are still evaluating insureds that work with sanctioned entities and confirming that they have plans in place to address these situations.
- Competition has resulted in lower premium increases for high hazard practice areas and for consultants with solid risk management procedures and low risk practices.
- Underwriters continue to focus on:
  - Cyber controls
  - Practice areas (Turnaround management, cryptocurrency and pharmaceuticals continue to be considered high hazard. Above a specific percentage, firms focusing on actuarial consulting struggle to find capacity.)
  - Financials (Clients have become more demanding and are pushing back against concepts like billable hours and are seeking cost transparency.)
  - Strategic plans to address the evolution away from clients having to rely on consultants' specialized knowledge, i.e., the *Googleization* of expertise
  - Appropriate licenses being in place when insureds work with sanctioned governments
  - Controls over the use of artificial intelligence

Contact

Jason D. Krauss
FINEX NA Cyber Thought & Product Coverage Leader
+1 212 915 8374
jason.krauss@wtwco.com

Geoffrey Allen
Head of Professional Services Practice
+1 818 915-4311
geoffrey.allen@wtwco.com

Fidelity/crime

Rate predictions for 2025

Fidelity bond
Flat

Commercial crime
Flat

Key takeaway

Pricing remains stable as insurers weigh the potential risk associated with artificial intelligence but continue to see favorable loss ratios.

SFAA data suggests that the crime/fidelity bond product continues to be profitable for insurers.

- The top five writers of crime and fidelity bonds have loss ratios below 50%.
- These carriers account for more than 50% of the direct premium written.
- Carriers look to expand their existing client relationships by offering competitive crime/fidelity bond coverage.

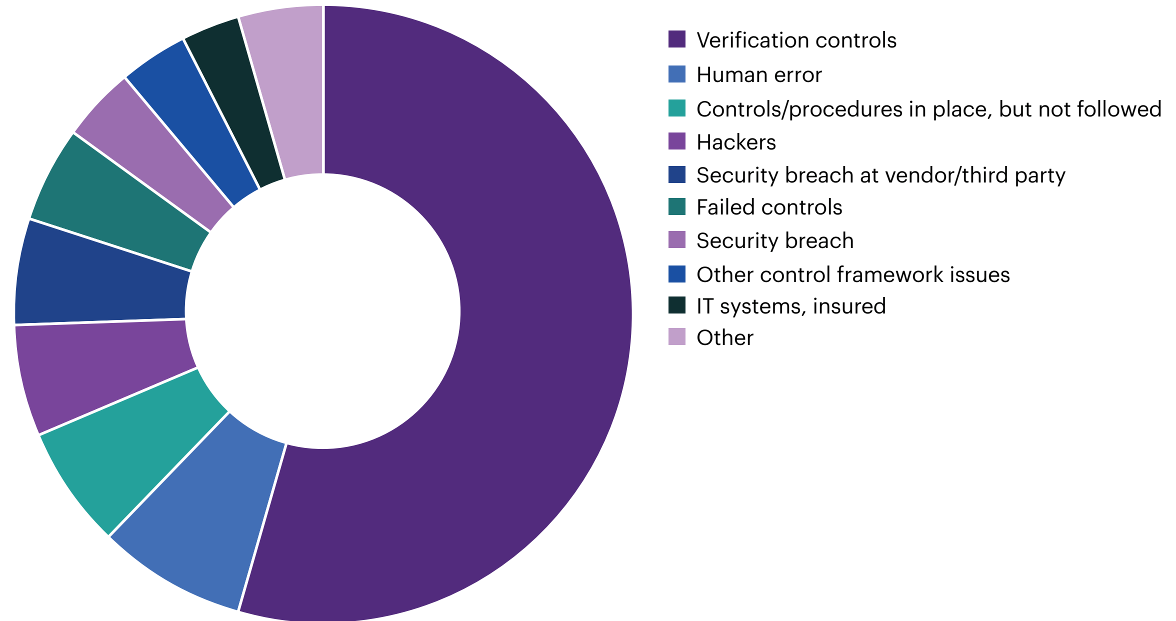
The potential impact of artificial intelligence on the fidelity/crime market is yet unknown.

- “Deep fakes” go beyond traditional social engineering schemes by providing an audible or visual impersonation directing the fund transfer.
- These schemes are more convincing as the wire transfer instruction is confirmed via voice or virtual call.
- Carriers have not made any changes to coverage to address AI as of yet.

Business email compromise (BEC) or social engineering claims continue to cause concern.

- The FBI has confirmed that BEC claims accounted for more than $2.9 billion in losses in 2023 alone.
- Coverage for these claims is often sub-limited, though excess SEF limits are available.
- Improper verification control is the root cause of more than 50% of social engineering losses.
- Carriers look to fine tune their approach to underwriting this coverage given the increased sophistication of social engineering fraud attempts.

Figure 1. **Causes of social engineering losses**



Source: WTW Social Engineering Claims Report, 2024

The financial institution sector has seen a resurgence in check kiting claims.

- According to data from the Financial Crimes Enforcement Network, the number of suspicious activity reports (SARs) for check fraud doubled in 2023.
- Check kiting schemes artificially inflate an account balance allowing the fraudster to then make a withdrawal. These schemes have historically been mitigated with waiting periods and real time verification of account balances.
- Coverage for check kiting is typically sub-limited for financial institutions.
- Recent reports of fraudsters exploiting “glitches” in their banks computer system or process have brought to light this is still a legitimate area of concern.

Contact

Colleen Nitowski
National Fidelity Product Leader
+1 212 915 7654
colleen.nitowski@wtwco.com

Fiduciary liability

Rate predictions

Commercial (defined contribution or benefit plan assets up to $50M)
-5% to +5%

Commercial (plans assets $50M to $500M)
Flat to +5%

Commercial (plan assets above $500M)
-5% to +5%

Financial institutions
–5% to +5%

Key takeaway

Though there have been both positive and negative litigation developments, a growing number of carriers with increased appetites have led to improved market conditions. Premiums have continued to level off, with the most common result being flat renewals. Carriers have also started to compete on retentions.

Slight improvements as more insurers are looking to build their books

- **Underwriting focus:** Some carriers have recognized that excessive fee filing volume has continued at a lower pace in 2023 and the first half of 2024 compared to the high volume in 2022, resulting in some pricing relief.
- A recent increase in the number of markets interested in writing primary fiduciary liability policies has been the main driver of modest decreases in premium, though more accounts have been renewing flat. Continued low filing volume could lead to somewhat more reductions in 2025.
- Particularly with commercial and large nonprofit (university and hospital) risks, underwriters apply enhanced scrutiny to defined contribution pension plans with assets greater than $250 million, with some carriers avoiding plans larger than $1 billion. Even smaller plans can cause concern because a few smaller plaintiff firms have targeted them, but some carriers are now easing up on retentions for such plans.
- Insurers regularly seek detailed information about fund fees, record keeping costs, investment performance, share class, vendor vetting process and plan governance, causing some insureds to seek assistance from their vendors in filling out applications. Carriers look for frequent RFPs/benchmarking, little or no revenue sharing (with caps), little or no retail share classes, few actively managed funds (not QDIA), limited M&A activity.
- Recent excessive fee class actions involving a health and welfare plan have caused increased scrutiny on such plans.
- Recently brokers have had some success in getting credit for positive risk factors, including level of delegation, quality of advisors and favorable venues.
- Retentions: Insurers continue to be more focused on retentions than on premiums. Although retentions of seven figures remain commonplace for specific exposures (prohibited transactions/excessive fees) and sometimes applicable to all mass/class actions at certain plan asset thresholds, there have been improvements. Some carriers are offering opportunities to “buy down” retentions somewhat.
- Coverage breadth is seeing some expansions: Other than increasing retentions, carriers have not generally been restricting coverage. It should be noted, however, that terms can vary substantially. Several carriers have become receptive to offering coverage enhancing endorsements.
- Capacity management: Most carriers are closely monitoring the capacity they are putting out, and $5 million primary limits continue to be more common than $10 million.
- Rate prediction qualification: Rate increases may be higher or lower depending on the insured’s existing pricing. Insureds who have already had at least one round of double-digit percentage premium increases may be able to avoid increases entirely. We expect to see flat renewals continuing to be common. Price per million of coverage can vary substantially among risk classifications.

Challenged classes

- Healthcare entities, who continue to be targeted disproportionately by class action plaintiffs, continue to see premium increases up to 10%, although some are renewing closer to flat.
- Universities are less challenged now due to the lack of recent class actions filed against them.
- Financial institutions still receive extra scrutiny, especially if their plans use proprietary funds, but their premiums have become stable and even decreased recently.
- Carriers have mostly ceased to penalize funds with Black Rock investments since nine of the 11 original suits were dismissed (although two of the cases have survived motions to date, with one case surviving summary judgment and heading to trial after class certification was granted subject to interlocutory appeal).
- **Risks to watch** include excessive fee class actions, imprudent fund selection class actions (particularly relating to target date funds), claims challenging use of funds from plan forfeitures, COBRA class actions, class actions challenging ESG investments, DOL investigations and cyber audits, potential claims arising from benefit cutbacks, claims alleging imprudent DB plan buyouts.

Developments and market-driving issues

Defined contribution plan excessive fee class actions

- Only 23 excessive fee class actions were filed in the first half of 2024, on pace with the 48 filed in all of 2023 — but a sharp decline from 88 filed in 2022.
- In the initial aftermath of the U.S. Supreme Court's pro-plaintiff Northwestern University decision in January 2022, few excessive fee cases were dismissed, but subsequent positive precedents from the Sixth, Seventh, Eighth and Tenth Circuits (CommonSpirit, Oshkosh, MidAmerican Energy Co. and Barrick Gold respectively) led to an increase in motions to dismiss being granted, particularly in those circuits.
- Appellate decisions have been a mixed bag. In one case in February, the Second Circuit upheld a grant of summary judgment, largely because the district court judge as a trier of fact had considered all of the facts adduced and concluded that there was evidence that the defendants employed "a robust process to manage potential conflicts of interest."
- In another case, the Fifth Circuit reversed a dismissal. The main issue was share class, the type of allegation which is least frequently dismissed on initial motion. The court didn't accept the proffered justification for utilizing expensive retail share classes, namely that there was revenue sharing which purportedly made the investments less expensive on a net basis.
- Trials: 2024 has seen three trials relating to target date funds (investment options designed to grow more conservative as investors age), all of which resulted in victories for defendants. Plaintiffs lost two cases involving FlexPath target date funds which allegedly underperformed. Despite numerous allegations of conflicts of interest among the defendants, ultimately the two courts found no liability. A third case involving different target date funds also resulted in a no liability verdict.
- Yale University's trial victory last year is currently being appealed to the Second Circuit, with the ERISA Industry Committee (ERIC) and U.S. Chamber of Commerce filing amici briefs in support of Yale.

Health and welfare plan excessive fee class actions

- On February 5, 2024, a Johnson & Johnson employee filed a proposed class action alleging that J&J employees have been overcharged for prescription drug benefits. The complaint alleges that non-defendant Express Scripts, J&J's pharmacy benefit manager (PBM), drastically overcharges for prescription drugs, providing several purported examples. The lawsuit is structured similarly to defined contribution retirement plan excessive fee litigation, alleging that J&J's failure to negotiate lower prices constitutes a breach of its fiduciary duties under ERISA.
- The claimant seeks to make the health plans whole (despite not having brought the suit on a derivative basis), plus "surcharge," a form of equitable relief for herself and the purported class. She also brings a count on her own behalf seeking $110/day statutory penalties for failure to provide requested plan information on a timely basis.

- The primary defenses are likely to be based on standing, arguments which have previously been successful in prior class actions relating to health plan costs.
- This suit was filed against a backdrop of recent amendments which made section 408(b)(2) disclosure requirements applicable to welfare benefit plans in addition to retirement plans, as well as a trend of welfare plans becoming more aggressive in suing their third-party administrators to access complete employee medical claim data and ascertain whether they are owned money.
- On July 30, 2024, the same plaintiff firm filed an almost identical second suit against another large public company, also focusing on the price of prescriptions from Express Scripts.

Other litigation

- **Other types of class actions persist:** Although fewer suits against defined benefit plans alleging reduced benefits due to the use of outdated mortality table assumptions were filed in 2023, such cases continue to be litigated, as well as class actions involving COBRA notice deficiencies or improper benefit reductions.
- **Employer stock class actions** against public companies have remained virtually nonexistent for the last several years, but private companies with ESOPs can still see claims. In the continuing aftermath of the U.S. Supreme Court's decision in Fifth Third Bank v. Dudenhoeffer, very few employer stock drop class actions have been filed, and those few continue to be dismissed and affirmed on appeal. Nonetheless, carriers remain concerned about employer stock in plans; they will often exclude employer stock ownership plans or include elevated retentions. Meanwhile, private plaintiffs and the DOL sometimes bring claims against private companies with employer stock plans, mostly arising from valuation issues in connection with establishing or shutting down such plans. In 2024 so far, private company ESOP settlements have ranged from $1.25 million to $19 million.
- **Although Black Rock imprudent investment cases have been mostly unsuccessful, two of the 11 filed cases are proceeding:** A wave of class actions filed by one law firm against sponsors whose 401k plans include BlackRock target date funds caused some carriers to focus on this exposure in their underwriting, although the BlackRock funds in question were highly rated. These complaints didn't allege excessive fees; in fact, these plaintiffs criticized the defendants for focusing on cost over performance. Although the vast majority of these cases have been dismissed, two have survived motions to date, with one case surviving summary judgment and heading to trial after class certification was granted subject to interlocutory appeal).
- **Litigation arising from pension buyouts:** In the midst of positive news about defined benefit pension plan funding and a rise in plan sponsors arranging with insurers for buyouts of their pension liabilities (in order to gain access to the surpluses), plaintiffs have filed class actions against four plan sponsors who have arranged for such transactions. The defendants may have strong defenses to plaintiff's efforts to achieve standing based on a stated concern that their benefits will not be paid in the future if and when the relevant insurer becomes insolvent. All of the suits involve the same insurer, who is described in one complaint as "a highly risky private equity-controlled insurance company with a complex and opaque structure" and a "lack of a sufficient track record". These suits come as the Department of Labor has just issued a report about fiduciary standards that apply to selecting annuity providers for defined benefit pension plans. As summarized in the DOL's news release, the report found that "the agency should explore developments in both the life insurance industry and in pension risk transfer" and possibly suggest changes to the Interpretive Bulletin which has been in place since 1995.
- New plaintiff theory: Starting in September of 2023, one two-person California plaintiff firm filed four lawsuits against four different sponsors of defined contribution plans, alleging that it was impermissible self-dealing for companies to defray future plan contributions by using forfeited funds related to departing employees who didn't vest in their employer match. Since then, other law firms have joined in and there have now been at least 10 such lawsuits filed. These allegations seem to contradict long-established practices, seemingly endorsed by both the Internal Revenue Service and the DOL. Just this year, the IRS proposed regulations concerning the timing for reallocating forfeiture, without raising any concerns. Nonetheless, although at least one of the suits has been dismissed, at least two of the complaints have survived a motion to dismiss.

ESG developments

DOL rule

- The DOL's proposed rule regarding environmental, social and governance (ESG) investing achieved final rule status and is still in effect, despite substantial opposition.
- On October 14, 2021, the DOL published for comment a new rule to modify the previous administration's 2020 rule that was perceived as discouraging retirement plans from investing in ESG-related investment options by putting a burden on fiduciaries to justify such investments. As the DOL explained in the Supplemental Information provided when they published the rule in the Federal Register, the change was "intended to counteract negative perception of the use of climate change and other ESG factors in investment decisions caused by the 2020 Rules, and to clarify that a fiduciary's duty of prudence may often require an evaluation of the effect of climate change and/or government policy changes to address climate change on investments' risks and returns."
- On November 22, 2022, the DOL published the final rule and a summary fact sheet. The official press release was titled: "U.S. Department of Labor Announces Final Rule to Remove Barriers to Considering Environmental, Social, Governance Factors in Plan Investments." The final rule retained the core principle that the duties of prudence and loyalty require ERISA plan fiduciaries to focus on relevant risk-return factors and not subordinate the interests of participants and beneficiaries. The rule became effective on January 30, 2023, despite efforts to block it.
- On the legislative side, Congress passed a bill on March 1, 2023 under the Congressional Review Act to block the rule, but on March 20, 2023, President Biden issued the first veto of his presidency in order to keep the new rule in effect. On March 23, a vote of 219 for and 200 against in the House of Representatives failed to reach the two-thirds majority required to override the veto.
- On the litigation front, days before the rule was about to go into effect 25 state attorneys general and three private plaintiffs sued in federal court in Amarillo, Texas to block the rule as beyond the DOL's authority. In March, the judge there rejected a motion to transfer venue, accusing the plaintiffs of forum shopping. However, in September 2023, the judge dismissed the suit, giving deference to the DOL interpretation but also agreeing with the DOL that the rule was fundamentally neutral (a similar suit filed in Wisconsin in February 2024 is still pending). On July 18, 2024, the 5th Circuit sent the case back to the district judge to exercise his "independent judgment," citing the U.S. Supreme Court's June 28 decision in *Loper Bright Enterprises et al. v. Raimondo* which voided the Chevron doctrine of deference to agency rulemaking.

Developments in the first ESG investment class action

- American Airlines was sued in Texas federal court in June 2023 for allegedly offering imprudent and expensive ESG-oriented investments. American Airlines has stated that it did not actually include such investment options in its main menu, but the motion to dismiss was denied on February 21, 2024, with the judge finding to be sufficient the allegations that "Defendants' public commitment to ESG initiatives motivated the disloyal decision to invest Plan assets with managers who pursue non-economic ESG objectives through select investments that underperform relative to non-ESG investments." Thereafter, on June 20, the judge denied a motion for summary judgment, stating that "[t]he summary judgment record makes clear that a factfinder could find defendants breached their duty of prudence by failing to monitor investment managers and failing to address the facts and circumstances of ESG proxy voting and shareholder activism present within the Plan." The bench trial began four days later, and now the parties are awaiting a decision which could potentially expand fiduciary responsibilities to include active involvement in proxy voting.

Other regulation

- On September 9, 2024, the U.S. Department of Labor, the U.S. Department of the Treasury and the U.S. Department of Health and Human Services jointly released a final rule interpreting the Mental Health Parity and Addiction Equity Act of 2008 and placing further restrictions on how employer group health plans can limit coverage for mental health and substance use disorder treatments. These new Mental Health Parity rules include numerous specific scenarios and statements as to whether or not they would violate the rules, and also mandate that group health plans must perform certain extensive exercises to verify compliance and be prepared to make the results of those exercises available to the DOL within 10 days of a request.

Legislation

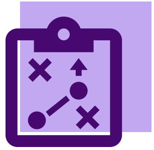
- SECURE ACT 2.0: Securing A Strong Retirement Act (SECURE 2.0) was signed into law on December 29, 2022, with parts taking effect immediately and others being phased in over time. The law expanded automatic enrollment as well as opportunities for making "catch up" contributions, increased the required minimum distribution age to 75 and allowed employers to match employee student loan repayments with retirement account contributions. SECURE 2.0 also enhanced the retirement plan start-up credit, making it easier for small businesses to sponsor a retirement plan (for more detail, see Secure 2.0 signed into law as part of 2023 federal spending package).
- However, many ERISA practitioners remained uncertain about certain practical details relating to the actual implementation of some provisions of SECURE 2.0. The ERISA Industry Committee (ERIC) sent an open letter to the Department of the Treasury and Internal Revenue Service on June 8 asking for clarification on various provisions SECURE 2.0, including the student loan match, Roth catch-up contributions and Roth matching contributions.
- As a result of the confusion, the IRS released Notice 2024-2, the long-awaited "grab bag" notice that provides Q&A guidance on various provisions; for details see "IRS guidance on SECURE 2.0 provisions."

