Insurance Marketplace Realities

2024 Spring update

wtwco.com

TABLE OF CONTENTS

Introduction

Executive summary

We've seen a lot of markets over the years, and the industry has never struggled to come up with creative ways to describe them. We've had "hard" markets, be they 2023's property market or 2020's across-the-board version.

Looking back at 2015 to 2018, conventional wisdom would characterize that era as a "soft" market. 2008 and the financial crisis brought us the "unsettled" market. We've even nodded sagely at the notion of "dichotomous" markets, which to me sounds like every market that has ever existed.

This is all fun and games. But here is a simpler — dare I say happier — question to wrestle with: *what does a good market look like*? Because if there's ever been a time when that welcome description might apply, it's right now.

Consider the following. Many insurance companies are reporting record net income and material growth of gross written premiums. Industry titans are bullish on the state of the market. And, if they're not descending gracefully from 2023's exceptional highs, business lines are generally stable. Think about that; if stability and soft(er) conditions are as bad as it gets, sans highly distressed lines of business (such as terrorism), I would suggest that means things are actually pretty good. Or, as Evan G. Greenberg put it, "The P&C underwriting environment in North America overall is quite favorable, financial lines aside, with pricing exceeding loss costs, which remained steady."[1]

Perhaps this serene optimism has been hard won. There's no doubt that risk professionals, battle-hardened by the events of 2020 to 2023, have learned to be more sanguine these days. In 2016, a mid-single-digit rate increase would have felt like a catastrophe. Now, that is simply described as an "inflation factor." Context and perspective are everything. This is worth bearing in mind when we consider that our clients are trading largely in a buyer's market where capacity remains prevalent — sans excess casualty in distressed risk classes (e.g., auto and terrorism) — and they can start pushing to improve programs in every way, from structure and pricing to policy terms. This is a time where WTW is successfully pushing the market to be creative with capital and to develop solutions that solve the most challenging risk problems of the day.

Pessimism is forever in fashion and, as always, there's plenty to go round. Political unrest is rife. War is raging in two major global regions. Social inflation continues to push runaway liability claims. And we all know what high surface temperatures in the Gulf are harbingers of. The challenges and hazards we face are significant, wide-ranging, and very real. For once, however, I would like to leave you with a different take-home. Collectively, we have a trillion-dollar-plus surplus in the bank, investment yields are trending upward from 3.7%, and insurers are generating meaningful improvements to net income. That means our industry is exceptionally well-positioned to bring some much-needed stability to the wider world. You might want to whisper it, but it's still the truth: this is a good market, and we should all be celebrating it.

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.

[1]Chubb Records 13.3% Uptick in Q1 Net Income on Underwriting (insurancejournal.com)

Here are some highlights from our 2024 rate forecast predictions:

Casualty

General liability

+2% to +8%

Automobile liability

+4% to +10%

Workers compensation

–5% to +2%

Umbrella liability

High Hazard/Challenged Class: +8% to +15%

Low/Moderate Hazard: +4% to +8%

Excess liability

High Hazard/Challenged Class: 10%+

Low/Moderate Hazard: 2% to 7%+

- Loss trends continue to outpace rate in most casualty product lines, leading to combined ratio pressure. Continued legal system abuse with a lack of tort reform is driving up the frequency of severity losses and legal expenses, impacting carrier financial performance and necessitating insurance premium rate hikes.

Property

Non-CAT exposed

-5% to +5%

CAT exposed

-5% to +10%

- Property market rate conditions have eased towards the end of Q4 '23 and into Q1 '24 renewals, with an acceleration in market competitiveness seen as each renewal month passes

Highlights continued:

Cyber

−5% to flat

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

D&O

Public company – Primary:

−10% to flat

Excess/Side A DIC (public company):

−10% to flat

Excess/Side A DIC (private company):

−10% to flat

- Availability of abundant capacity continues to drive competitive market dynamics, but where insureds had experienced material premium relief in previous renewal cycles, the extent of decreases may begin to taper off.