Contact

Lawrence Fine
Management Liability Coverage Leader,
FINEX North America
+1 212 309 3623
larry.fine@wtwco.com

John M. Orr
D&O Liability Product Leader,
FINEX North America
+1 415 955 0196
john.orr@wtwco.com

Financial institutions — FINEX



Rate predictions

D&O – Primary publicly traded
Flat to -5%

D&O – Private
–5% to flat

D&O – Excess publicly traded
–5% to -10%

Asset managers D&O/E&O (excluding private equity)
–10% to flat

Insurance company professional liability (ICPL)
Flat

Bankers professional liability (BPL)
Flat to +10%

Key takeaway

The current marketplace remains full of available capacity driving significant competition across all financial institution industry sub-sectors. While the D&O market remains most competitive there is still ample capacity for all E&O lines of business. The upcoming election and movement in interest rates may cause some shifts in market dynamics, but we expect the overall marketplace to remain stable for the duration of 2024.

Asset managers (excluding private equity firms)

Asset managers continue to be the most desirable subsector of the financial institution industry. Its generally favorable loss history continues to draw interest from established carriers, as well new entrants, most of whom are eager to provide competitive excess capacity. This surplus of capacity has enabled premiums to renew flat to down 10% through end of August, while also generating opportunities for coverage enhancements under most programs.

Registered investment advisors, private fund managers and mutual funds continue to be the most desirable classes of business for insurance carriers, though firms with meaningful outsourced chief investment officer (OCIO), cryptocurrency and commercial real estate risk should expect added scrutiny during the renewal process. These favorable market conditions are expected to continue through at least the end of 2024.

Claim activity under D&O/E&O programs continues to fall within three primary categories: regulatory actions, investor litigation and cost of corrections matters. The SEC continues to focus on issues impacting asset managers, including off-channel messaging, the marketing rule and broker-dealer/bank sweep programs, a reminder that regulatory actions are still a significant risk facing the wider industry. Investor litigation generally alleges breach of investment mandate and/or prospectus misrepresentations, while cost of corrections claims are most often in the form of trade errors. Asset managers should continue demonstrating those applicable risk management and compliance frameworks in place to mitigate these risks, while those with pending claim activity should expect greater scrutiny at renewal.

Insurance companies

The market for insurance companies has calmed, especially for ICPL, with rates being generally stable. Exceptions to this include programs which have not been marketed during the last several favorable years and those risks which have experienced losses. Retentions and capacity are largely unchanged from the prior period. While artificial intelligence remains the most notable emerging trend, insurance companies can expect renewed scrutiny on both cyber exposure and internal controls because of the CrowdStrike outage. Market conditions suggest that buyers challenge existing premiums, retentions and policy wording through seeking feedback from alternative carriers while sufficient competition exists.

Banks

D&O and BPL rates and retentions for banks have remained stable through the first half of 2024. Plentiful capacity and competition persist for D&O, even with the hurdles facing regional banks, resulting in low single-digit rate decreases to flat rate trends through Q2 2024. There was some moderation in D&O rate decreases given that many banks have experienced reductions for the last two to three renewal cycles. Where we saw reduced capacity or upward rate pressure on D&O in the regional banking space, there were additional markets willing to step in with competitive terms.

BPL capacity is always more limited than D&O, but there generally has been no pullback in capacity, and retentions have remained flat. Key considerations driving BPL rate increases include significant commercial real estate (CRE) loan portfolios, credit quality deterioration, liquidity levels and steps being taken to comply with proposed regulatory changes to capital, liquidity and risk management.

CRE is a major focus for underwriters, particularly the office sector, due to record low occupancy rates, high interest rates and looming maturity dates, which have led to increased loan losses for banks. With interest rate cuts likely on the near horizon, there will be a focus on the impact on net interest margins. Regulation is increasing and is more complex with the number of new and proposed legislations, and scrutiny may increase further depending on the outcome of the upcoming 2024 U.S. presidential election. Underwriters remain focused on compliance with evolving regulations, including AI regulation as banks' adoption of AI increases.

Cyber security, fraud and vendor management risks remain top risks for banks with the use of new technologies, digital transitions and fintech partnerships. With continued pressure on growth, profitability and compliance, we expect to see more M&A activity among banks, provided the regulatory environment does not discourage consolidation.

Contact

Jordan Siegman
U.S. Head of FINEX
Financial Institutions &
Professional Services
+1 212 309 0941
jordan.siegman@wtwco.com

Speciality lines and solutions

Click on the buttons to view each specialty lines and solutions

Alternative risk transfer

Rate predictions for 2025

Structured programs
Flat, with downward pressure on insurer risk margins

Parametric non-cat
Flat, as highly customized and based on analytics

Captive stop loss
Flat, as highly customized and based on analytics

Parametric nat cat
Flat with constrained wind capacity in certain peak zones

Portfolio programs
Limited carrier appetite

Key takeaway

Alternative risk transfer options are in high demand, especially for clients with challenging risk profiles, poor loss experience, or who seek to disrupt placements, often leveraging a captive insurance company.

Whether annual or multiyear, parametric and structured solutions will continue to be the most traded ART products in 2025, because they address insurance gaps or disintermediate traditional placements and drive efficiencies not available through traditional approaches.

Structured solutions

These multiyear and increasingly multiline programs blend risk financing and risk transfer into a single policy that is suitable for distressed layers of any line of business. That distress could be a result of adverse claims where insurers seek to raise attachments and/or reduce capacity, or where there is a large gap in risk perception between the insured and the insurer. Today, these are commonplace in primary property, auto buffer layers, errors & omission, cyber or as an "in-fill" where insurers have imposed large corridor retentions.

- Deployed where premium to policy limit ratios exceed 40% annually and increasingly with a range of features, such as swing premium options, corridors and risk financing on a funds-withheld basis.
- Increasing multiline deployment as reinsurance of captive insurance companies.

Outlook for key lines of business

- Property: As the traditional property market continues to stabilize, we expect the reason for use to pivot from a challenge to traditional market price increases, to a platform to facilitate favorable client outcomes through return premiums if claims are favorable or for long-term cashflow certainty if claims deteriorate.
- Casualty/auto: Auto risk, especially for those with large fleets, will continue to mandate the use of multiyear structured buffer solutions as insurers force higher attachments, impose corridor retentions and other restrictions.

Parametric solutions

The adoption rate in the parametric sector continues to increase as insureds see firsthand that the product simply works. Parametric solutions are being used to disrupt or enhance natural catastrophe risk protection in property programs, protect uninsured assets and supply chains, and facilitate investment in a resilient future. The focus is on natural catastrophes and weather risks, but also pandemics and elements of cyber risk. Indeed, WTW is also often deploying these programs to support lender financing and for government-led climate, environmental and social resilience initiatives.

- Capacity, both annual and multiyear, continues to increase as more (re)insurers and investors launch new products or support specialist MGA/MGUs.
- In North America, earthquakes and hurricanes are the most frequently traded perils with increasing interest in wildfire, hail, tornado and general weather perils, such as rainfall and temperature/heat stress.
- Insurers are increasingly catering to all sizes of client as well as creating pro-client differentiating programs.
- Wider client adoption continues following years of education and loss events that prove the effectiveness of the approach.

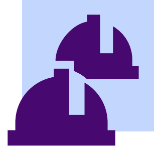
Other areas of insured interest

- Collateral-free fronting for highly creditworthy companies.
- Multiline structured reinsurance for maturing captive insurance companies.
- Portfolio/integrated risk programs.
- Capital market-led solutions.

Contact

Derrick Easton
Managing Director, Alternative Risk Transfer Solutions
+1 212 915 7826
derrick.easton@wtwco.com

Architects and engineers



Rate predictions for 2025

Favorable risks rate predictions

Line	Rate	Line	Rate	Line	Rate
Professional liability	0% to +5%	Property	Flat to +5%	General liability	Flat to +5%
Auto	+5% to +10%	Workers compensation	Flat to +5%	Umbrella	+5% to +10%
Management liability	Flat to +5%	Cyber	+5% to +10%		

Challenging risks rate predictions

Line	Rate	Line	Rate	Line	Rate
Professional liability	+5% to +15%	Property	+10% to +20%	General liability	+10% to +15%
Auto	+20% to +30%	Workers compensation	+5% to +10%	Umbrella	+10% to +15%
Management liability	Flat to +5%	Cyber	+10% to +15%		

Key takeaway

Adverse severity claim trends reported by most professional liability (PL) carriers continue without any signs of improvement. Social inflation is being cited as a primary driver across all casualty lines. PL claims are taking longer and costing more to resolve. Depending on area of practice, project types and loss history, firms can expect PL rate increases in the 0% to 15% range. Firms may also feel pressure to take on higher deductibles and self-insured retentions. In addition, some PL carriers have reduced their available capacity to as low as $5 million limits, resulting in the need for some design firms to look to excess markets to meet their higher limit requirements — which comes at additional cost. In regard to A&E property & casualty programs, firms with large auto fleets, adverse loss history or difficult property exposures will be considered challenging risks.

The volatility in the A&E professional liability marketplace over the past 24 months should continue to stabilize in 2025. Capacity restrictions remain in place, but rates are mostly stable. Adverse claim trends persist alongside a continued reduction in A&E PL carriers' willingness to underwrite certain risks.

- While some A&E PL insurers are indicating premium increases across their entire book of business to offset claim severity trends, certain insurers are taking a strategic underwriting approach that will target high-risk projects or specific market segments. Third-party bodily injury claims on large infrastructure projects remain a difficult risk to manage, and some carriers have reduced their appetite for risks that take on these exposures.
- While restriction in capacity was limited to select insurers in 2024, additional carriers are starting to follow suit to limit their exposure to increased claim severity trends. Most carriers are offering A&E PL limits up to $5 million; however, the number of carriers providing coverage up to $10 million is limited. Decreased capacity has created a need for additional limits through excess carriers at an additional cost.
- Firms can expect an increase in cost to insure single projects by securing specific job excess (SJX) coverage and/or project specific professional liability (PSPL). Consult with your insurance broker to determine all options and potential costs well in advance of start of construction
- Some A&E PL insurers are concerned about the constriction in the project specific professional liability (PSPL) market on large projects as a result of increased claim activity surrounding design-build exposures — specifically public infrastructure projects with fixed price contracts and third-party BI exposures. In the event PSPL coverage is not available or cost prohibitive, these project exposures would bring heightened exposures to the A&E PL insurers' underlying PL policies.
- Design firms with an adverse loss history or high-risk disciplines/project types (structural, geotech, condos, roads/highways) can expect a greater level of underwriter scrutiny to continue. Firms can expect underwriters to look closely at their commitment to specific risk management practices, including negotiation of fair and insurable contracts and education of their staff on managing A&E PL-related risks.

Claim severity trends continue and were the primary driver for rate increases in 2024. Insurers note social inflation; including rising claim costs, a backlog of litigation, length of time to settle, supply chain disruptions and the rise in bodily injury claims as primary factors.

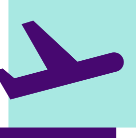
- For more information, the recently completed 2024 WTW A&E Professional Liability Carrier Survey Report on emerging claim trends and risks in the design profession is based on an extensive survey of senior claim managers from 11 leading A&E PL carriers.
- Claim severity continues in 2025. Social inflation continues to be recognized as a leading contributor to the increase in claim severity fueled by aggressive plaintiffs' bar and concerning trend of litigation financing.
- The cost and time to settle a PL claim are increasing, with most noting it takes on average two to three years or more to settle a matter.
- Third-party bodily injury claims and design-build/alternative project delivery are the two leading factors behind a continuing trend of severity claims on roads and highway/infrastructure projects.
- Design firms need to maintain a strong focus on risk management. WTW A&E has created several risk management education programs to help our clients address these emerging risks and minimize their exposure to costly claims and client disputes, including our Emerging A&E Risks and Claim Trends webinar and On-demand programs.
- While the property landscape has continued to trend favorably, carriers began 2024 by refocusing their attention to deteriorating results across their casualty books. The challenges in the casualty space follow persistent trends, such as social inflation and third-party litigation funding, which have added significant pressure to insurers' liability reserves.
- **Social inflation** — Social inflation continues to challenge the liability market as the amount of litigation and size of verdicts have increased dramatically. Carriers are struggling to accurately project these losses in this legislative landscape and, in turn, are focused on claim management tactics and limiting capacity on challenged classes.
- **Challenging risks** — Clients with large fleets, adverse loss experience, and/or fleet makeups outside of private passenger vehicles continue to see a hard market with limited capacity and an increase in cost for that capacity. The introduction of fleet telematics and other vehicle safety and driver training initiatives have become a risk management norm for insureds with large fleets to better the marketing of their risk.
- **Umbrella/excess** — We expect that the pressures impacting the primary casualty lines (social inflation, adverse reserve development, etc.) will have continued commensurate effect on umbrella/excess conditions as these trends persist.

Overall, firms should prepare for a challenging insurance landscape and work closely with their brokers to navigate the market effectively.

Contact

Dan Buelow
Managing Director, WTW A&E
dan.buelow@wtwco.com

Aviation & space



Rate predictions

Airlines
−5% to +5%

Airline hull war
+5% to +20%

Airline excess war liability
+10% to +20%

Airports and municipalities
Flat to +5%

Products manufacturers and service providers
Flat to +5%

General aviation
Flat to +10%

Aircraft lessors/banks
+5% to +10%, flat for hull war

Space
Rate changes depend on risk and limit; percentage range not applicable

Key takeaway

Insurers' expectations for premium increases are waning with ample capacity driving a competitive marketplace as underwriters seek to maintain premium income. The Q4 renewal season is when 75% of the world's airline policies renew, making the upcoming quarter a bellwether for what's to come in 2025.

Airlines

Below-average claim activity and plenty of capacity mean that underwriters are under pressure to keep adequate premium levels. Claims resulting from Russia's seizure of aircraft remain unreserved, though there are court dates in various jurisdictions throughout 2024 and insurers will be watching these closely. Underwriters attempted price increases earlier in the year, but overcapacity in the aircraft hull & liability sector combined with reduced claims and exposure growth helped to keep increases in check.

- Buyers are benefiting from a surplus in capacity.
- Insurers continue monitoring Russian aircraft-seizure claims closely.
- Attritional claim activity remains low but is trending upward with exposure growth.
- Underwriters are concerned about supply chain issues and repair costs escalating, as well as claim inflation due to liability awards.
- All markets are still seeking what they determine to be adequate rates.

While reinsurance costs have increased for most underwriters it would appear this increase has not had a significant effect on their available capacity.

- Insurers have been hard pressed to pass on this cost to the airlines.
- Will war losses spill into the hull & liability market? It's still too early to be totally confident that they won't.
- Deterioration of recent large losses continued to impact the market in 2023, although this appears to be coming to an end.
- Reinsurance renewals could mean reduced capacity for some underwriters.

Hull war and excess third-party war liability market

- New capacity was able to keep the rate increases somewhat in check in the hull war market in 2023 after the withdrawals of some major players.
- Claims remain complex and disputed, with an ongoing legal process respecting Russian-related claims.
- The aggregate of the Russian war losses is still a big unknown but not likely to get worse.
- Positive developments in the negotiations and settlements between the lessors and the Russian airlines have helped balance out the market's reaction.
- Pricing appears to be stabilizing at least for the hull war market as they reach their global target premium of $700 million.

Aircraft lessors/banks

Marketplace risk perception, continued emphasis on geographic aggregation of assets and the prevailing geopolitical climate remain key factors which continue to result in hard marketplace conditions. However, the hull war sub-class has in most part stabilized. The impact of sanctions on Russia has resulted in what continues to represent an unprecedented aviation market claim, with insurers being exposed to previously unquantified hull exposures. While the uncertainty of overall loss magnitude continues, widely reported settlements which have been achieved between lessors and Russian airlines have mitigated elements of the previously projected largest industry loss.

The shift in risk perception produced through the combined impact of the Ukraine crisis and airline assets held in Russia has delivered a far-reaching impact on this class as already reported, impacting both direct and reinsurance markets in conjunction with renewals of aviation insurers' own reinsurance protections, which have continued to impact marketplace conditions through 2024.

- Lessors' legal proceedings against insurers have begun in some jurisdictions and are expected to continue in the courts through 2024 and into 2025.
- Geographic aggregation of assets, sanctions and geopolitics all remain in major focus among (re) insurer senior management and are resulting in coverage limitations now applied broadly across this sector.
- Market capacity withdrawals have curtailed but limited new entrants remain, direct insurers share reductions and continue to produce demand/supply imbalance.
- Insurers continue to review sub-limits and cover limitations; detailed reviews of risk underwriting data to ensure exposures are quantified and to manage their own aggregation exposures are now customary.
- To deliver maximum available coverage, this results in a work approach as capacity subjectivities do not align across the available capacity.
- For the hull war sub-class, confiscation etc. (paragraph (e) perils of wording), application of sub-limits and specific country aggregates continue to offer options to moderate pricing; non-confiscation options remain available.

Product manufacturers and service providers

Despite the reinsurance market sentiment of inadequate pricing by direct insurers, the rate of premium increases in the aerospace sector has begun to fall away. Underwriters' messaging is clear — they still require premium uplift across their portfolios. However, buyers are encountering a relatively stable marketplace with "as before" premiums becoming commonplace. As exposures return to pre-COVID levels, this translates into technical rate reductions for many insureds.

In the aerospace sector, overcapacity has been the key macro influence, driving insurers to compete to maintain their market shares.

- Market capacity remains buoyant and readily available for accounts demonstrating strong performance.
- Predictions on coverage restrictions driven by the reinsurance market have not been realized.
- Long-term agreements are becoming more prevalent, with insureds seeking premium stability despite growth and underwriters aiming to secure their future participation and premium income.
- Insureds are readily exploring the purchase of higher limits as a result of claim inflation and available market capacity.
- Surplus capacity continues to limit rate changes in the excess AVN52 (war) market, with average premium increases continuing to reduce.

Factors to watch

- **Reinsurance:** Increased reinsurance costs have not driven significant pricing increases for direct buyers. Competition has depressed price increases as insurers focus on income throughput to cover the rising costs of their reinsurance programs and increased retentions.
- **Inflation:** Insurers continue to cite inflationary pressures as a factor in their desire to increase premiums. However, rising premiums in 2022 – 2023 attracted new capacity to the market, making it challenging for incumbent insurers to increase price while still securing their participation.
- **Claims:** While there has been an attempt by insurers to focus on claim deterioration in loss-heavy aerospace sub-classes, securing their position and premium income on a going-forward basis has become the more important factor.
- **Uncertainty of Russia claims:** The quantum of claims related to the Ukraine/Russia crisis remains in insurers' minds, but rebalancing portfolio pricing as a whole appears to be a higher priority. Uncertainty remains, but with less of a focus than in previous years.

Our analysis suggests that insurers' expectations for price increases are likely to continue to slow. Capacity remains readily available on placements that can demonstrate strong performance along with robust risk management strategies and protocols. Some insurers are taking the opportunity to offer greater shares and appear to be willing to negotiate more competitive pricing to secure a larger participation on a risk. Insurers continue to message their need for premium uplift, but overcapacity persists, and insurers are increasingly keen to demonstrate their commitment to insureds.