Terrorism and political violence

Non-volatile territories	Volatile territories
Flat to +10%	**+10% to +25%**
Non-volatile territories	Volatile territories
Flat to +15%	**+15% to +30%**

- Rate increases are tempering compared to late 2023, but insurers are still looking to rebalance their books to combat increased losses and treaty costs.
- Insurers are still reviewing coverage, with a focus on reducing non-physical damage business interruption and contingent exposure.
- Active assailant rates are generally unaffected by terrorism & political violence market dynamics but are increasing in response to the change in risk environment, albeit slower than in 2023.

Surety

Flat

- The U.S. surety industry has begun to experience a modest increase in loss activity. The Surety and Fidelity Association of America reported 2023 third-quarter results that had an industry direct loss ratio of 21.0%, up from 15.0% in 2022. Surety reinsurance results were more dramatic as they have absorbed higher losses that developed over the past few years. The industry remains profitable and underwriting terms have been stable.
- Surety companies had another profitable year in 2023. Claim activity is picking up in the commercial surety market; however, losses appear to be remaining low. Commercial surety continues to see additional entrants with both direct writers and MGA/Us taking flight in Q1 2024. Traditional appetites continue for most sureties; capacity is readily available for average-to-strong credit clients.

Major product lines

Click on the buttons to view each major product line.