Aerospace manufacturers and service providers

Aircraft and passenger traffic seems to have surpassed the pre-COVID era, driving increased exposures on site. As well, unique claim incidents and large verdicts continue to keep the social inflation and nuclear verdicts fresh in carriers' sights, leading to a general sense that pricing remains inadequate. However, with interested capacity, market pressure is shifting away from the trends of the past few years.

- Though rating increases continue, we have seen a shift to individual account assessment with more significant changes in appetite, structure and rating if there is an unfavorable loss history.
- Coverage adjustments to non-aviation excess limits have occurred in the past few years and are less significant moving forward.
- All markets are still seeking what they determine to be adequate rates.
- Vertical placements (quota-share) are a helpful solution to engage capacity on larger limit accounts and establish a more stable program for the future.

Airports and municipalities

Aircraft and passenger traffic seem to have surpassed the pre-COVID era, driving increased exposures on site. As well, unique claim incidents and large verdicts continue to keep the social inflation and nuclear verdicts fresh in carriers' sights, leading to a general sense that pricing remains inadequate. However, with interested capacity, market pressure is shifting away from the trends of the past few years.

- Though rating increases continue, we have seen a shift to individual account assessment with more significant changes in appetite, structure and rating if there is an unfavorable loss history.
- Coverage adjustments to non-aviation excess limits have occurred in the past few years and are less significant moving forward.
- All markets are still seeking what they determine to be adequate rates.
- Vertical placements (quota-share) are a helpful solution to engage capacity on larger limit accounts and establish a more stable program for the future.

General aviation

Market capacity remains healthy and is driving competitive pricing on risks with a strong safety culture, profitable loss history, as well as requirements for annual model-specific aircraft simulator training for pilots.

(Re)insurers continue to cite the challenges of claim inflation as a driver for their pricing models, and costs associated with inflationary pressures will continue to drive increases in claim settlements.

- With the cost of business rising at a rapid rate over the last 24 months, insurers have absorbed many of these costs market capacity.
- Insurance carriers are showing an increased appetite for new business, meaning risks that have not been marketed in the last few years may see beneficial results from obtaining competing quotes.
- The Russian claims remain unreserved and, while legal proceedings are underway, coverage remains in question.
- Over the course of 2023, there were various instances of conflict and unrest (Russia/Ukraine, Sudan, Niger, Israel/Palestine). Much of this instability remains, and reinsurers are paying close attention to areas of conflict.

Hull war rates and war liability rates are beginning to level off following recent increases.

- Due to escalating tensions in eastern Europe, the recent fighting in Sudan, and reduced market capacity, hull war rates rose and aggregates applied in 2023 following increases imposed by reinsurers.
- We are beginning to see a slowing down of hull war increases.

Environmental, social and governmental (ESG) stances of carriers continue to translate to more restrictive underwriting on risks that present an adverse picture on sustainability, e.g., older aircraft with less efficient/higher carbon emission engines.

- Clients are increasingly being asked by insurers to demonstrate their ESG credentials and, while this has not directly led to an impact on pricing, it is evident that the market is moving in this direction.
- There is also an increased focus on sustainable aviation fuel (SAF) and electric vertical take-off and landing (eVTOL) vehicles.

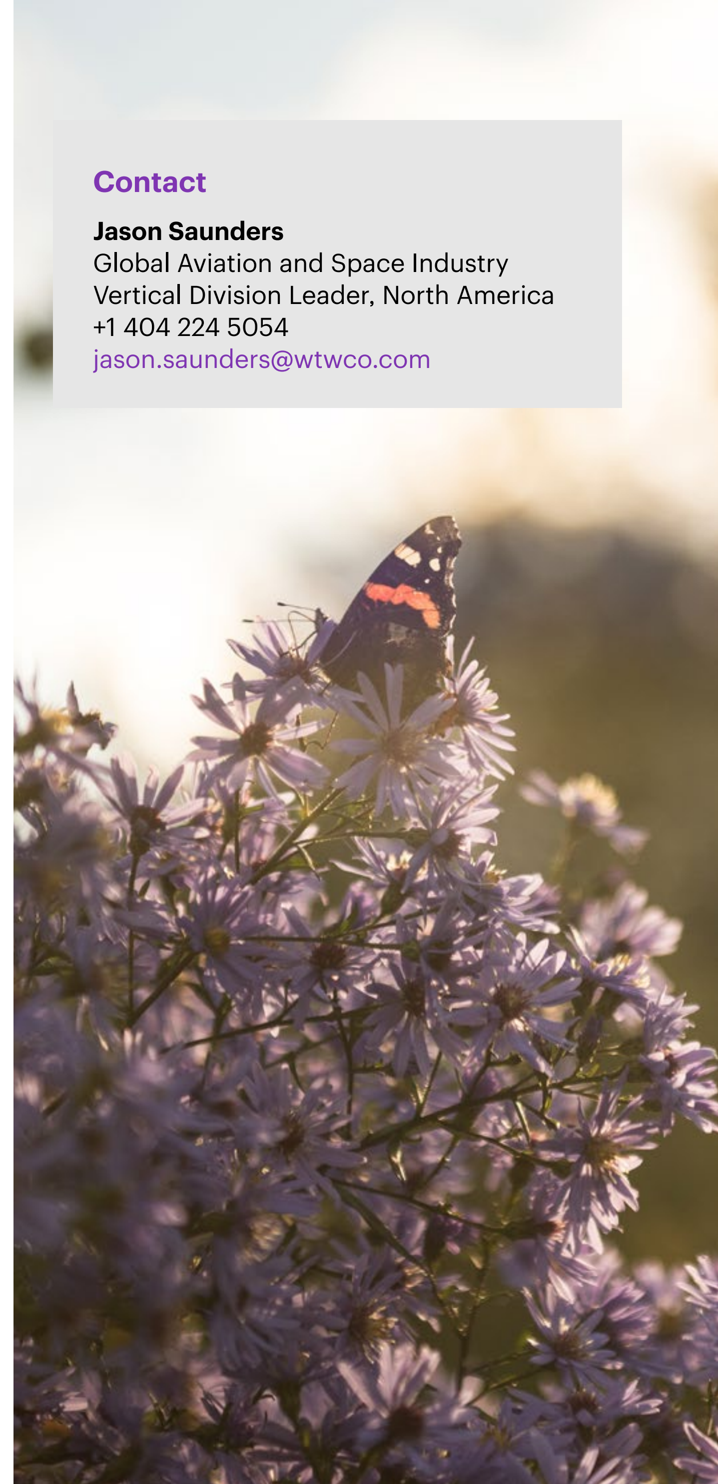
Space

Market capacity is stable, and insurers show a continued emphasis on technology-based risk differentiation.

The space insurance market narrative is still driven by 2023 and 2024 losses and results:

Year	Claims	Premium
2023	~$1B	$600M
2024 (through August)	~800M	$500 – $600M (expected)

- The market is currently reacting to unfavorable recent underwriting results since the beginning of 2023.
- Premium rates have risen, but capacity requirements are a critical piece of space placements.
- Despite the loss of a few markets or syndicates, the market still contains the available capacity to support most risks in the market.
- Underwriters show a continued emphasis on technology-based risk differentiation.
- Limited capacity is available at high rates for first-flight or unproven technologies.
- Global space is in growth mode, and insurers can serve as a catalyst for development.



Contact

Jason Saunders
Global Aviation and Space Industry Vertical Division Leader, North America
+1 404 224 5054
jason.saunders@wtwco.com

Captive insurance

Key takeaway

- While rate increases have moderated in property, there have been deteriorating results in carrier casualty books driven by social inflation and third-party litigation funding. Natural catastrophe and losses from secondary perils remain high. The resultant overall effect remains positive for captive activity and utilization remains strong.
- Rising healthcare costs and the impact of costly specialty drugs is leading to more employers using captives to manage these risks and reduce costs.
- We have recently seen increased activity in credit markets where captives may be used to access effective reinsurance capacity
- Captive owners and prospective owners are expressing interest in using captives to address climate risks, but this has yet to manifest into actionable program structures.

Captive demand continues to be robust, as evidenced by new formations during 2024. As reported during 2023, there is continuing involvement in specialty lines and in the creation of diverse portfolios of risk rather than in a monoline approach.

- Data and analytics capabilities are key enablers of change.
  - These tools are facilitating advances in quantification of both individual risks and portfolios of risks, including multiple lines of business.
  - Captives may be able to cover emerging risks based on advanced analytical capabilities before traditional insurance markets have realized the opportunity to develop their own products.
  - We continue to see an increase in the use of analytics to support decision making and to optimize the cost of risk transfer in market negotiations, particularly among captive owners looking to optimize their use of capital and quantify their risk tolerance.
- Interest in parametric solutions, especially around climate and environmental risks, remains strong, as clients seek capacity that may not be available in traditional insurance markets.

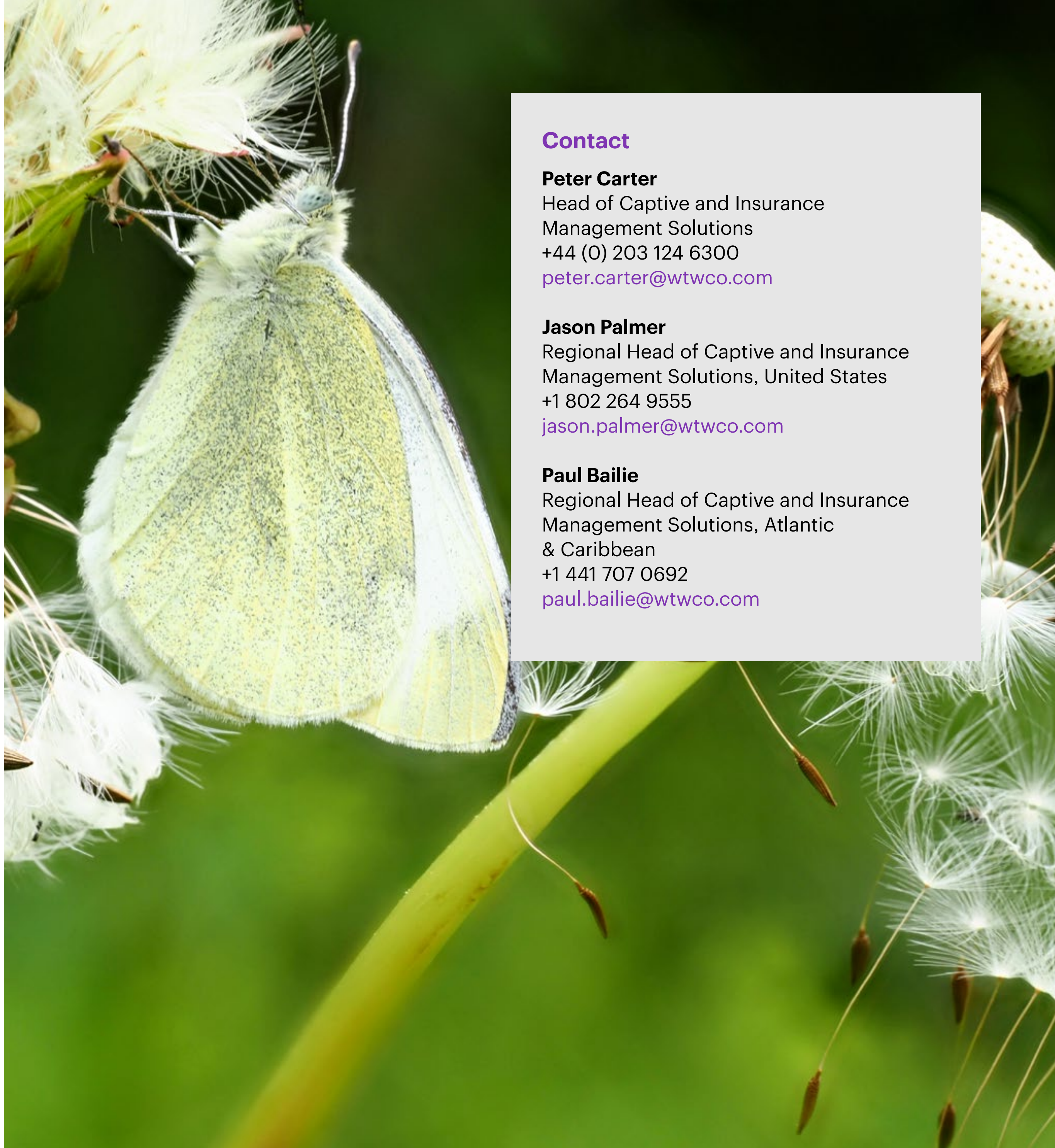
U.S. domiciles

- Reports of new captive formations during 2024 have remained strong across most U.S. domiciles.
- There is strong demand for excess casualty liability coverage among current and prospective captive sponsors. This is driven by price and capacity constraints in the commercial markets.
- Mature captives with sufficient capital and surplus continue to employ that capacity to manage tightness across all lines of business.
- This is facilitated by analytics to optimize how capital is deployed in the captive program.
- Captives continue to provide access to better priced terrorism through reinsurance markets and government-backed schemes rather than have the protection directly placed in the primary market or embedded in standalone property coverages.

Americas offshore

- The key Atlantic and Caribbean domiciles of Bermuda and the Cayman Islands continue to see growth in the number of new captive insurance licenses issued.
- Through July 2024, there were four new captive licenses issued in Bermuda compared to 16 in the prior full year, while the total number of new licenses issued for all types of insurer was 30. There have been numerous segregated accounts (cells) formed during this period, but statistics for these are not published
- Cayman saw 24 total new licenses issued through June 30, 2024, compared to 40 total licenses issued during 2023. Captives represent most of all the new licenses issued. There continues to be growth in segregated portfolios (cells), portfolio insurance companies (incorporated cells) and members in group captives, for which statistics are also not published.
- Activity continues among insurance companies setting up internal “captive” reinsurers as key elements in their capital management efforts and to access reinsurance more efficiently. From a regulatory perspective these are treated as commercial licenses rather than as captives.
- New activity is still primarily focused on business from North America, but there is a considerable interest globally with these domiciles tending to be favored for captives involved in large and complex global programs. WTW has seen activity from the U.K., Europe, Latin America and Asia.
- Outside of captive business there remains extensive activity relating to the formation of life and annuity reinsurance entities, both in Bermuda and Cayman, for which WTW provides insurance management services.

- Segregated account (cell) business in Bermuda is extremely active at present. The Bermuda Monetary Authority is planning to introduce some amendments to the regulation of this business, so this may have an operational impact in 2025 and beyond.
- WTW manages some Side A D&O business on a funded basis through Meridian Insurance Company Limited, its cell company and, although growth in this business slowed in late 2023, it has seen renewed interest from entities that are in or adjacent to the digital asset space and who are still stressed in commercial markets.
- International employee benefit captives are growing in importance and, aside from the savings they may generate, they also help in creating a greater diversified portfolio of risk, including premium revenue that may technically be considered as being third-party risk.



Contact

Peter Carter
Head of Captive and Insurance Management Solutions
+44 (0) 203 124 6300
peter.carter@wtwco.com

Jason Palmer
Regional Head of Captive and Insurance Management Solutions, United States
+1 802 264 9555
jason.palmer@wtwco.com

Paul Bailie
Regional Head of Captive and Insurance Management Solutions, Atlantic & Caribbean
+1 441 707 0692
paul.bailie@wtwco.com

Construction

Rate predictions

Rate movement

General liability
+5% to +15%

Auto liability and physical damage
+10% to +15%

Workers compensation
Flat to +5%

Umbrella (lead)
+5% to +15%

Excess
+10% to +15%

Non high hazard NAT CAT project specific builder's risk
+5% to +10%

High hazard NAT CAT project specific builder's risk
+10% to +20%

Master builders risk/ contractors block
+5% to +10%

Professional liability
Flat to +5%

Project-specific/ controlled insurance programs for excess
Flat to +10%
+5% to +30%

Subcontractor default insurance (SDI)
Flat to +5%

Key takeaway

- In the face of persistent economic headwinds, the resilience of the insurance market is noteworthy. Recent adjustments have fostered improved loss ratios and a more stable rate environment, demonstrating the sector's adaptability.
- The insurance landscape is evolving with new market entrants challenging the status quo.
- In the face of evolving industry trends, contractors dealing with high-risk construction exposures are finding innovative ways to manage risk.
- Contractors are prioritizing employment practices to attract talent, investing in training for quality and safety, and adopting technology for risk mitigation.
- The construction industry is poised for a transformative period as we head into the second half of 2024 and beyond.

Regional insights

The market is currently well-equipped and confident, with sufficient capacity, appropriate attachment points, and a diversified portfolio. The consensus in the industry suggests that the global risk-adjusted reinsurance renewal rates have remained stable as of this past January, supported by substantial capital that meets the market's demand under the 2023 terms and conditions. According to the Swiss Re Global CAT Bond Performance Index, there is a notable investor interest in CAT bonds, which have yielded returns close to 20%[1], fostering a more lucrative reinsurance climate.

Despite ongoing challenges such as labor shortages, supply chain disruptions, rising claim costs, and uncertain interest rates, recent market adjustments have led to better insurer loss ratios and a more stable rate environment. Contractors and their brokers face the ongoing task of balancing persistent rate increases driven by inflation, litigation costs, and rising nuclear verdicts, with the specific loss experiences and risk management strategies of each account.

There has been a noticeable adverse development in auto liability from 2015 onwards and in general liability from 2016 to 2019, with 2019 marking the least favorable year for both categories. Furthermore, a report by Marathon Strategies indicates a trend towards the peak levels of corporate nuclear verdicts seen in 2019[2], where losses exceeded $10 million.

The auto liability and lead umbrella lines continue to be problematic, with the initial $10 million in limits often considered the most active. However, the emergence of new market players targeting low to moderate risk profiles or higher excess layers has introduced competitive pressure on established markets, leading to more favorable rate outcomes. As these newcomers expand their market share and appetite, increased competition is expected, which could help alleviate the need for rate increases.

High-risk construction groups remain an exception to general industry trends, facing limited market appetite for high-severity risks, which are often subject to higher rates and retention levels along with capacity limitations. Contractors in this segment are exploring alternative risk transfer methods and captive solutions. Effective early communication and strategic marketing are essential to set and meet proper expectations, with the most successful outcomes often involving active contractor participation.

Contractors are increasingly focusing on employment and hiring practices to attract and retain talent, investing in training and development to ensure all team members are well-prepared with the necessary knowledge, resources, tools, and techniques to safely and efficiently complete projects without defects. Although traditionally slow to adopt new technologies, the construction industry is now showing a heightened interest and investment in technological solutions to address labor shortages, enhance operational efficiencies, and capture data more effectively. Larger and more sophisticated contractors are using technology to reduce losses, relying on data analytics and performance indicators to improve outcomes and enhance risk profiles.

[1] Swiss Re cat bond index hits record 19.69% total-return for 2023', Artemis, January 2024
[2] Corporate verdicts go thermonuclear Report', Marathon Strategies, 2023

The industry is expected to increasingly utilize technology, with a growing adoption of drones, wearables, and robotics. The use of artificial intelligence (AI) and robotics is also expanding as contractors strive to meet growth objectives and address succession planning challenges in a labor-constrained environment.

As a final point, and a continuation of 2023, we anticipate significant activity will continue through 2024 primarily in infrastructure (roads, bridges, airports, alternative energy), renewable energy, industrial manufacturing, (semi-conductor chip plants, EV battery plants, data centers and distribution facilities) and healthcare (hospitals). As such, we expect to see more joint venture arrangements and alternative contract types, such as P3 and EPC contracts.

Looking forward

The construction sector is increasingly leveraging technology to bridge labor gaps and enhance operational efficiencies. This adoption is expected to continue growing, with more widespread use of AI, drones, and robotics. These advancements not only help in managing current challenges but also in driving future growth and sustainability in the construction industry.

Capacity insights

Umbrella/excess market trends

The umbrella and excess insurance markets have shown a trend towards stabilization over recent years, a pattern that is expected to continue. Insureds with low-to-moderate risk profiles and a positive loss history are likely to benefit the most, as reduced competition among supported lead capacity drives favorable outcomes.

As the market evolves, increased attachment points and consistent year-over-year rate hikes have spurred competition, particularly for lower hazard classes. This competition often results in more attractive pricing. However, the rate adjustments may vary depending on the level of exposure and loss experience. For instance, contractors with increased exposures and favorable loss histories might see their rates remain stable or even decrease. Conversely, reduced insurer appetite or capacity constraints in the insurance tower could lead to rate increases, typically in the mid-to-upper single digits.

For higher hazard risks—such as large auto fleets, New York construction operations, residential projects for sale, wood-frame constructions, and trades involved in high-risk activities like demolition—the market remains challenging. Insurers are particularly cautious, often leading to limited market options and higher rates through the excess layers.

Builders risk market dynamics

The commercial construction sector's builders risk insurance market is showing signs of recovery from the tough adjustments of the previous year. While rate increases are still on the horizon, they are not as severe as before. The market is beginning to see more capacity, indicating positive treaty reinsurance renewals. Quota-share arrangements are becoming more common for larger risks, and underwriting continues to be stringent for perils like wildfires and severe winds.

New legal developments have prompted the market to reconsider LEG3 coverage, with most insurers expected to adjust their policy terms accordingly. The capacity for wood frame constructions remains stable, dependent on robust security measures and risk mitigation strategies. However, both primary and excess natural catastrophes (Nat Cat) capacities are still recovering from a challenging 2022.

Coverage

Project-Specific Programs and Controlled Insurance Programs (CIPs)

Construction Project Insurance is beginning to experience a stabilization after a long, rocky hard-market cycle. It is safe to say that this stabilization is largely due to the new norm of witnessing massive construction projects readily introduced into the insurance marketplace. Coverage and limits remain readily available for most project types and carriers have been eager to favorably rate CIPs excited for an opportunity to be a player on this new field of growth. There has been a jump in spending on data center construction as well as life science facilities both being desirable risks for the insurance marketplace. Additionally, several mega manufacturing projects remain in the pipeline for this year.[5]

[5] NHTSA Estimates Traffic Fatalities Dropped in the First Three Months of 2023, NHTSA) June 2023

The exception to this favorable placement result continues to lie with for-sale residential, coastal, mass timber or wood frame builds. Despite the challenges these construction risks face, there is not a trend of decrease in these projects being introduced. Interestingly, the reduction in construction spend appears to be in the traditional nonresidential space while office construction spending remained flat and highway & street spending slightly decreased.[6]

As with earlier in 2024, the lack of counterbalance from the less complex placements is causing greater scrutiny from the markets requiring more detailed underwriting information. For Nat Cat-exposed areas, project insurance markets continue to place special underwriting attention on heavy storms, wildfires, and flooding.

It is important to point out that the construction industry is still dealing with challenges such as increased interest rates, rising cost of materials, shortages of skilled labor, and operational efficiencies particularly with the growing use of AI. For these reasons, buyers of construction insurance expect alternative solutions for covering their risk as an avenue for decrease in financial burden. The stabilization of rates for OCIPS, CCIPS, and other project specific programs continues to allow for optimal insurance coverage, streamline claims handling, and savings for all parties involved.

Auto

Auto liability remains a significant challenge across various industries. Even though the National Highway Traffic Safety Administration (NHTSA) reported a decrease in traffic fatalities in 2023 despite an increase in miles driven, the auto insurance sector continues to struggle with profitability[7]. According to a report from The Insurance Institute, auto losses have escalated by 15% since 2020, while premiums have decreased by 13%[8]. This trend underscores a significant rise in the severity of claims over recent years.

Additionally, factors such as social inflation and the rising cost of materials are increasingly influencing the adjustment of auto claims, further complicating the landscape for insurers.

General liability (GL)

General liability (GL) insurance for many contractors has maintained a level of stability. As supply chains have gradually aligned with demand, the urgency to adopt alternative building materials and methods has decreased. This alignment has eased some of the pressures contractors previously faced. Despite this, there remains a strong interest in exploring innovative construction approaches like modular construction and mass timber, particularly in areas experiencing population growth. However, the stabilization of supply chains has made contractors more cautious about assuming risks associated with these new methods, especially when project timelines and budgets can be more accurately forecasted. This cautious approach is reflected in the routine inclusion of umbrella/excess, cyber, and Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) exclusions in renewal programs, indicating a preference for more predictable operational frameworks.

[6] U.S. Auto Insurer Claim Payouts Soar Due to Increasing Inflation', Insurance Information Institute, September 2023
[7] NHTSA Estimates Traffic Fatalities Dropped in the First Three Months of 2023, NHTSA) June 2023
[8] U.S. Auto Insurer Claim Payouts Soar Due to Increasing Inflation', Insurance Information Institute, September 2023

Workers' compensation

Workers' compensation remains one of the most stable and reliable sectors within the property and casualty insurance industry. It consistently outperforms other major lines due to its predictability and security. Despite ongoing trends that have led to reductions in state rate classifications, rising labor costs could potentially offset these reductions, impacting overall cost savings.

Moreover, the landscape of workers' compensation is also influenced by increasing claim costs and heightened litigation activities, particularly in states like California, New Jersey, and New York. These factors are significantly affecting the way insurers assess and apply rating methodologies.

Professional liability (PL)

Professional liability (PL) insurance in the construction sector continues to be competitive, maintaining stable premium rates for a broad range of exposures. Insurers continue to exercise caution with managing their capacity and retention levels for both ongoing practice policies and project-specific coverage.

Available capacity for contractors' risks

The total capacity for most contractor risks in the U.S. remains robust, exceeding $300 million. This capacity is bolstered by contributions from new market entrants and additional capacity may be accessible through markets in London and Bermuda. However, capacity for project-specific placements is more limited as many insurers reserve this for practice or annual clients.

Insurers typically offer a minimum of $10 million per risk, with some able to provide up to $25 million. Most insurers limit the amount of capacity deployed for any single risk.

Less capacity is available for contractors with substantial design responsibility, especially if design is performed in-house, as fewer insurers are willing to engage on a primary basis for these risks compared to those involving subcontracted design services.

Retention levels are generally stable unless they fall below the market standard, and they are influenced by the size of the insured's business and limit deployment.

Market dynamics and rate implications

Adequate capacity and continued competition are generally keeping rate increases minimal compared to other property and casualty (P&C) lines.

However, there is upward pressure on rates for certain risks, such as those involving a substantial amount of exposure to design-build projects, whether they include in-house design or not. Rate increases are typically below 5% for risks with a clean loss history, though rates can be influenced by significant changes in the ratings basis (revenue) and revenue categories.

Coverage availability and terms

Most coverages are available from most insurers, although approaches can vary, especially concerning certain coverages. Insurers assess each risk individually, focusing on contractual controls and the prequalification of designers. Attention is often required for specific contract and policy language, including limitations of liability provisions.

Insurers are careful to distinguish between product design, process design, and construction/installation design, as designer/contractor programs are intended for construction-related risks. Some aspects of product design may be covered under these programs.

Project-specific capacity and long-term policy terms

Many insurers reserve their project-specific capacity for current clients on annual practice programs. Total policy terms (policy period plus extended reporting period) of 15 years are widely available, with longer terms available from a select few markets. There is a trend toward aligning these terms with the lesser of the applicable state statute of repose or contractual requirements.

Capacity for design professionals, particularly on design/build infrastructure projects, is reduced, affecting contractual negotiations between design/build contractors and owners. This, coupled with increased demand for limitations of liability from design professionals, is driving up the cost of contractor-purchased project placements, and leading owners to consider procuring owner's protective professional indemnity.

The market for owner's protective professional indemnity remains strong, with substantial capacity and a robust appetite for most projects.

New York Controlled Insurance Programs (CIPs)

The pricing and structural setup of controlled insurance programs in New York often make them viable primarily for exceptionally large projects or for those incorporated into ongoing, rolling programs.

Additionally, there has been a noticeable decrease in the construction of high-rise residential buildings within New York City.

Primary market options

- Primary General Liability (GL) coverage limits of $5 million per occurrence, $10 million in aggregate per project, and $10 million in aggregate per policy period are typically necessary to secure excess coverage.
- In New York, the minimum retention levels for general liability range from $3 million to $5 million, varying according to the project's size and complexity.
- The market for GL-only policies is somewhat restricted.
- Increasingly, insurance purchasers are opting for combined coverage that includes both the owner and the general contractor on a project-specific basis. This segment of the market is competitive, and insurers generally mandate the engagement of third-party risk management review services for eligibility.

Excess market overview

- Insurers in the excess market typically stipulate a minimum attachment point of $5 million.
- There is a limited number of insurers prepared to assume the lead position in excess coverage.
- The limits offered through the excess coverage layers are generally being reduced by insurers.

NY Labor Law 240(1)

NY Labor Law 240(1) maintains its reputation for making New York a less attractive state for insurers, with only a few new insurers entering the market and the average settlement value of claims under this law remaining significant.

Simultaneously, the adoption of alternative dispute resolution is on the rise, increasingly being implemented in numerous large-scale projects both in New York City and upstate New York.

Market outlook

Interest rates and insurance premiums are closely linked, affecting the profitability of the insurance industry based on specific circumstances and the broader economic context. Insurance companies typically invest the premiums they collect into fixed-income securities such as bonds and treasury notes, which are subject to regulated investment guidelines. These investments generate additional income that can be used to pay claims and cover other expenses.

When interest rates decrease, the value of existing bonds generally increases. However, if an insurance company needs to liquidate its bonds prematurely, the yield might be lower due to the inverse relationship between bond prices and interest rates. On the other hand, when interest rates increase, insurers face reinvestment risks. Their existing low-yield investments may not perform as well as new, higher-yielding opportunities, delaying potential gains from these investments. This can defer the realization of investment income, impacting the timing of when premium savings are realized.

Higher interest rates also influence the calculations used to determine the present value of future claim payments. With higher rates, the calculated reserve amounts are lower, which can result in lower reserve requirements and potentially higher profits for insurance companies.

Despite these challenges, the market currently has a greater capacity, particularly for insurers with a strong performance record. Established insurance partners are often willing to offer flexible pricing and terms to retain valuable clients and discourage them from seeking other providers. This familiarity with clients' risks and needs gives incumbent insurers an advantage in maintaining long-term relationships. This dynamic underscores the importance of strategic financial management within the industry, aiming to balance risk and return while fostering strong client relationships.

Subcontractor default insurance (SDI)

Subcontractor default insurance (SDI) is witnessing an expansion across North America. As financial pressures persist and project complexities increase, stakeholders such as owners, developers, and general contractors are increasingly relying on SDI programs. These programs are evolving to offer higher limits and more appropriate terms to meet the growing demands of more intricate projects anticipated for 2024 and 2025.

Currently, the SDI market features six active carriers, capable of providing coverage limits of $50 million or more per loss. These carriers are adapting to the market by offering flexible terms for both annual and multi-year programs, accommodating a range of contractor sizes from small to large. This flexibility is crucial as it allows for a broader inclusion of contractors into SDI programs.

As the market grows, the number of claims and the complexity of those claims are also increasing, highlighting the need for ongoing review and adjustment of policy terms, conditions, and pricing.

The underwriting process itself is facing challenges, particularly with new entrants to SDI who may not be familiar with the demands of these programs. In response, carriers are advocating for more traditional, in-person underwriting and risk assessment methods to strengthen relationships and enhance the accuracy of risk evaluation.

Looking ahead, contractors must navigate several challenges including inflation, material and supply chain uncertainties, and the ongoing shortage of skilled labor. It is anticipated that contractors will need to balance the use of SDI with subcontractor bonds to effectively manage risks during this period of growth and uncertainty.

The SDI market remains strong and responsive, with carriers adjusting their offerings to better meet the needs of their clients. This includes the introduction of excess program offerings and a greater openness to engaging with larger projects and partnerships.

Environmental exposures

Environmental risks in the construction sector continue to grow and evolve, presenting ongoing challenges:

- An uncertain regulatory environment and economy have resulted in heightened underwriting scrutiny around property transactions or locations intending to expand their operations. Review of future intended use and redevelopment plans for covered locations may be required.
- The issues of excessive siltation and storm water management remain significant, leading to substantial pollution claims across various construction projects, including those aimed at clean energy like solar and wind installations.
- Insurance carriers have streamlined their approach to managing risks associated with site and contractors' pollution by integrating these coverages into a single policy form. This simplification helps in addressing the combined risks more effectively.
- Claims related to redevelopment are frequently reported, often stemming from pre-existing environmental conditions, challenges in soil and water management, and the outcomes of voluntary site assessments.
- Restrictions related to PFAS are increasingly affecting construction programs, with the impact varying based on the specific exposure of the contractor involved.

Insights from Canada

Current market trends

The Canadian marketplace specifically for operational insurance renewal placements has softened since our last report.

There is an abundance of market capacity for both property and casualty renewal placements with ample competition which is leading to favorable terms and outcomes.

Our clients are seeing high single to double digit savings in many cases and these results are driven by a number of factors such as:

1. Early strategic planning and face to face market engagement.
2. Driving meaningful conversations around setting appropriate limits and using data analytics tools to right size the placements.
3. Engaging with the markets from a holistic/ portfolio point of view to drive competitive renewals with improved terms and conditions.

These are the main factors that are attributing to the improved renewal premiums, terms, and conditions.

The outlook for the rest of Q3 and Q4 for project placements is very positive for Wrap Up Liability and remains stable for Builders Risk. Critical in all of this is ensuring wholesome project underwriting details are collected to drive the meaningful market engagement and subsequent positive results.

Construction project placements

1. Wrap up liability insurance:

- Continued strong domestic capacity in the Canadian marketplace is driving costs for wrap up placements to the benefit of the owner and contractor.
- Increased willingness in offering quota share capacity especially on London placements continues to be a good strategy for clients to consider.
- London capacity continues to be abundant with large limit offering.

2. Builders risk insurance:

- Available capacity remains stable for most Canadian projects. For larger scale projects MFL studies are required to balance capacity, terms and conditions as well as premium spend.
- Good underwriting data is still a critical requirement for unlocking capacity and receiving favorable terms and conditions.
- Frame projects continue to be tough placements as capacity continues to shrink by the domestic markets. MGAs are backfilling some of the capacity while scrutinizing site security along with water mitigation technology to support clients building in this space.
- LEG3 continues to be a hot topic with markets adding new definition of damages to the policy and other markets implementing their own version of LEG3.
- CAT capacity continues to be a focus of discussion with heightened emphasis around wild fire exposures.

3. Project specific professional liability:

- Insurers continue to be cautious in their capacity deployment on project specific placement. Many insurers prefer to support project specific placements only when they write the annual / practice program.
- Large appetite for excess capacity in excess of $20 million.

Operational & Practice Insurance:

1. Primary, umbrella and excess capacity (5-15% reduction):

- Driving results for renewal placements starts with the right strategy and engagement with the client and most importantly with the carriers.
- Clients with U.S. exposure see flat or single increases depending on operations and project work.

2. Automobile liability (0-5% reduction):

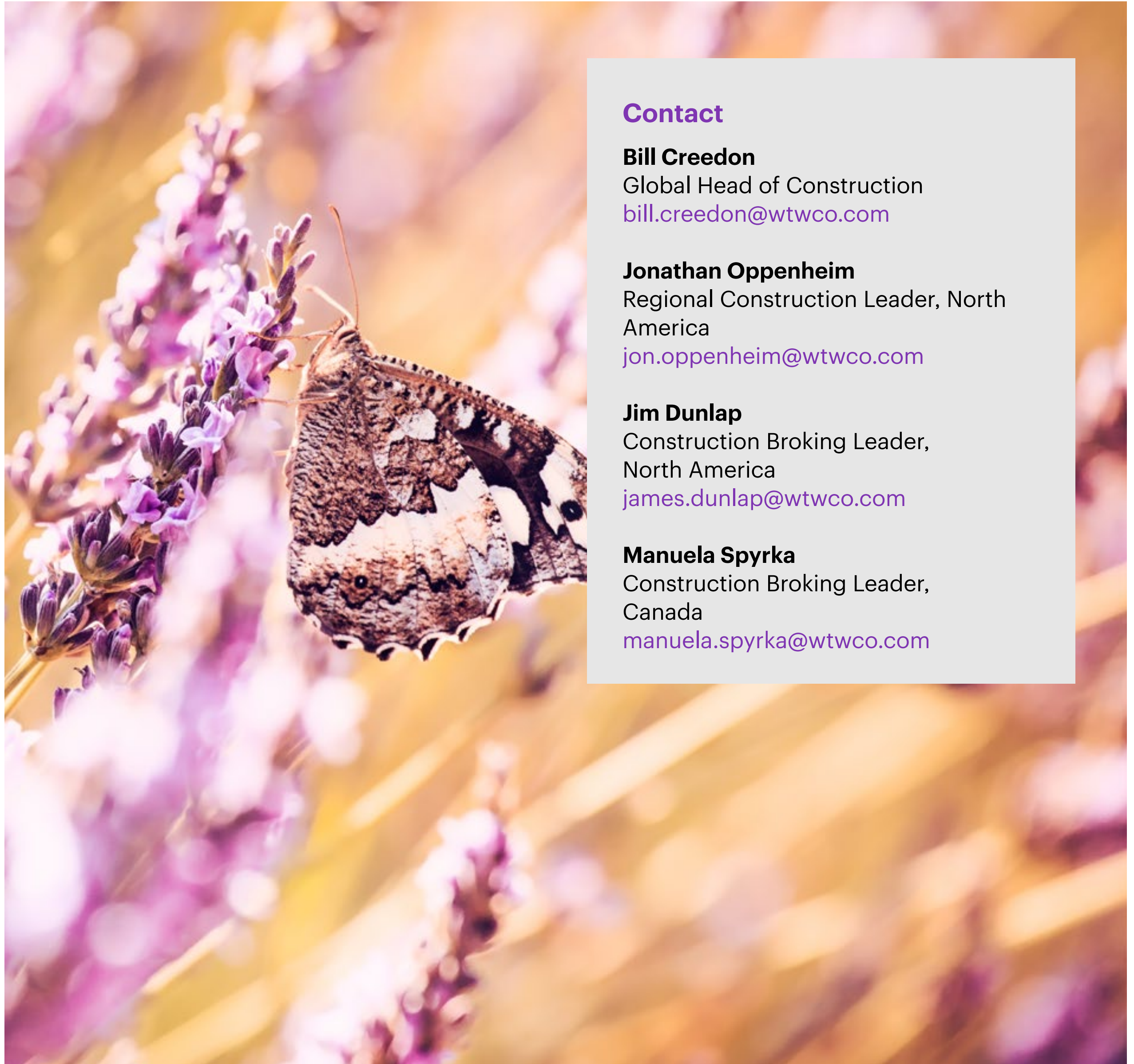
- For most automobile renewals with good claims experience history single digit reductions can be achieved.
- To optimize automobile program renewals the need to collaborate with the general liability market is an important part of the renewal strategy.
- Fleet management and driver safety loss control measures are critical considerations in achieving rate reductions.
- Leaning on carrier fleet management tools and risk control services is as important in driving a positive carrier insured relationship.