Property

Domestic casualty

International casualty

Middle market

Canada

Bermuda

Property

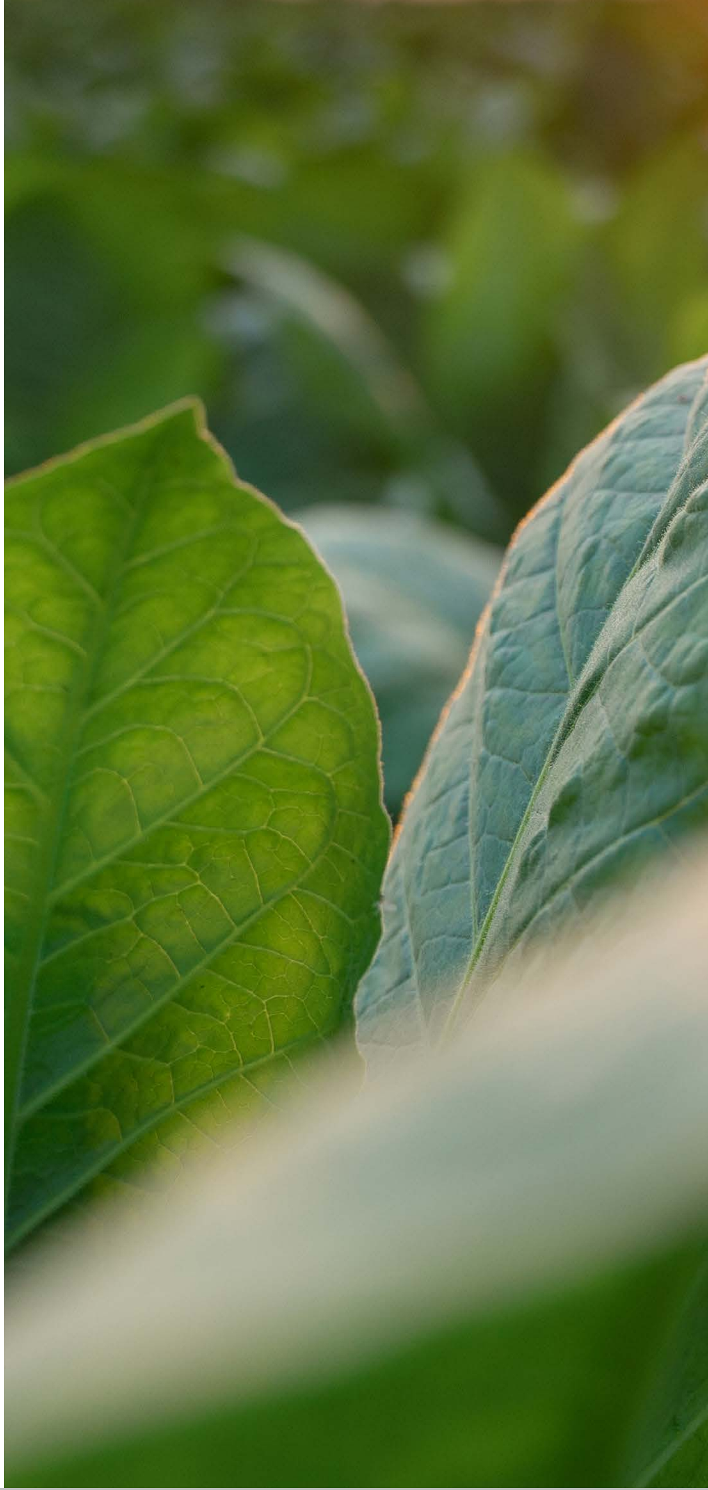
Rate predictions

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

Key takeaway

Record insurer profitability in 2023 and favorable 2024 treaty renewals have contributed to noticeable stabilization in the property marketplace during Q1 2024.

- Property market rate conditions have eased towards the end of Q4 '23 and into Q1 '24 renewals, with an acceleration in market competitiveness seen as each renewal month passes.
- Insurers began 2024 reluctant to support a flattening of renewal rates. As the sequential months of Q1 '24 have transpired, and the increasing number of incumbent insurers losing renewal lines due to an inflexible stance on rates, insurers are being forced to readjust their mindset to this more competitive market.
- While increases of new reinsurance capacity from traditional reinsurers has been marginal, there has been a substantial increase in available reinsurance capacity from capital markets through instruments like ILS Cat Bonds and Sidecar arrangements. Increased access to reinsurance capital enables the direct insurer market to offer more stable and, in many cases, 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 rate stabilization.
- As of March 14, 2024 strong El Niño conditions were still being observed in the Eastern Pacific.[1] A transition from El Niño to ENSO-neutral is likely by April-June 2024 (85% chance), with increasing odds of La Niña developing in June-August 2024 (60% chance). It should be noted that during La Niña, Pacific Ocean conditions are correlated with a higher level of more intense U.S. East and Gulf Coast landfalls.
- A familiar cycle of "what is achievable" on renewals has re-emerged in the current property market environment. Traditionally when property market conditions begin a more favorable trend 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.