3. Property and contractors equipment floater (CEF) 0-5% reduction:

- Property capacity both domestically and internationally is allowing for improvement in terms and conditions as well as premium savings to be realized.
- Valuation, along with accumulation especially from a CEF, is still of critical importance in the renewal cycle discussion.
- The use of WTW Property Quantified along with Global Peril Diagnostic is a critical step in quantifying the appropriate risk transfer needs for our clients.
- Continuous focus on risk improvements and natural catastrophe management is playing into renewal results which clients may need to address where warranted.

4. Annual / practice professional liability rate increases 0-5%:

- Market remains competitive — capacity continues to be available.
- Ability to leverage insurer relationships between the GL and PL and optimize coverage using Clash Deductible and Notice of GL Claim as Notice of Circumstance Endorsements.



Contact

Bill Creedon
Global Head of Construction
bill.creedon@wtwco.com

Jonathan Oppenheim
Regional Construction Leader, North America
jon.oppenheim@wtwco.com

Jim Dunlap
Construction Broking Leader, North America
james.dunlap@wtwco.com

Manuela Spyrka
Construction Broking Leader, Canada
manuela.spyrka@wtwco.com

Crisis management (terrorism, political violence, active assailant, kidnap & ransom)

Rate predictions for 2025

Terrorism and sabotage	Political violence
-5% to +5%	-5% to +25%
Active assailant	**Kidnap & ransom**
Flat to +10%	+5 to +10%

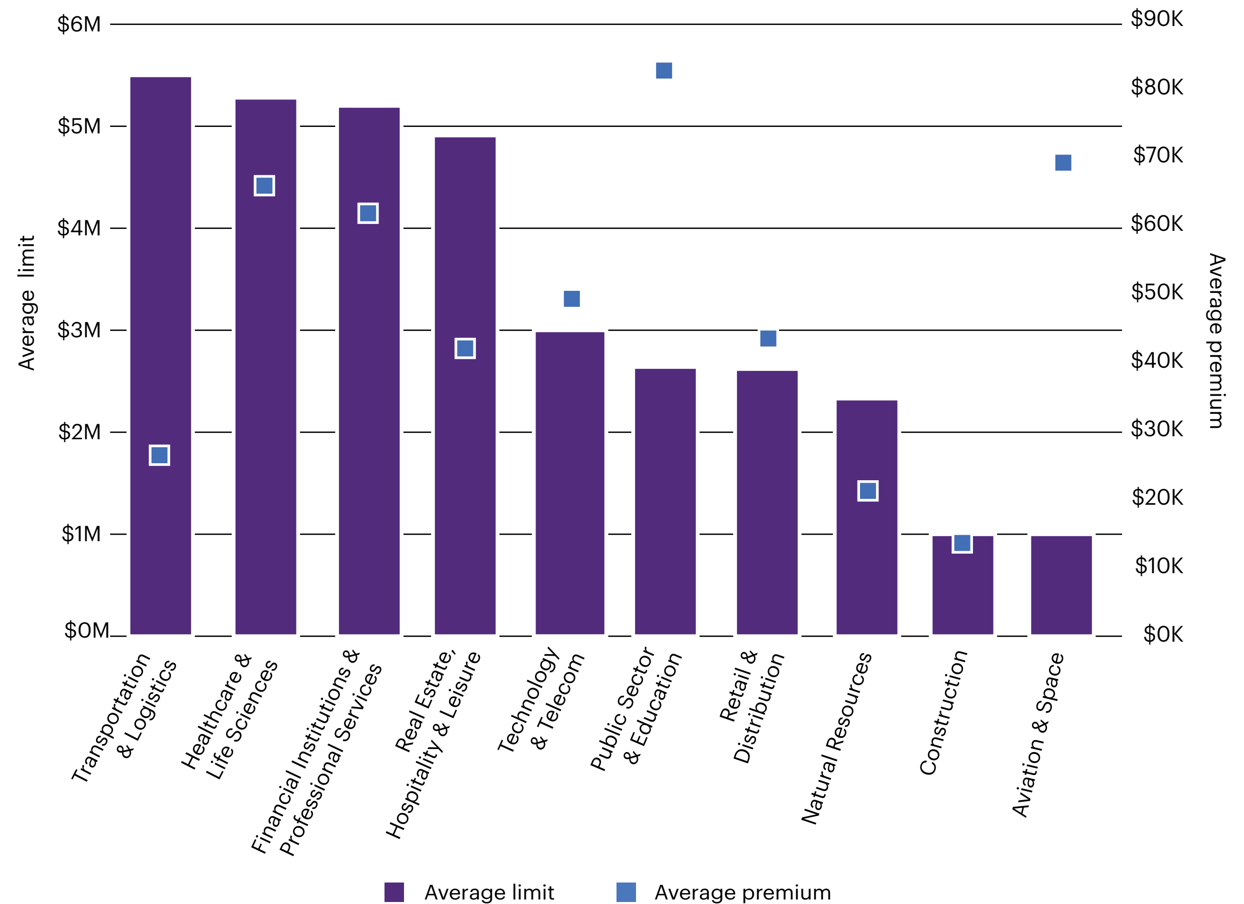
Key takeaway

While the crisis management market remains on high alert following a period of heightened loss activity, the pricing pressures of recent years show some welcome signs of subsiding.

New entrants provide pricing relief on terrorism and political violence risks.

- Following several years of heightened loss activity, carriers have largely rebalanced their portfolios and passed treaty-driven cost pressures downward to insureds.
- There remains very limited appetite for “terrorism only” coverage in highly volatile areas due to uncertainty around peril delineation — with insurers preferring to offer “full political violence” protection, or nothing at all.
- For exposures in locations experiencing current conflict, premiums are re-rated entirely at renewal, often at multiples of the prior terms.
- A reduction in average line size deployment is offset by the introduction of new carriers seeking to benefit from the new rating environment, and we expect this competitive force to provide pricing relief through 2025.

Figure 1. **Active assailant insurance limit and premium spend by industry**



Source: WTW Data

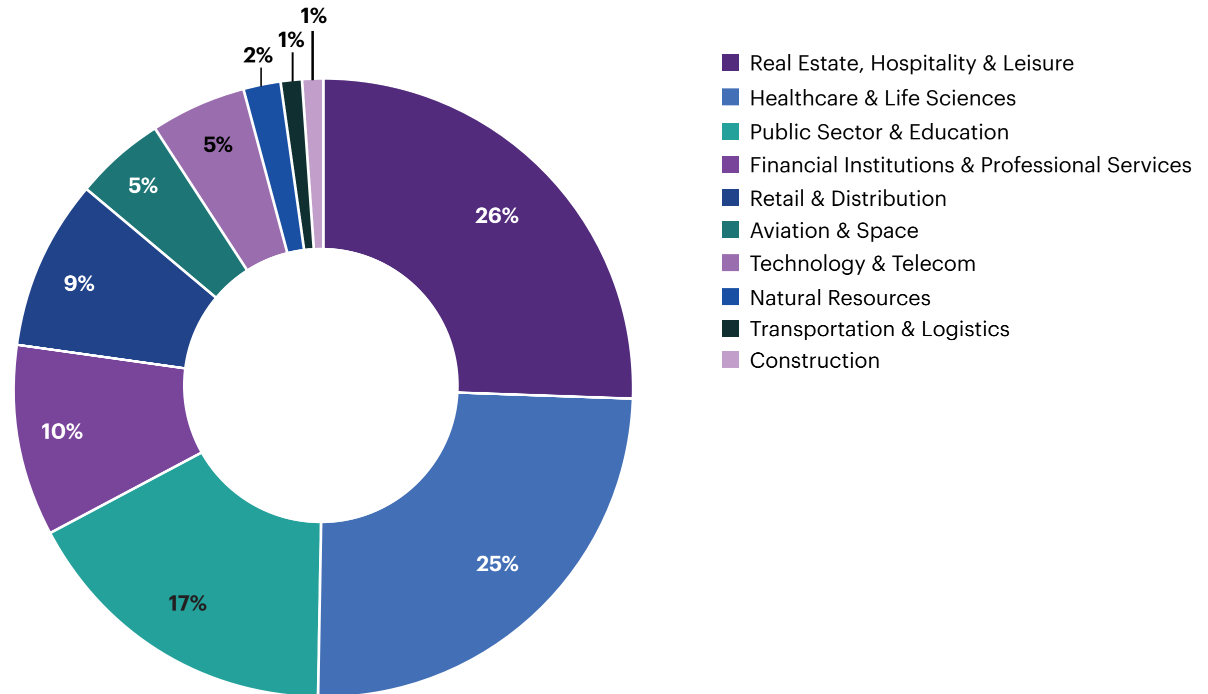
As the market for active assailant insurance matures, interesting buying patterns emerge.

- The hospitality, leisure and healthcare sectors have proven to be the largest buyers of active assailant insurance, although policy premiums tend to be highest in the public sector and education.
- New state laws in California and New York now mandate that employers implement workplace violence policies, drawing additional focus on an issue that continues to concern risk managers.

An increase in kidnaps for ransom intensifies a complex claim environment for insurers.

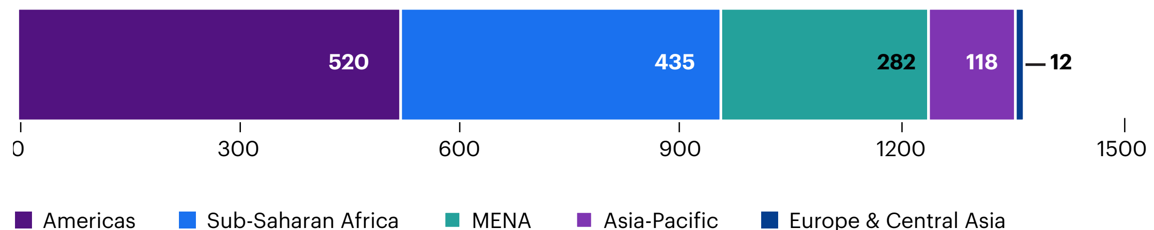
- There has been a steady rise in the number of recorded kidnap-for-ransom cases around the world, with a 13% increase over the first half of 2024.[1]
- On a year-on-year basis, the jump was more pronounced, with 69% more cases recorded (726) in Q2 2023 versus the same period a year ago.[1]
  - This means that kidnap activity has returned to pre-COVID-19 levels in several countries, notably in Colombia, Mexico and Nigeria.
  - Coverage restrictions for such high-risk territories as Haiti and Israel are selectively applied by certain insurance markets, but these positions are expected to shift in line with security developments.
  - There has been a noticeable rise in policies being triggered through endorsed coverages, particularly through threats made to corporations in North America and security evacuations from more traditionally high-risk regions around the world.

Figure 2. **Active assailant insurance premium spend by industry**



Source: WTW Data

Figure 3. **Kidnap cases per region Q1 and Q2 2024**



Source: Special Contingency Risks (SCR), Alert:24 data

[1] Special Contingency Risks (SCR), Alert:24 data, 2024

Contact

Fergus Critchley
Head of Crisis Management North America
+ 1 212 519 7651
fergus.critchley@wtwco.com

Philipp Seel
Director | Crisis Management North America
+ 1 212 519 7202
philipp.seel@wtwco.com

Peter Bransden
Head of Sales
Crisis Management North America
+ 1 305 240 1024
peter.bransden@wtwco.com

Energy

Rate predictions for 2025

Property

Tier 1
-5% to -10%

Well-engineered and operated risks with clean loss history.

Tier 2
Flat to -5%

Risks with clean loss history, but lower premium income/ smaller insurer panels.

Tier 3
Flat to +5%, loss history dependent

Loss-affected programs and/or challenging risks with significant natural catastrophe exposure.

Liability*

General liability
Flat to +5%

Auto
+8% to +15%

Workers compensation
Flat to +2%

Lead umbrella
+5% to +10%

Excess liability
+2.5% to 10%

*Pertains to upstream/midstream/downstream/chemicals/mining; does not include oilfield services

Property

Key takeaway

Sector profitability in 2023 and lack of significant events through Q3 2024 has led to gradual market softening. While underwriting discipline remains paramount for insurers, the drive to hit budgets and increase gross written premium (GWP) targets is generating increased levels of competition, continuing the trend of stabilization in the marketplace.

Despite the lack of significant new capacity introduction in 2024, many insurers are looking to expand participation on high quality risks.

- The profitability of the sector in 2023 and increased pricing and retention levels following a lengthy hard market cycle is attracting interest from management.
- Budgets set in 2023 for the 2024 calendar year, based on modest growth goals and expectations of stable market conditions, are now being challenged.
- As rates decline and competition increases for participation on programs, GWP goals must be met with new business premium or increased shares in incumbent business.
- 2022 and 2023 saw several insurers reducing line sizes in hopes of stabilizing portfolio performance. But current market conditions and GWP goals are now reversing that trend for some insurers.
- Over the last six months, robust marketing efforts have often yielded levels of oversubscription of programs not seen in several years.
- Previously challenged placements are now seeing increased interest as insurers look to replace premium as a result of lost business or premium decline due to rate reductions.

The predictions of a high-activity 2024 Atlantic hurricane season have not yet materialized.

- Hurricane season predictions for 2024 described a high-activity season because of a number of factors, including higher than normal water temperatures and a transition to La Niña conditions.
- The season did begin with some notable events, including hurricane Beryl, the earliest Category 5 hurricane on record, appearing to validate season predictions.
- The month of August brought lower than typical activity, casting doubt on early season projections.
- September brought more activity to the Gulf Coast including hurricanes Francine and Helene, impacting Louisiana, the Florida panhandle, Georgia and the Carolinas. Market impacts from these storms are still being quantified, but initial estimates of insured losses do not appear to be severe enough to impact the prevailing market trend for energy risks.
- The balance of the 2024 wind season could have significant impacts on a market in the steady process of softening; a destructive back half of the season could turn the market again, but a quiet season closing in November could expedite the softening process.

While valuation accuracy remains a market topic, the pressure for significant change has subsided.

- Market-trusted indices for property damage values are no longer recommending significant increase, with some showing flat or even small reductions in recommended inflation rates.
- With competition heating up and rates improving in favor of buyers, insurers are diverting their attention away from value adequacy.
- Despite the relief of severe pressure on value adequacy, the topic has not been eliminated from market conversations. Many insureds worked diligently to make adequate value adjustments over the past several years, making the discussion with insurers less challenging than in previous years.
- Insureds who responded to calls in the market for improvements in value reporting are being rewarded for their efforts, while those who elected to resist change continue to experience pressure.

- Coverage restrictions, such as average clauses and occurrence limit of liability clauses with recovery restrictions based on reported values, remain for those who have not made adequate changes to value reporting methodologies.

As the market softens, improvements and expansions in coverage are becoming increasingly achievable along with favorable ratings.

- During the hard market cycle, increases in coverage restrictions and tightening of coverage terms were common.
- As the market transitions back into a softening cycle, brokers are working to regain lost ground in program terms and conditions.
- Pricing improvements are more achievable in this period of market softening, but renewal outcomes can be enhanced by seeking coverage expansions which may have been unachievable in recent years due to market conditions.
- In some instances, restructuring program layering can yield expansions of limits and increased competition, improving both pricing and coverage outcomes.

Environmental, social and governance (ESG) is no longer a critical topic for most but remains a focus for some key European insurers.

- Pressure for natural resources clients to implement and execute detailed ESG plans reached a fever pitch during the height of the hard market.
- As market trends improved and politicization of the ESG terminology garnered criticism, pressure on clients to continue ESG messaging has slowed.
- Despite the reduction in pressure, ESG remains a baseline metric for many insurers in assessing partnerships with insureds.
- ESG continues to be an important factor in the decision-making process of several large Continental European insurers but remains focused primarily on upstream exploration and production (including oil sands and arctic exposures) and coal.

Liability

Primary capacity in 2025 will help to combat the disturbing increase in “frequency of severity” regarding claims (specifically impacting both auto liability and lead umbrella lines) for most sectors, with the oilfield services segment facing another year of capacity challenges (particularly for those with large fleets or a challenging claim history).

Auto liability claims remain a concern across all sectors, impacting lead umbrella pricing and capacity again in 2025.

- Despite nine consecutive years of rate increases for primary auto liability, losses continue to outpace rate increases each year.
- Jurisdictions that used to be considered neutral are now becoming plaintiff-friendly venues as well in places like the Permian Basin where activity is concentrated and frequency of losses is high; areas such as Louisiana and South Texas continue to be challenging.

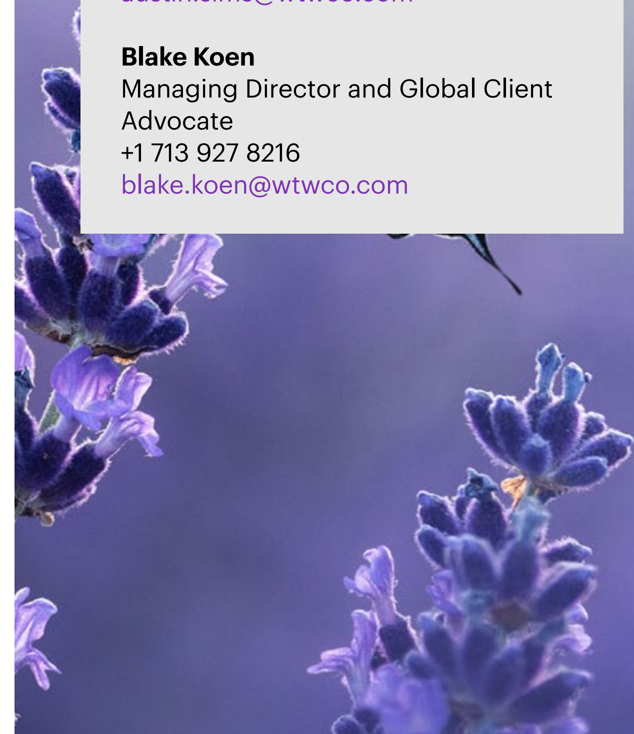
- Clients with heavy fleets will face increased scrutiny as larger awards and settlements are impacting lead umbrella limits and pricing due to limits vulnerability.
- Excess carriers will continue to focus on hired auto liability exposures, contractual risk mitigation practices and third-party limits sought.

Oilfield services companies are experiencing an extremely challenging marketplace in 2024, and the horizon looks concerning.

- The oilfield services segment continues to see the largest uptick in general liability/excess liability claims due to an increase in severity in both judgements and settlements for workplace injury lawsuits.
- "Action-over" lawsuits appear to be increasing from both a frequency standpoint and settlements, which continue to be paid by lead umbrella policies, impacting limits availability from certain carriers.
- Clients with heavy fleets will face increased scrutiny as larger awards and settlements are impacting lead umbrella limits and pricing due to limits vulnerability.
- Lead umbrella capacity is quickly shrinking, and the market is quickly hardening for many companies in this sector, especially those with larger fleets or large losses.
- We predict this will become more of an issue as 2025 develops.