[1]NOAA (National Oceanographic Atmospheric Administration

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

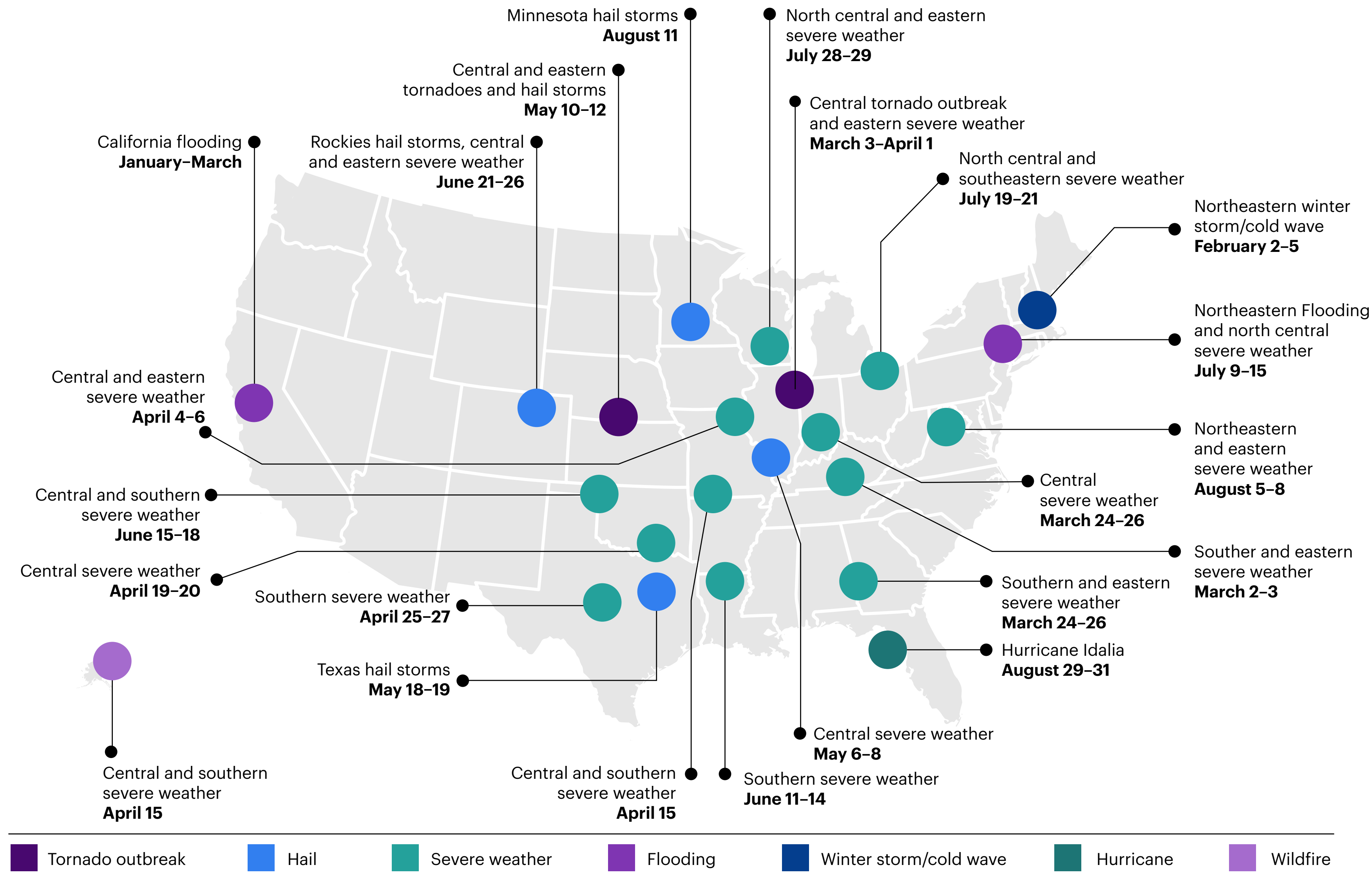
Index	2017	2018	2019	2020	2021	2022	2023
ENR — Building Cost Index	3.3%	3.3%	1.74%	3.96%	13.94%	9.4%	2.9%
FM Global — US Industrial Buildings Average	1.2%	5.2%	1.73%	1.42%	18.40%	11.1%	1.5%
RSMeans — 30 City Average	4.0%	5.5%	2.05%	1.71%	15.83%	12.1%	1.9%
Marshall & Swift — US Average	2.7 to 3.7%	3.2 to 6.0%	0 to 1.3%	3 to 6.1%	16 to 24.5%	11.1%	1.04%

- Inflationary pressures on building replacement costs have substantially eased to start 2024 as evidenced by FM Global and Marshall & Swift average building cost inflation trends showing flat to low single digit increases for building replacement costs. The net result of this break from recent years inflation trends is insurers are no longer benefiting from substantial increases in premium on the same risk portfolio when factoring in minimal increase in rates.
- The imposition of margin clauses or occurrence limit of liability endorsements (OLLE) is likely to be reserved for accounts with obvious and drastic under reporting as we have seen a shift towards 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 costs 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 2023 fall Insurance Marketplace Realities report, 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 28 large $1 billion+ losses hit the U.S. insurance market in 2023. Of these losses the vast majority (26) were due to secondary perils such as severe convective storm, hail, winter storm, freeze and flood. These losses continue be to of great concern as they are primarily absorbed by direct insurers due to increases in 2023 CAT treaty retentions.
- Severe convective storm losses alone in the U.S., contributed some $60 billion to another year where the market absorbed $100 billion+ in losses making it another historic year in terms of catastrophic losses.
- Unexpected shocks to the supply chain continue to concern businesses including the ongoing conflict in the Red Sea (effectively closing the Suez Canal), and the more recent collapse of the Francis Scott Key Bridge (blockage of the Port of Baltimore shipping harbor). These two events continue to highlight the concerns over coverages like ingress/egress and contingent time element.

Figure 1: **U.S. 2023 Billion-dollar weather and climate disasters**

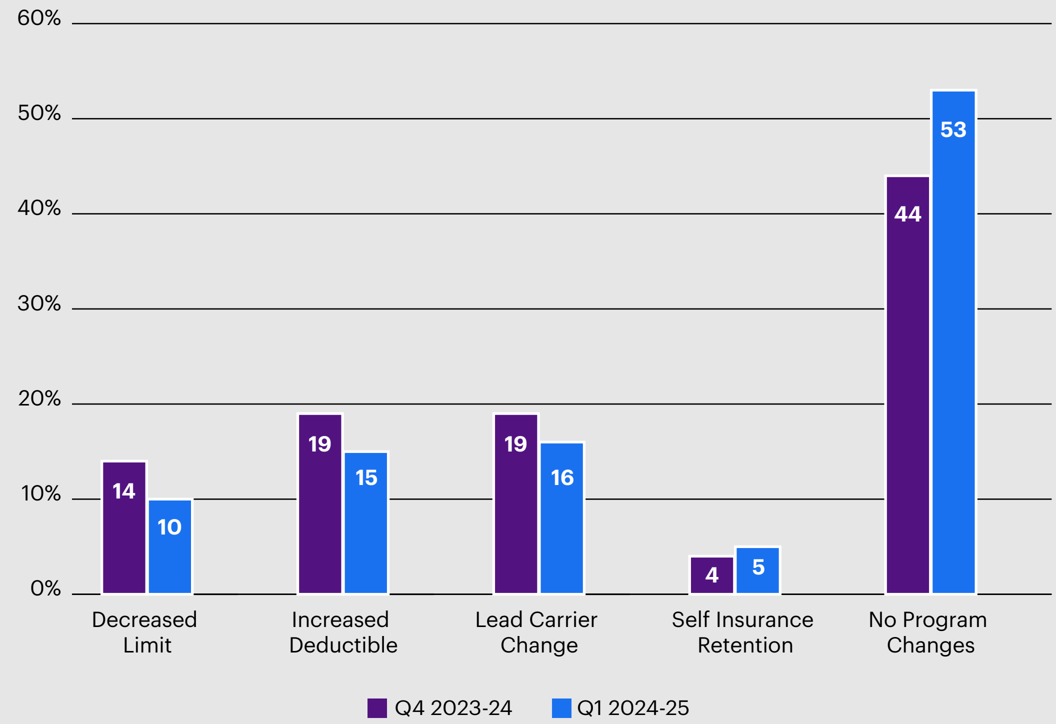


This map denotes the approximate location for each of the 23 separate billion-dollar weather and climate disasters that impacted the United States through August 2023
Source: https://www.ncei.noaa.gov/

As the 2024 market continues to stabilize and capacity comes back into the market, a shift in program design and delivery will be evident in every facet of the Property market.

- 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 CAT footprint, loss history, capacity required, and risk occupancies.
- Expanding insurer capacity vertically into layers that were considered buffer layers has become a more consistent theme in Q1 24'. Buffer layers were very problematic and expensive to fill during the capacity constrained market over the past few years.
- 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.
- Whether annual or multiyear, parametric and structured solutions will continue to be the most traded ART products in 2024! The addition of these products helps to 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 a responding to marketplace restrictions.