Overall capacity should remain stable in 2025 for most sectors.

- Despite the concerning increase in litigated claims in all sectors, liability capacity remains stable year over year.
- This should mitigate any concerning rate increases for clients with profitable loss histories in all other (non-OFS) segments.
- Capacity remains steady in the U.S., London and Bermudian marketplaces.
- It is important that clients highlight auto safety programs/driver hiring criteria and contractor limits sought; direct communication with incumbent liability markets is crucial.
- We suspect that modest excess liability rate increases will lessen as the year continues.



Contact

Mike Lindsey
Director — Property Broking,
Natural Resources
+1 346 305 9718
mike.lindsey@wtwco.com

Ryan Medlin
Managing Director,
Natural Resources
+1 832 674 6238
ryan.medlin@wtwco.com

Austin Sims
Director — Property Broking,
Natural Resources
+1 346 443 0892
austin.sims@wtwco.com

Blake Koen
Managing Director and Global Client Advocate
+1 713 927 8216
blake.koen@wtwco.com

Environmental

Rate predictions

Contractors pollution liability (CPL)	Site pollution liability (PLL/EIL)	Combined environmental + casualty/professional/excess
+5% to +10%	+5% to +15%	+5% to +15%

Key takeaway

After the recent influx of new and realigned carriers, we anticipate the 2025 environmental marketplace will experience significant disruption, creating opportunities for clients to keep their premiums in check despite the rising cost of claims.

Markets

Despite global economic turbulence, client need and carrier appetites for environmental coverage remain strong in our marketplace.

- Following nearly a year-long period of stability in the U.S. environmental markets, the entry or expansion of at least six markets and the strategic realignment of two others has created significant disruption to underwriting personnel, appetite and authority.
- A likely effect of this expansion will be the addition of capacity to the U.S. market that could contribute to downward pressure on environmental rates that were poised to increase due to increasing cost of claims.
- While some investors await better economic certainty, the application of environmental insurance has become even more essential for mergers, acquisitions and real estate transactions.
- More than ever, approval from carrier leadership is needed on complex and larger capacity environmental programs.

Products

Emerging exposures and opportunities continue to fuel the creation of new environmental products and the reimagined use of some old ones.

- With regulatory thresholds for PFAS and other GenX chemicals looming closer, PFAS (per- and polyfluoroalkyl substances) restrictions are now common across most property and casualty lines, although environmental coverage may be secured for companies that can demonstrate de minimus exposure.
- Interest in green energy carbon capture and storage/sequestration is increasing as carbon generators and consolidators look to benefit from the associated 45-Q tax credits.
- New developments in risk transfer products or combinations of existing products are being applied to new environmental opportunities, such as carbon sequestration (natural resources) and reps and warranties (M&A).
- Ethylene oxide (EtO) continues to emerge as a potential contaminant to watch.

Claims

The magnitude and frequency of recent environmental claims have shaped carrier behavior and appetites.

- Rising remediation costs have moved carriers to take a more active role earlier in the claim process to mitigate losses.
- Major losses arising from ancillary environmental coverages, such as transportation and non-owned locations/disposal sites, serve as a reminder of the importance of these coverages.
- Twenty years on, carriers continue to offer affirmative coverage for indoor air quality (IAQ) issues, such as mold and Legionella, but many employ various underwriting tools (class of business, named peril, per-door deductibles) to mitigate their exposures.
- Clients are experiencing regulator-driven PFAS claims arising from expanded monitoring beyond a location's original contaminants of concern — creating possible consequences for both active and closed cleanup sites.

Construction

Environmental exposures in the construction industry persist and are expanding.

- An uncertain regulatory environment and economy have resulted in heightened underwriting scrutiny around property transactions or locations intending to expand their operations. Review of future intended use and redevelopment plans for covered locations may be required.
- Excessive siltation and stormwater exposures continue to yield large pollution claims for new construction projects — even clean energy projects (solar and wind) have proven susceptible to these exposures.
- Carriers have recently simplified a shared-aggregate approach between monoline site and contractors pollution products by combining these two coverages on a single form.
- Redevelopment-related claims arising from pre-existing conditions, soil and water management and voluntary site investigations are commonplace.
- PFAS restrictions are now encountered on construction-related programs depending on the contractor's exposure.

Contact

Brian McBride
Head of Environmental Broking
+1 404 224 5126
brian.mcbride@wtwco.com

Healthcare professional liability

Rate predictions for 2024

Overall healthcare professional liability	Allied health	Hospital professional
+5% to +15%	0% to +15%	+5% to +20%
Managed care E&O	**Physicians' professional liability**	**Senior living**
0% to +5%	+5% to +15%	+5% to +15%

Key takeaway

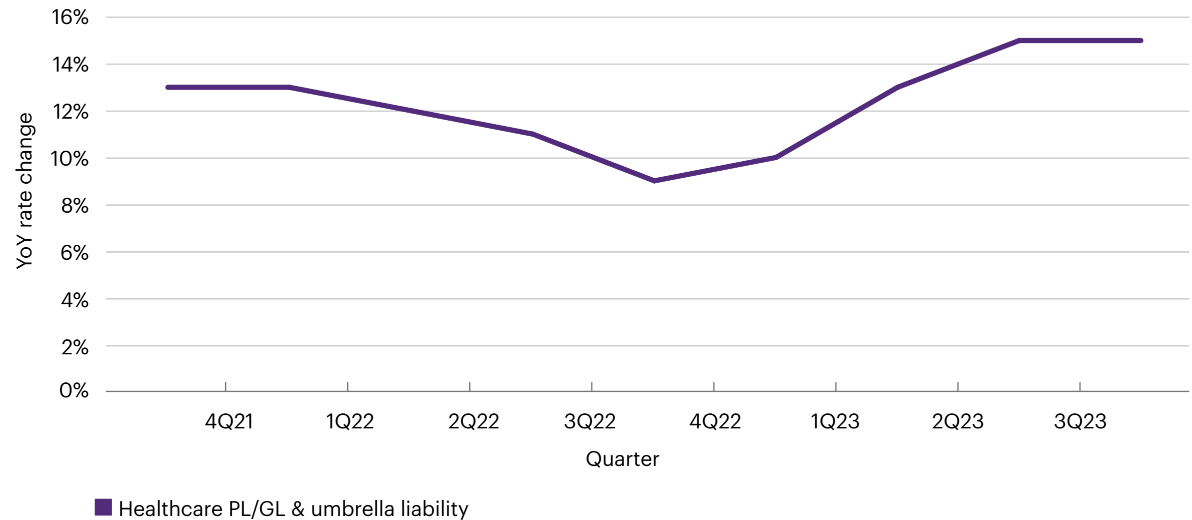
- Stresses on healthcare systems are unprecedented. As the U.S. population ages, demand for medical services will grow much faster than the supply of practitioners leading to an estimated physician shortage of between 54,100 to 139,000 physicians by 2033.[1]
- Insurers remain concerned about aberrational verdicts; the average of the top 50 malpractice verdicts increased 50% in 2023 to $48 million from $32 million in 2022.[2]

[1] June 2024 Report from the Association of American Medical Colleges (AAMC)
[2] Fortune Magazine 7/2/24 Article – Medical Malpractice Payouts are ballooning and insurers are warning it will cost patients

Key takeaway cont.

- In response, even well-established insurers are carefully monitoring and, in many cases, reducing capacity to as low as $5 million. They are also quoting terms with increased attachment points for underlying coverages especially professional liability and auto.
- Sexual abuse allegations continue to be a key concern for underwriters. Carriers have begun to include coinsurance and RDI provisions as mechanisms to limit or manage sexual abuse exposure.
- Concerns about staffing, practitioner burnout, aging workforce. Plaintiff bars use understaffing to their advantage citing "profits before people."

Figure 1. **Renewal pricing trends healthcare professional liability rolling quarterly results***



*Data reflects a sample of blended rates for each class of healthcare business referenced above as extracted from WTW renewals.

Contact

Michael Faralli
Healthcare Broking Leader North America
+1 347 439 7058
michael.faralli@wtwco.com

Joanne Kowalczyk
Senior Placement Specialist
+1 973 382 2614
joanne.kowalczyk@wtwco.com

Life sciences

Rate predictions

Products & professional liability
+3% to +5%

Key takeaway

An influx of new product & professional liability capacity in the life sciences marketplace is underpinning an environment of ongoing stability. Rate predictions hover in the low single digits, with growing exposures on clean accounts often leading to even further reductions.

Coverage and litigation trends

- PFAS litigation remains a significant concern for liability insurers, with exclusions still being introduced across programs. Whenever possible, such exclusions should be limited to the hazardous, contaminating or toxic properties of PFAS and/or related cleanup.
- Social inflation continues to fuel larger verdicts and claim severity, which is expected to continue with no signs of abatement in the foreseeable future.

Clinical trials trends

- Third-party clinical trial sites increasingly looking to transfer the cost of participants' medical treatments from health insurance companies to the sponsor, resulting in sponsors seeking to collect under the clinical trial medical expenses sublimit in the product liability policy. Insurers are pushing back, as this sublimit is intended to be reserved for sudden and accidental expenses in connection with a study protocol. Clinical trial agreements must be carefully reviewed to ensure the sponsor understands how their clinical trial coverage will or will not respond to agreed-upon requirements for medical expense reimbursement.
- There is continued focus on increasing diversity in clinical trial participation to promote fairness in standards of care and minimize outcome disparities between populations.
- Ethics committees in foreign jurisdictions continue to require broader insurance coverage and documentation, making it essential for life sciences companies to partner with an insurance carrier and risk management professional who are well-versed in addressing these requirements.

Industry trends

- Artificial intelligence and machine learning continue to fuel revolutionary advancements in the life sciences industry, with the breadth of FDA applications continually and rapidly increasing over the past few years. The FDA continues to update their regulatory oversight and framework to ensure that these new technologies are safely and effectively improving patients' quality of care. At the same time, the insurance industry is closely monitoring the incorporation of AI/ML into medical products and healthcare applications as the rapid developments bring new challenges to the liability landscape.
- There are many positive developments on the horizon for the life sciences industry, including continued vaccine innovation, new cell and gene therapies to treat cancer, rare diseases, and life-threatening conditions, innovation inclusive of AI/ML technology and an overall commitment to diversity, equity and inclusion in treatment access.

Contact

Denise N. Gordon, CIC, CRM
Life Sciences Broking Leader, North America
+1 651 334 4246
denise.gordon@wtwco.com

John Connolly
Life Sciences Industry Vertical Division Leader, North America
+1 610 254 5686
john.a.connolly@wtwco.com

Managed care E&O and D&O

Rate predictions

Overall
Market rate conditions are easing but underwriting information, including exposure increases may drive premium increases.

Public MCOs (Depending on size of entity)
Up to +5% for E&O; Up to +5% decrease for D&O

Blue plans
Up to +5% for E&O,
Up to +10% for D&O

Private company, other lines of business
EPL: Flat to +5%;
Fiduciary: Flat to +10%;
Crime: Flat to +5%

Hybrid entities (accountable care organizations, third-party administrators, management service organizations, revenue cycle management, etc.):
Up to +10% for E&O,
Up to +10% for D&O

All other MCOs
Flat to +5% for E&O, Up to +10% for D&O

Cyber liability
MCOs with good cyber security controls and no adverse loss activity -5% to 5%; for less-than-optimal risks up to 15%

Key takeaway

E&O and D&O pricing conditions for managed care organizations (MCOs) have softened, and anticipated additional primary capacity could cause additional rate reductions. While the D&O market is still soft, we are starting to see some of the premium reductions slowing down. But inflation and increased cost of litigation hover in the background, and we may not see pricing reductions as we witnessed in past softer markets. Risks that attract limited primary markets, such as TPAs, tend to see higher pricing. Systemic risks and concern over regulatory investigations and claims, mass tort, antitrust and class action claims are still a concern for carriers, and coverage restrictions continue to be applied, especially for larger, complex organizations. Economic realities and federal and state health policy changes add additional pressure as well as climate, ESG, inflation and political considerations. For those with pharma or PBM exposure, the risk is greater. Those entities that present as very good risks from an underwriting perspective receive better rates, though terms and conditions are similar. Managed care E&O and D&O carriers continue to manage their exposure to aggregated risk but are more actively seeking new business opportunities. MCOs use of captives has slowed as market conditions improve.

Cyber liability pricing trends stabilized in the managed care sector. However, cyber underwriters remain technically focused on ransomware controls and cyber security resilience and the Change Healthcare and CrowdStrke cyber events may impact future renewals.

E&O and D&O rates are stable, but restrictions related to significant risk continue.

- Forced retention increases based solely on market conditions have ceased. But we are keeping an eye on regulatory retentions based on political and regulatory uncertainty at the federal and state level, which are adding further complexity to the marketplace in this area.
- Some markets apply coinsurance and sub-limits related to antitrust and regulatory risk.
- Related claim language is narrowing significantly as is manuscript exclusionary language applied to prior industry claims.
- Association, cyber and opioid exclusions continue to be applied.
- Rebate and other exclusions are being added to PBM policies.
- MSOs and other hybrid entities find it hard to obtain bodily injury cover.
- Some carriers require managed care E&O participation to write a D&O/management liability package, which creates anti-stacking coverage concerns, as well as issues related to rate and capacity in larger towers.
- Carriers are hesitant to write hybrid accounts that provide non-managed care services to third parties, especially for entities that engage in revenue cycle management and those exposed to bodily injury claims.
- Risk transfer programs must be managed and strategically planned across all lines of coverage to avoid gaps in coverage and limit restrictions.

- Reinsurance carriers have increasingly serious issues with antitrust exposures, concerns that are no longer limited to Blue plans. Reinsurance in this space continues to impact coverage and capacity.
- The use of captives and other alternative risk financing solutions has slowed as market conditions improve. Fronted programs can be negotiated as an alternative to captive programs.
- Coverage for pharmacy benefit managers, those engaged in value-based contracting from the provider side, revenue cycle management and medical services management remains difficult due to limited capacity and restrictive terms and conditions.
- New primary E&O and D&O capacity has entered and at present is mainly geared to small and medium sized organizations. No markets have exited.
- We have not seen any new offshore carriers enter this space.
- Non-core business diversification is driving risk and coverage limitations.

Key litigation[1]

Mental Health Parity and Addiction Equity Act (MHPAEA)

The much-anticipated final rule on MHPAEA was released on September 9, 2024, with portions of the rules going into effect in as little as 60 days from publication. The rules require that plans perform a comprehensive analysis of their nonquantitative treatment limitations (NQTLs). In a signification change from the proposed rules, the final rules do not adopt the "substantially all" and "predominant" tests currently applied to financial requirements and quantitative treatment limitations. Instead, plans are required to ensure that the processes, strategies and evidentiary standards for NQTLs on mental health and behavioral health are comparable and not more stringent than for medical/surgical benefits.

Challenges to the final rules in light of the Supreme Court's *Loper Bright Enterprises v. Raimondo decision are expected*.

Section 1557 litigation

Briefing on the merits is heating up in *L.B., et al v. Premera Blue Cross*, where minor members seek class certification and partial summary judgment challenging Premera's restriction of gender-affirming chest surgery to members who have reached 18. No. 2:23-cv-953-TSZ, pending in the Western District of Washington. Plaintiffs assert the age restriction is a facially discriminatory policy in violation of Section 1557's prohibition on sex-based discrimination and that Premera's justifications for the policy are pretextual. Premera previously sought third-party discovery from the World Professional Association for Transgender Health (WPATH), including on the topic of "the process by which WPATH decided to remove age limits in the most recent edition of its Standards of Care." *See Premera Blue Cross v. World Professional Association for Transgender Health*, USDC N.D. IL, No. 1:24-cv-3316 (Doc. 1, filed Apr. 24, 2024).

Similar theories of Section 1557 were asserted in Connecticut by putative class members seeking coverage of facial feminization surgery and asserting that Aetna's exclusion of such surgery as cosmetic is impermissible sex discrimination. Binah Gordon, et al. v. Aetna Life Insurance Company, U.S.D.C. D. CT, Doc. No. 3:24-cv-1447-VAB, (filed Sep. 10, 2024).

Delinquent NSA awards

More cases are being filed alleging overdue awards issued pursuant to the No Surprises Act. These cases typically seek recovery pursuant to the NSA and the Federal Arbitration Act, theories which are being met with scrutiny in the courts. See, e.g., Guardian Flight LLC, et al v. Health Care Service Corp., USDC ND TX, No. 3:23-cv-1861-B, 2024 WL 2786913 (Doc. 15, filed May 30, 2024) (finding no private cause of action).

Multiplan

On August 1, 2024, the Judicial Panel on Multidistrict Litigation issued a transfer order centralizing for pretrial purposes in the Northern District of Illinois many of the Multiplan antitrust claims that have been asserted. In re: Multiplan Health Insurance Provider Litigation, USJPML No. 3121, (Doc. 98, filed Aug. 1, 2024). Out-of-network providers allege a conspiracy to fix, suppress and stabilize reimbursement rates in violation of the Sherman Act.

On September 4, six additional cases were filed in the Southern District of New York by separate plastic surgery groups against Multiplan, Aetna, Inc., The Cigna Group, UnitedHealth Group Incorporated, and Elevance Health, Inc.

[1] Excerpt by Jonathan M. Herman, September 2024

Significant legal developments on ERISA plans in the U.S. 9th Circuit (California, Arizona, Washington, and others)

The U.S. 9th Circuit Court of Appeal recently issued a ruling in the case of Bristol SL Holdings, Inc. v. Cigna Health & Life Ins. Co., which will have a significant impact on out of network provider litigation. In Bristol, the court found that state law claims arising from medical services furnished by an out-of-network medical provider are preempted by ERISA. Such state law claims are typically promissory estoppel, quantum meruit, and similar claims arising out of the provider's phone call seeking to verify benefits before providing services. The court observed that, "[s]ubjecting plan administrators to the prospect of binding contracts through pre-treatment calls would thus risk stripping them of their ability to enforce plan terms that cannot be applied prior to treatment."

The impact of the ruling is that the ERISA plan will govern the claim, not state law, and that the appropriate venue lies in federal courts.

Contact

Kathy Kunigiel, ARM, RPLU
Senior Managed Care E&O Placement Specialist
+1 860 874 4012
kathy.kunigiel@wtwco.com

Contributing author
Jonathan M. Herman
Herman Law Firm
jherman@herman-lawfirm.com

Marine cargo

Rate predictions for 2025

U.S. market — Transit & stock throughput

Good loss experience	Marginal to poor loss experience
Flat to -5%	+5% or higher

London market — Transit & stock throughput

Good loss experience	Marginal to poor loss experience
Flat to -10%	+5% and higher

Key takeaway

The marine stock throughput program structure continues to be viable when compared to the more traditional approach of insuring inventory exposures in the property market. Recently, the property market has been more willing to provide sufficient credits to remove inventory exposures, thus increasing the success of a stock throughput policy. Marine insurers continue to focus on CAT season to determine if the season is prolonged due to global warming. For the past five years plus, the U.S. has not been impacted by a significant CAT event. Despite this, insurers continue to review the adequacy of limits deployed surrounding CAT per occurrence and annual aggregate limits, as well as corresponding deductibles.

Marine insurers continue to compete for market share by relaxing underwriting guidelines; however, profitability continues to be a high priority for the global marine market. With insurers focused on bottom line profitability, the following underwriting diligence remains:

- Certain business segments and exposures — such as temperature sensitive products, pharma, automobiles, theft attractive and high hazard CAT exposures — are subject to more scrutiny than others.
- Detailed exposure information and differentiating insureds from their peers remain crucial to securing favorable terms and conditions.
- Insurers continue to monitor their respective portfolios to manage their aggregation of risk in high CAT risk regions.

To best position the client in the market, analytical tools should be employed to optimize its program structures (with a focus on retention, CAT limits, aggregates, etc.).

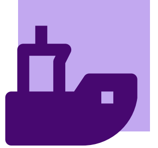
Geopolitical global landscape

- Insurers continue to include an absolute exclusion for Russia, Ukraine, Belarus.
- Market continues to watch geopolitical activity in the region of the Rea Sea.
- Insurers are closely watching relations between China and Taiwan and the potential impact on the region and on the global supply chain.

Contact

Anthony DiPasquale
Head of Marine North America
+1 212 915 8591
anthony.dipasquale@wtwco.com

Marine hull and liability



Rate predictions for 2025

Hull and machinery (U.S.)
Flat to +2.5%

Hull and machinery (London/International)
Flat to +2.5%

P&I (U.S.)
+2.5% to +5%

P&I (international club)
+5% to +7.5%

Marine liability (primary U.S.)
+2.5% to +5%

Marine liability (excess U.S.)
+5% to +7.5%

Marine liability (London)
+2.5% to +7.5%

U.S. L&H mutual
Flat to +2.5%

*All rate projections shown above are subject to good loss record accounts with higher end of range on accounts with greater risk exposure. Increased rates for accounts with adverse loss experience.

Key takeaway

The marine market has slightly softened but generally requires low single-digit increases due to claim inflation (social and increased cost of repairs).

Rate trends

	2023 Q1/2	2023 Q3/4	2024 Q1/2	2024 Q3
Hull	6.25%	3.75%	1.25%	1.25%
P&I	7.50%	6.50%	6.25%	6.00%
Marine liability	7.50%	7.50%	6%	5%

Marine underwriters are requiring premium increases for claim inflation.

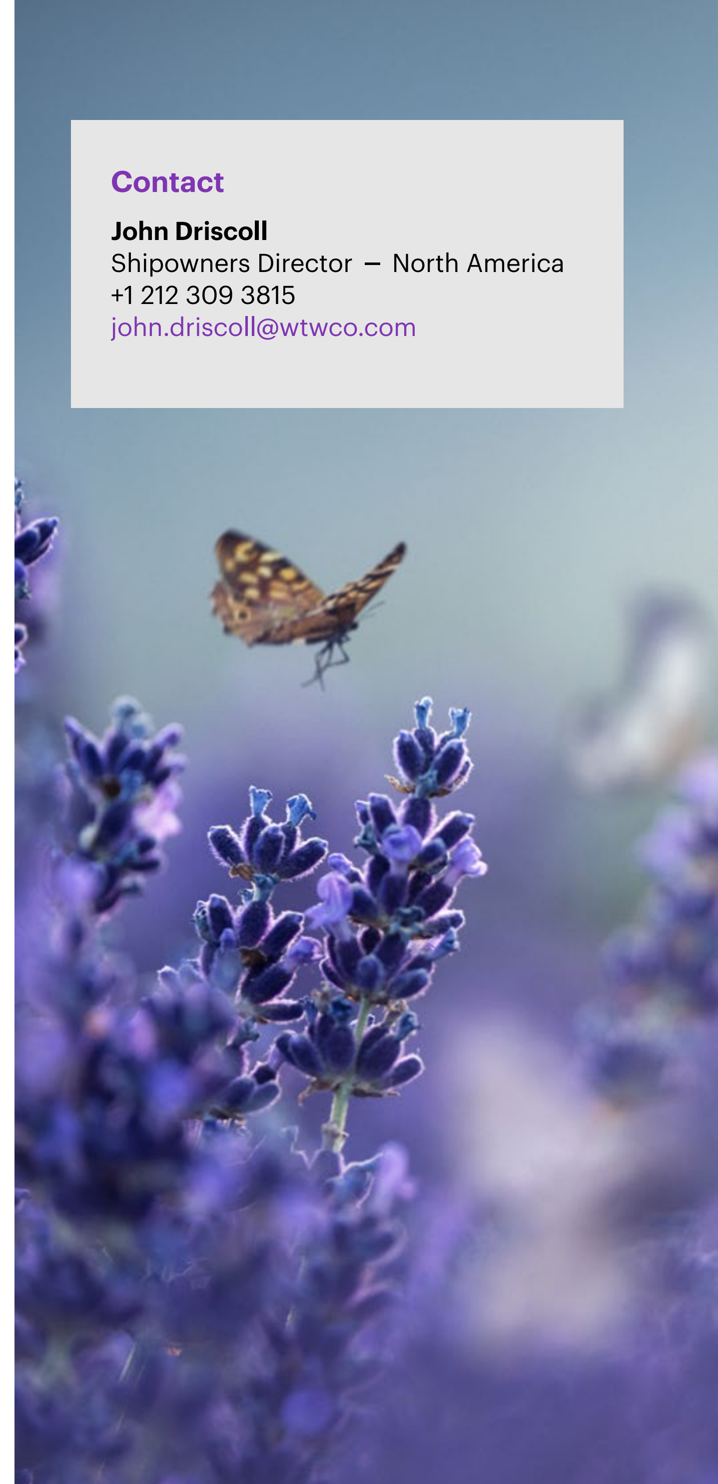
- Crew and third-party liability larger verdicts
- Hull & machinery and marine property — increases in raw material costs
- Larger and more frequent NatCat and nuclear verdicts — increased costs of insurance and reinsurance

Market restrictions

- Excess liability underwriter review of non-marine underlying coverages (auto liability) — some markets are requiring higher underlying attachment points for fleets of significant size, reduced capacity and higher pricing.
- Markets are preferring to quota share primary and first layer excess placements due to challenging first excess layer lack of market appetite and increased working layer of losses.
- Markets tend to offer higher primary limits as long as it is quota shared.

Global political environment ongoing

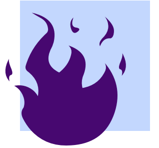
Ukraine/Russia, Black Sea, and Southern Red Sea and Gulf of Aden (Israel/Houthi rebels) remain areas of uncertainty, causing high hull war risk rating and restrictions from the market.



Contact

John Driscoll
Shipowners Director – North America
+1 212 309 3815
john.driscoll@wtwco.com

Personal lines



Rate predictions for 2025

U.S.

Homes
+15% to +20%

Personal umbrella liability
+20% to 25%

Cat-exposed homes
+50% to +100% w/limitation or non-renewal

Cat-exposed homes with losses
+100% or non-renewal

Auto
+15% to +25%

Canada

Homes
+8% to +20%

Cat-exposed homes
+30% w/limitations or non-renewal

Auto
+6% to +10%

Hard to place risks
non-renewal and limited markets

Personal liability
+1% to +2%

Key takeaway

The personal lines insurance marketplace in North America continues to be challenged with rising rates due to higher costs for claims, property values and natural disasters, selective carrier appetite influenced by risk management strategies, and evolving consumer preferences for tailored and affordable coverage options. Staying informed and seeking personalized advice can help individuals navigate these changes effectively. Many carriers have selective underwriting practices to manage their exposure to high-risk areas. Properties located in disaster-prone zones continue to be a challenge.

Homeowners continue to be impacted by climate change.

Carriers continue to struggle with frequent and severe weather events, such as hurricanes, wildfires, floods. Now they are also trying to understand the impacts of convective storms. Convective storms, which include such severe weather events as thunderstorms, hailstorms and tornadoes, have been impacting the personal insurance market in several ways:

- Increased claims and costs: Convective storms can cause significant property damage due to high winds, hail and flooding.
- Rising premiums: Higher premiums are needed to offset the increased risk and financial losses.
- Coverage restrictions: Insurers are adjusting their coverage terms in response to rising risks. This could mean higher deductibles, reduced coverage limits, or even limiting roof coverage as a response to the rising frequency and severity of storms, including convective storms such as hailstorms and high winds.

The reliance on surplus lines continues to grow as the demand for solutions in high-risk areas expands.

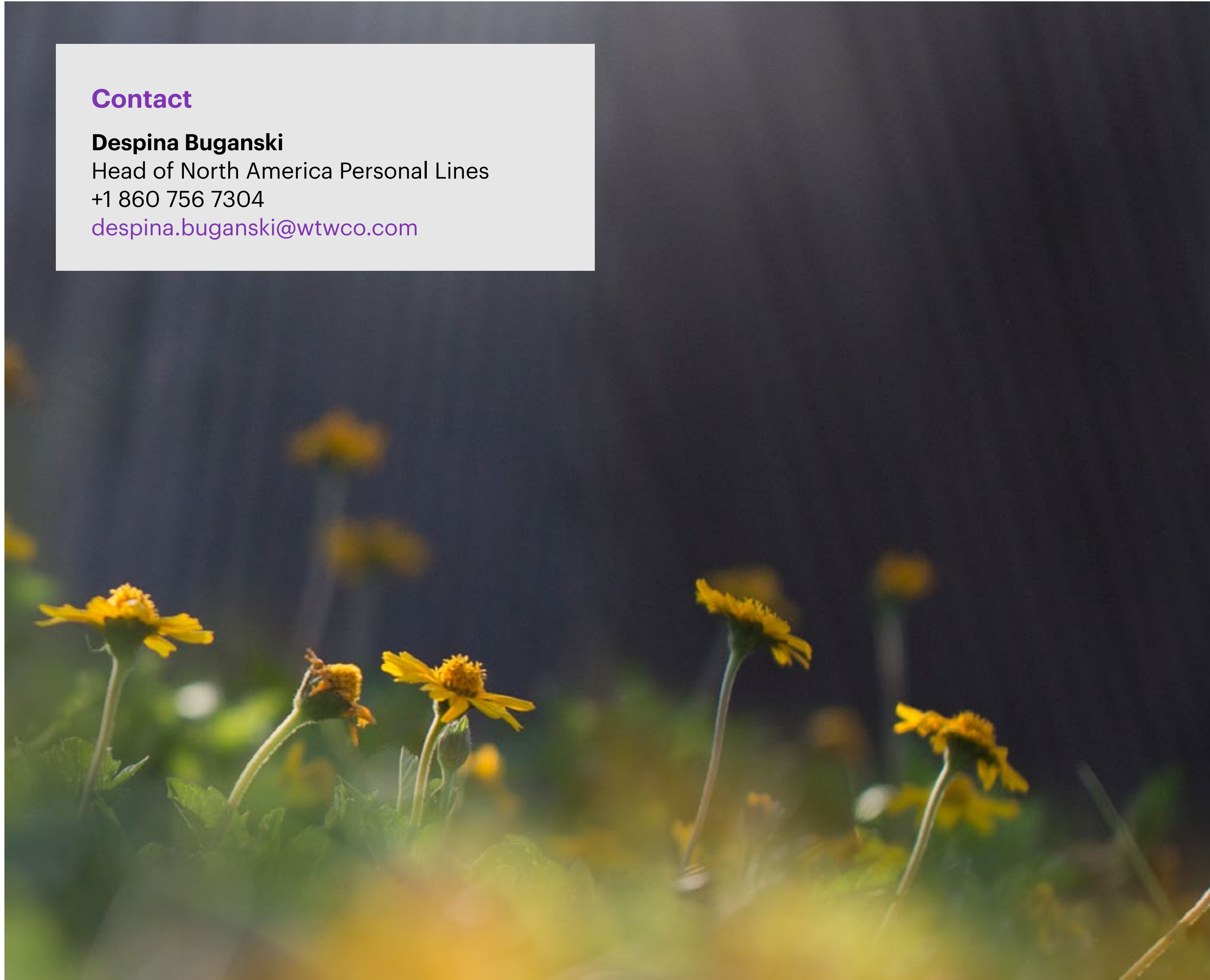
- Reinsurance along with alternative capital has stabilized for now, helping provide additional capacity, especially in surplus lines.
- Admitted carriers will continue to shy away from CAT-prone areas leaving many clients dependent on alternative markets through surplus lines wholesalers.
- Non-admitted carriers are still taking significant rate while eliminating coverages usually included by the admitted market.
- More standard carriers are creating non-admitted solutions to address capacity issues and coverage concerns and are starting to market these options more aggressively.

Personal auto premiums appear to continue to trend upward.

- Frequency and severity of auto-claims are still a problem that needs to be addressed beyond simply raising rates. Changes in driving habits through real-time monitoring of drivers is one way to address this problem by rewarding responsible, safe drivers with lower premiums.
- Large auto liability losses and outsized settlements are still a significant concern.
- A car theft crisis continues to impact Canada and the U.S.
- The rise of advanced safety features in vehicles, such as automatic emergency breaking, lane assistance, adaptive cruise control can lead to fewer accidents. However, the high cost of these technologies can increase repair costs, impacting insurance pricing.
- Electric vehicles have different risk profiles and repair costs compared to traditional vehicles, and insurers are developing new models to accommodate the unique characteristics of autonomous vehicles.

Personal umbrella liability pricing accelerates; underwriting tightens.

- Carriers are very concerned with outsized settlements due to social inflation.
- The rising severity of liability claims, including large settlements and judgements, is driving up premiums.
- Automobile liability losses continue to put a strain on limits being offered and pricing increases.
- Social media and online activities have introduced new liability risks, such as defamation and privacy breaches.



Contact

Despina Buganski
Head of North America Personal Lines
+1 860 756 7304
despina.buganski@wtwco.com

Political risk

Rate predictions

Political risk

Flat to +20%
Flat for anniversaries of multi-year policies if no change in sub-limits; increases between 5% to 20% for renewals other than China; for China-driven programs, upwards to 30%.

Key takeaway

As the 2024 year of elections continues to sweep the globe, geopolitical flashpoints emerge. The U.S. presidential election outcome may influence key trading and diplomatic relationships, such as those with China, Mexico, Ukraine, Georgia and Moldova. West African countries are of increasing concern as are some countries in Latin America. We advise clients with global footprints to approach the political risk market proactively and, given the market, focus on the fewer key countries with financial impact to your organization.

Overall, the political risk insurance market remains a hard market with the following emerging dynamics:

- Rates are beginning to stabilize with flat to 20% increases at renewals. China is an exception, however, with many carriers wanting more rate — upwards to 50% and sector-dependent.
- China capacity has increased slightly in the last six months with a few carriers willing to offer one-year capacity on some "benign" industry risks.
- Self-insured retentions (SIRs) continue to be used more regularly, particularly on transactions with many host countries.
- Appetite for large numbers of host countries has continued to decline, several carriers preferring single-country transactions or a smaller set of countries (e.g., five); pricing on programs of a higher number of countries has increased.
- Capacity remains constrained in Argentina, China and, increasingly, West Africa (Burkina Faso, Nigeria, Niger, Mali).
- Trade disruption inquiries have increased, and rates have increased 5% to 10% following recent activity, such as the Baltimore bridge collapse and the Houthi attacks in the Red Sea, driving detoured transportation routes.
- Appetite remains strong for single-situation project risks.

2024 year of elections noteworthy outcomes

- Mexico's election on June 2, 2024, ushered in victory for Claudia Sheinbaum, its first woman president, whose MORENA party received about 60% of the vote. Many analysts suggest her administration will deliver a continuation of ALMO's policies under which we saw deterioration of the investment climate with a few high-profile expropriations and nationalization of the lithium sector. The erosion of macroeconomic fundamentals too could jeopardize the extent of the nearshoring Mexico may see, along with its relationship with the newly elected U.S. president.
- Underwriters are more cautious on Mexico risks recently, with capacity constraints by some carriers. Also important in this sector is the underwriting of energy, mining, or any pet projects viewed as high risks.
- Venezuela's election results remain contentious following the July 28, 2024 election in which incumbent President Nicolas Maduro stated he had won the election despite the opposition party citing data that they had won by a "wide margin." Protests continue, and the opposition party leader Edmundo Gonzalez Urrutia has fled to Spain. Underwriters have long been off cover in Venezuela. They continue to watch whether Maduro may look to annex or create "noise" around Guyana, considering the extensive oil reserves.
- Burkina Faso's lack of an election in July highlights the challenge to democracy in the region. The military junta, which took power in a coup d'etat in 2022, was meant to hold elections in July of this year to restore civilian rule. However, they have cited that they are "not the priority" given the security situation with terrorism from al Qaeda and the Islamic State. Their joining Mali and Niger in a new Sabel alliance and withdrawal from ECOWAS has also created concern in the investment community. Underwriters have been increasingly reluctant to write new business in the region.

Other hotspots and trends

- The conflicts in Israel and Ukraine dominated Western attention. Both conflicts continued to escalate, with Ukraine launching a counteroffensive into Russia, and Israel and Iran conducting direct exchanges of missile and drone attacks, threatening a broader regional conflagration. Despite a coalition effort against the Houthis that reduced the frequency of attacks on shipping, severe attacks continued, with multiple ships disabled or sunk. Underwriters are generally off cover for Israel and Ukraine. Some underwriters will write confiscation-only coverage in Israel. The U.S. Development Finance Corporation (DFC), MIGA and other ECAs are generally open to new Ukraine risks.
- WTW published its annual Political Risk Survey Report. This year, the financial impact of political risk was substantially less than 2023, when corporate losses stemming from the escalation of conflict in Ukraine exceeded $100 billion. That said, political risk loss events continued to be strikingly frequent, compared to earlier years of the survey. In 2024, nearly 70% of respondents reported losses stemming from geopolitical disruption of supply chains — primarily due to strikes on shipping by Houthi rebels in Yemen.

- Contestation for the geopolitical loyalties of emerging market countries continued, as covered in a prior edition of the WTW Political Risk Index. Changes in geopolitical alignment have caused large losses for investors in Mali and Myanmar. This quarter, it was the turn of Niger, where large mining investors found their assets in peril as the country increasingly relied on Russian mercenaries.
- Large-scale protests continued in emerging economies in financial distress. The government of Bangladesh was deposed following uncontrollable mass protests; Nigeria and Kenya faced substantial mass unrest after governments announced plans to withdraw popular subsidies, or increase taxes, on food or fuel. Many emerging markets are struggling with a debt hangover because of measures taken to keep their economies afloat during the pandemic. As governments adopt austerity measures to pay down that debt, they risk triggering political violence. This emerging issue was also covered in the WTW Political Risk Index. Underwriters remain cautious in these countries.
- We encourage clients with exposures abroad to proactively consider political risk-transfer options for their country.

Contact

Laura Burns
Head of Political Risk North America,
Political and Credit Risk
Financial Solutions
+1 646 684 9626
laura.burns@wtwco.com

Product recall

Rate predictions

Product recall

0% to +5%

Key takeaway

In the product recall insurance marketplace, rates have begun to flatten this quarter, largely driven by the upcoming emergence of a new market player. This new entrant has already introduced competitive pricing, disrupting the previous upward trend in premiums. As a result, insurers are adjusting their strategies to remain competitive, leading to more favorable rates for policyholders. The influx of new capacity and underwriting flexibility has contributed to this stabilization, offering more options for businesses seeking coverage. However, market volatility and emerging risks continue to challenge insurers, making long-term rate predictions uncertain.

Two key developments

1. The Consumer Product Safety Commission (CPSC) ruling that holds third-party markets, such as Amazon, responsible for recalls and liabilities associated with defective products sold on their platform
2. The large Boar's Head lunchmeat recall due to Listeria contamination

The CPSC ruling is expected to significantly increase liability costs for e-commerce platforms, as they will now be directly involved in product safety enforcement.

As for the Boar's Head recall, while the exact cost is not yet fully disclosed, the financial impact could be substantial. Based on similar food recalls in recent years, the expected cost could be one of the largest uninsured recalls in recent history; this figure could even increase if widespread recalls are enforced, with ongoing loss of profit and reputational damage.

These recent recalls highlight the persistent and evolving risks that insurers face across various industries. As product safety standards continue to tighten and consumer awareness grows, insurers must remain vigilant in managing long-term liabilities. Given the current environment of flattened rates driven by new market competition, now is an opportune time to secure long-term agreements while rates are still favorable. However, with the expectation that rates will increase over time due to emerging risks and evolving regulations, locking in longer-term coverage can help mitigate future cost volatility and provide greater financial stability in the years ahead.

Contact

Kevin Velan
Director National Product Recall Team
+1 312 288 7140
kevin.velan@wtwco.com

Shawn McCleary
Associate Director,
National Product Recall Team
+1 312 288 7351
shawn.mccleary@wtwco.com

Jonathan McMahon
Senior Broker, National Product Recall Team
+ 1 716 471 3195
jonathan.mcmahon@wtwco.com

Senior living and long-term care

Rate predictions

Senior living healthcare professional liability
+5% to +15% (with excess experiencing the larger rate increases)

Property
+5% to +10%

Auto
+10% to +15%

Workers compensation
–5% to +5%

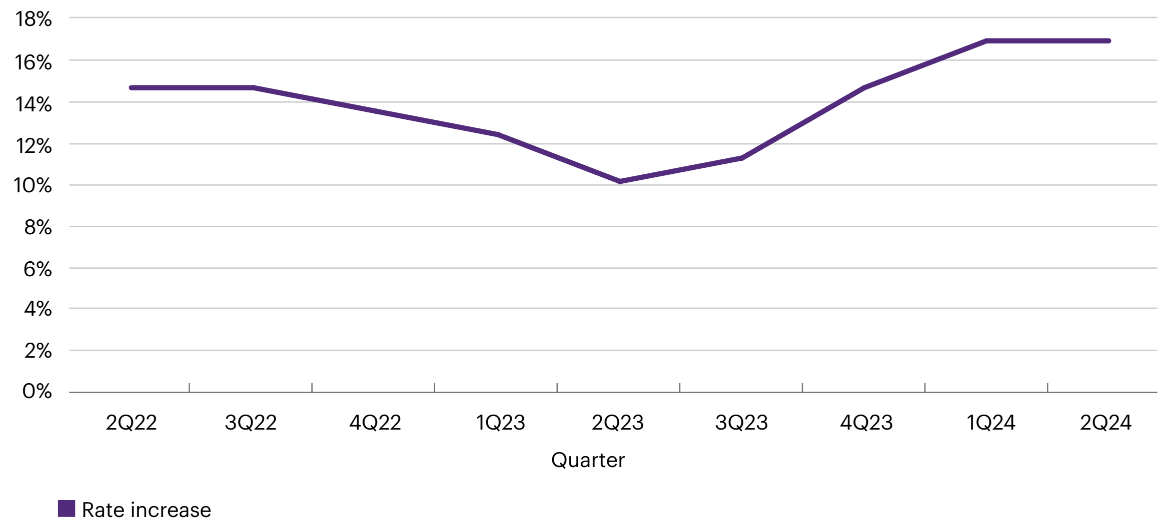
Key takeaway

- Loss development and difficult venues continue to be intensely scrutinized.
- Markets are frequently reluctant to deploy significant capacity in such litigious venues as NY, NJ, CA and FL. Other less-than-desirable venues are Philadelphia and Cook County, IL.
- Capacity deployed continues to be $5 million to $15 million depending on carrier.
- Coverage issues continue to be class action, punitive damages, communicable disease versus limited pandemic/epidemic/COVID.
- Staffing shortages are an ongoing issue and we're seeing greater reliance on staffing agencies.
- Overall, rate deceleration appears to be flattening as carriers seek more rate and deeper underwriting reviews.
- Underwriters are reviewing losses carefully for signs of "acuity creep," particularly those within independent living communities.
- Open communication and highlighting risk management achievements go a long way toward achieving an optimal underwriting result.

Property

- Loss control visits continue to be frequently required prior to quoting, especially for senior living organizations with larger schedules of values.
- Markets for senior living risks are limited and experience higher-than-average rate increases. Frame construction or buildings without adequate sprinkler protection are even more challenging.
- Water damage coverage and catastrophe-prone locations continue to experience higher deductibles.
- Builders risk coverage for new senior living construction continues to be very challenging, but strong risk management protocols will set your project apart and generate better marketplace results.
- We're seeing closer scrutiny of business income/rent roll exposures, which require a business income and extra expense worksheet to substantiate reported values.

Figure 1. **Senior Living Historical Rate Increase - Rolling Quarters***



*Rate trend noted in the graph above is specific to primary placements

Source: WTW data

Auto liability

- Resident transport exposure is underwritten stringently and carriers are most comfortable with an incidental amount. Market options for these exposures are limited. Partnerships with ride-share organizations are often considered as a means of addressing resident transport needs.
- Mono-line auto risks are challenging to place and should be leveraged with other lines of business.
- Certain senior living communities offer valet services, which present a new risk consideration in this space and frequently require a specialty insurance placement.

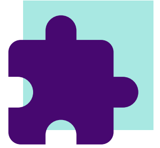
Workers compensation

- Underwriters continue to focus on controls, safety culture and claim reconciliation or lessons learned post loss.
- Monoline placements are common, as some markets have broad workers compensation appetites and are comfortable writing without supporting business.
- Slips, trips and falls present the most prevalent injuries in the senior living community setting, and organizations with strong protocols to address these colleague risks fare better during the risk underwriting process.

Contact

Wayne Wills
WTW Senior Living Industry Segment Leader, North America
wayne.wills@wtwco.com

Surety



Rate predictions for 2025

Surety
Flat to +5%

Key takeaway

Contract surety: It is important to understand the underwriters' current approach on portfolio management for the remainder of 2024 and plans for 2025.

Commercial surety: The upcoming election and inflation is drawing attention away from the most recent growth areas; upcoming BEAD Program could be an exception.

Contract surety

The economy remains stable and credit continues to perform at acceptable levels. High yield programs have more attention on terms. Underwriters have become less flexible as they monitor challenging programs.

Surety capacity remains stable.

- Reinsurers are experiencing losses in line with prior quarters.

High yield programs have the most focus.

- Lower credit quality programs are subject to change.
- Any increase in industry loss severity could quickly shift market conditions.
- Lower interest rates may increase use of debt with more stringent surety credit terms.

Contractor backlog is not growing as fast as in the past 12 to 24 months.

- Developing work is steady but not as robust as past periods.
- Project start dates continue to be extended.
- Subcontractors have a modest capacity to take on new large projects.

Commercial surety

The first half of 2024 has remained steady for the commercial surety segment of the industry. Rates remain stable, appetites unexciting, underwriting consistent with prior quarters and new loss activity is quieting down. Capacity remains strong for most credit qualities.

Commercial bonding demand will increase due to activity under the Broadband Equity, Access, and Deployment (BEAD) Program, which will secure the performance of the buildout of high-speed internet infrastructure to 56 U.S. states and territories.

AI is a strong motivator in the economy, driving significant investment in all sectors. The demand for capacity in data centers, chip availability and equipment manufacturing will be a focus of the technology industry for the balance of 2024 and well into next year. The use of AI in various industries should be a major disrupter this year.

- Digital infrastructure spending hitting the immediate economy is still a few years away.
- Ongoing (although lessening) supply chain challenges coupled with the political environment could delay fiber expansion plans and AI development.
- Political uncertainty and a stubborn interest rate policy could push recession fears higher, negatively impacting capital deployment plans.
- Surety products remain in the sidelines in much of the AI and technology activity; BEAD could change that.

Global cooling of traditional energy demand could slow the development of domestic sources. The approaching U.S. election will impact this industry immensely, setting a course in the surety industry for the coming years.

- O&G exploration and production has capacity available with demand softening.
- Renewable markets have cooled even as surety companies have developed greater resources to support bonding throughout the industry.
- Continued economic volatility should increase demand for deposit security.

Continued expansion in surety keeps demand for talent strong. Entry level hiring in the last few years is paying off as the industry fights to fill upper-level positions as long-tenured leadership retires.

- Commercially focused surety opportunities remain in high demand, with newer hires being deployed and training programs developing a growing pool of talent.
- Disciplined growth in the face of strong demand has created a stable marketplace poised for continued employment growth.

International surety

International surety market growth will be fueled by increased infrastructure spend as countries around the world attempt to uphold a net-zero commitment to drop global greenhouse gas (GHG) emissions by nearly half by 2030.[1] The United Nations estimates that 75% of the infrastructure build needed by 2050 to close the net-zero gap has not even started, and most of this infrastructure spend is in emerging markets.[2] The commitment to global infrastructure spend is also evident in the G7's commitment to invest $600 billion by 2027 (of which the U.S. has committed $200 billion).[3]

From a regulatory standpoint, Basel III's increased reserve requirements continue to dampen the banking industry's appetite to provide LOCs to support projects and is opening the door for surety in traditionally LOC markets. Basel III's positive impact regarding surety demand is evident in new legislation in emerging countries introducing the use of surety bonds for large infrastructure projects. Countries which have begun exploring the surety solution since 2022 include Mongolia and India.

From an economic standpoint, surety will also be bolstered by continued high interest rates. According to the World Bank, global interest rates are expected to average about 4% over 2025 to 2026, which is roughly double pre-COVID.[4] Continued high interest rates will make the surety product more economically attractive, especially in Asia, the Middle East and Africa.

Finally, from a geo-political standpoint, 2024 marks a year of political change as more than 70 nations (comprising 44% of the global population) will be selecting its leaders.[5] Continued partnership and collaboration among the world's nations will be important for the commitment to global infrastructure spend.

Contact

Scott Hull
Global Head of Surety
+ 1 205 868 1364
scott.hull@wtwco.com

Goly Jafari
Global Head of Surety Strategy
+ 1 424 230 2183
golnaz.jafari@wtwco.com

Jeff Broyles
North America Commercial Surety Leader
+1 360 213 8236
jeff.broyles@wtwco.com

Douglas Wheler
North America Contract Leader
+ 1 215 275 1779
douglas.wheeler@wtwco.com

Waiman Yeung
International Surety Leader
+ 1 347 446 8278
waiman.yeung@wtwco.com

1. https://www.climatewatchdata.org/net-zero-tracker
2. https://www.pwc.com/gx/en/issues/esg/the-energy-transition/closing-global-green-infrastructure-gap.html
3. https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/13/fact-sheet-partnership-for-global-infrastructure-and-investment-at-the-g7-summit-2/
4. https://www.cnn.com/2024/07/08/world/global-elections-2024-maps-charts-dg/index.html
5. https://www.worldbank.org/en/news/press-release/2024/06/11/global-economic-prospects-june-2024-press-release#:~:text=Global%20interest%20rates%20are%20likely%20to%20remain%20high,4%25%20over%202025-26%2C%20roughly%20double%20the%202000-19%20average

Trade credit

Rate predictions

Trade credit

-5% to flat

Key takeaway

Despite challenging macroeconomic conditions, market conditions for new insureds remain favorable.

- On a macroeconomic level, business bankruptcies have continued to climb quarter over quarter since Q2 of 2022.
- This increase has led to a 40% increase in insolvencies for the 12 months ending March 31, 2024.
- Leading insurers have reported double-digit percentage increases in both the number and dollar amounts of claims filed.
- Despite this increase in claim activity, pricing continues to be aggressive for new insureds entering the market.
- Financial institutions are employing trade credit to enhance financing facilities to strengthen competitive opportunities.
- Financial institution-based indications from insurers remain exceptionally competitive with aggressive pricing and risk acceptance.
- Policy innovation and technology offerings in trade credit are broadening, providing greater tools to the credit management and risk teams.

Contact

Salvatore Garry
Head of Trade Credit North America
Financial Solutions
+1 212 915 7593
salvatore.garry@wtwco.com

Transactional risk

Rate predictions for 2025

Representations and warranties insurance	Tax insurance
+10% to +15%	+10% to +15%

Key takeaway

Representations and warranties insurance (RWI): Depressed global M&A activity over 2023 and YTD 2024 contributed to a drop in rates for representations and warranties insurance (RWI), as insurers struggled to compete for an increasingly limited pool of business. With an increase in the volume of M&A transactions expected in Q4 2024 and into 2025, rates should stabilize and begin to increase, and coverage may become more restrictive.

Tax insurance: The issuance of final guidance on transfers of tax credits under the Inflation Reduction Act (the IRA) in April 2024 has contributed to a growth in the market for tax credit transfer insurance in 2024. As demand for tax insurance has accelerated during the past two years, we have seen a slow shift toward increasing rates.

Key takeaway continued

Coupled with the expected increase in M&A transactions and tax planning activities relating to the adoption of the 15% global corporate minimum tax under the OECD's Pillar Two framework, the market for tax insurance, and a related rise in rates, should continue in Q4 2024 and into 2025.

Contingent risk insurance: Looming contingent risk claim activity has caused capacity to decrease and rates to rise. At the same time, customer demand for contingent risk insurance grew considerably in 2024, particularly for multi-case portfolio contingent risk solutions. New capacity has entered the marketplace to meet this demand, and this should presage an overall market shift toward portfolio policies in 2025.

RWI

- The continued entry of new MGA/MGU capacity to the RWI market, even in a time of low deal activity, has contributed to (1) the continued depression of rates and retentions and (2) persistently broad coverage, despite those low rates and retentions. As a result, competitive market dynamics continued throughout 2024.
- Many RWI insurers added headcount in response to the extremely active 2021 M&A market and are thus poised to handle an increase in deal flow as the market recovers in Q4 2024 and into 2025.
- The extremely high rates of 2021, which were in part driven by chronic insurer understaffing in the face of historic deal volume, are unlikely to fully return. However, an upswing in transaction volume will drive pricing up and may also lead to more restrained coverage in the form of additional deal-specific exclusions and more restrictive positions with respect to underlying insurance requirements.
- Taking advantage of the soft RWI market, WTW has worked to expand insurers' appetites for deals in industries where underwriters previously had extremely limited appetites, including upstream oil and gas, healthcare, minority/JV investments, small (sub-$50M EV) deals, and secondaries transactions. There is now a proven track record of favorable underwriting outcomes and manageable claim activity in these sectors, which gives WTW confidence that RWI will continue to be available on a broader array of deals than ever before. We also believe that coverage enhancements such as expanded policy periods and nil retentions for certain fundamental representations will remain available to WTW's clients, as they have become a standard part of our upfront negotiations with underwriters.

Tax

- Many tax insurers upped their headcount in response to the passage of the IRA in 2022 and the related explosion in the tax insurance market, with the first half of 2024 reportedly exceeding expectations and setting the stage for a record year.
- Uncertainties created by the November 2024 presidential election, with a Trump victory likely to lead to the repeal of key provisions of the Biden administration's Inflation Reduction Act to finance and extend expiring provisions of the Trump administration's Tax Cut and Jobs Act, will likely add to the flurry of tax insurance activities.
- Many insurers, with a steady stream of tax insurance submissions, are more selective with their appetites and have begun to raise pricing, narrow coverage, or both.
- WTW uses its tax expertise to obtain the broadest coverage available for any single risk, including narrowing or eliminating any deal-specific exclusions.
- Sections 45Y and 48E (together, the "tech neutral tax credits"), which were enacted as part of the IRA, will replace credits currently under Sections 45 (production tax credit) and 48 (the investment tax credit) beginning in 2025.

- Tax policies covering risks related to whether construction has started on a given project during 2024 are also likely to proliferate in Q4 2024 because certain energy projects that lack nonzero greenhouse gas emission technologies may no longer be eligible for tax credits beginning in 2025.

Contingent risk

- Large claims have begun to materialize, particularly in the single case judgment preservation insurance (JPI) arena. In response, some insurers have stopped writing contingent risk insurance altogether; others have limited the types of policies they will support (e.g., they will not provide JPI); and still others have curtailed their limits across all forms of contingent risk insurance. The result is increased premium pricing and, in general, smaller policies compared to prior years. Despite these market headwinds, WTW successfully placed multiple JPI policies in 2024.
- New insurers have entered the contingent risk marketplace in 2024; they are focused largely or exclusively on multi case portfolio contingent risk policies, as opposed to single case policies. Because portfolio contingent risk policies are usually used to attract capital at a competitive cost (as opposed to risk transfer), this has led to a surge in demand from investors.
- Law firms — particularly litigation firms that handle cases on contingency — are also driving demand for portfolio contingent risk policies. Litigators are purchasing portfolio policies to set a floor on their recovery across multiple cases, then using these policies as collateral for funding that the firm can use for case costs or operational expenses. This trend should continue to develop in 2025 as awareness of contingent risk insurance grows.

Contact

Simone Bonnet
Co-Head of Transactional Insurance
simone.bonnet@wtwco.com

Andrew Hirsch
Co-Head of Transactional Insurance
andrew.hirsch@wtwco.com

Shirley Chin
Head of Tax Insurance
shirley.chin@wtwco.com

Jason Bertoldi
Head of Contingent Insurance
jason.bertoldi@wtwco.com

Willis Towers Watson hopes you found the general information provided in this publication informative and helpful. The information contained herein is not intended to constitute legal or other professional advice and should not be relied upon in lieu of consultation with your own legal advisors. In the event you would like more information regarding your insurance coverage, please do not hesitate to reach out to us. In North America, WTW offers insurance products through licensed entities, including WTW Northeast, Inc. (in the United States) and Willis Canada Inc. (in Canada).

Each applicable policy of insurance must be reviewed to determine the extent, if any, of coverage for losses relating to the Ukraine crisis. Coverage may vary depending on the jurisdiction and circumstances. For global client programs it is critical to consider all local operations and how policies may or may not include coverage relating to the Ukraine crisis. The information contained herein is not intended to constitute legal or other professional advice and should not be relied upon in lieu of consultation with your own legal and/or other professional advisors. Some of the information in this publication may be compiled by third-party sources we consider reliable; however, we do not guarantee and are not responsible for the accuracy of such information. We assume no duty in contract, tort or otherwise in connection with this publication and expressly disclaim, to the fullest extent permitted by law, any liability in connection with this publication. WTW offers insurance-related services through its appropriately licensed entities in each jurisdiction in which it operates. The Ukraine crisis is a rapidly evolving situation and changes are occurring frequently. WTW does not undertake to update the information included herein after the date of publication. Accordingly, readers should be aware that certain content may have changed since the date of this publication. Please reach out to the author or your WTW contact for more information.

About WTW

At WTW (NASDAQ: WTW), we provide data-driven, insight-led solutions in the areas of people, risk and capital. Leveraging the global view and local expertise of our colleagues serving 140 countries and markets, we help you sharpen your strategy, enhance organisational resilience, motivate your workforce and maximise performance. Working shoulder to shoulder with you, we uncover opportunities for sustainable success — and provide perspective that moves you. Learn more at wtwco.com.

wtwco.com/social-media

Copyright © 2024 WTW. All rights reserved.

WTW_158150_09/24

wtwco.com