Figure 2. **Program changes Q4 2023 — Q1 2024**

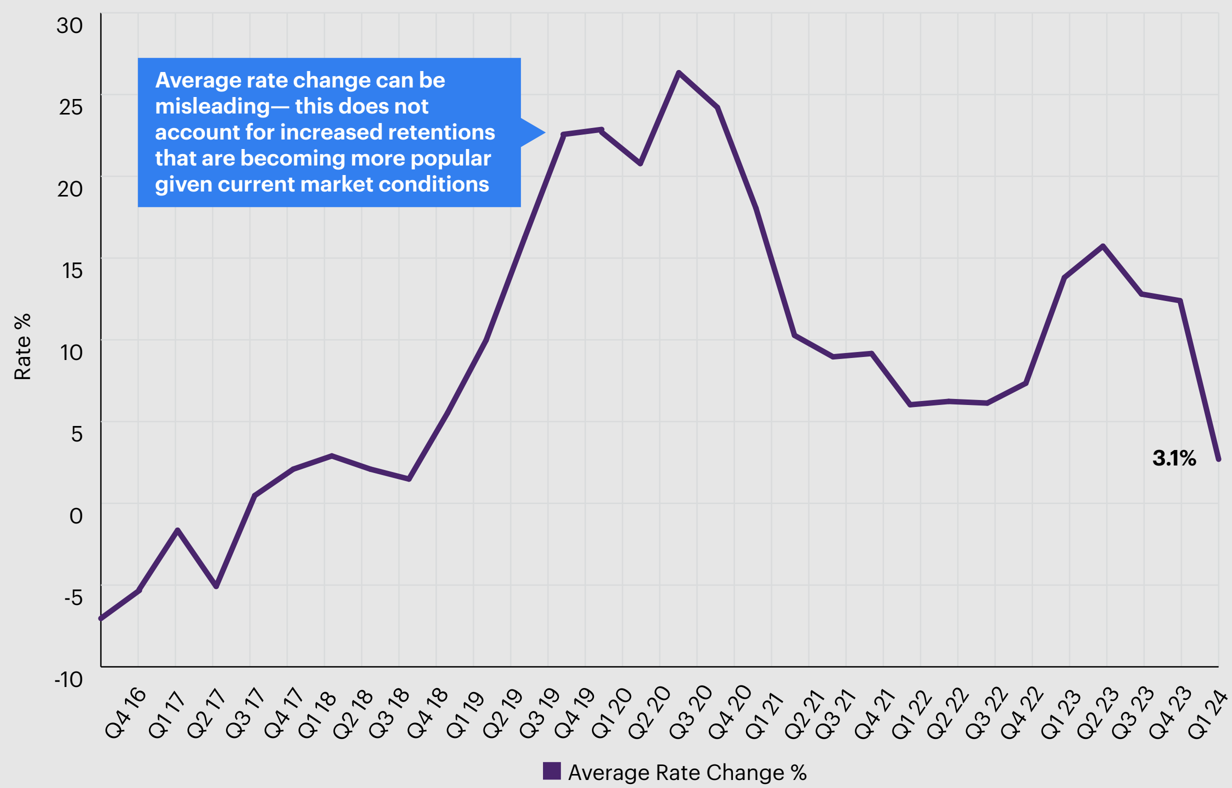


Source: WTW internal data

Quarterly average rate trends: January 2024 — March 31, 2024

As the property market continues to evolve, we recommend that all key stakeholders remain keenly aware of the market dynamics affecting the various industries/occupancies that exist as budgetary expectations may fluctuate based on risk profile, industry loss events and market conditions.

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



Source: WTW internal data

Industry spotlight

Life sciences and healthcare

Supply chain

Supply chain continues to be a focal point for all industry segments, and this is especially true in life sciences and healthcare. Insurers were encumbered with tremendous losses incurred in the past several years and it has impacted the pricing and coverage available in the commercial marketplace. The largest losses were a result of the URI Texas storm freeze and Renesas chip fire in 2021 which led to insurers taking a different approach on how contingent time element coverage would be provided. Given the increasing tightening of supply chains for the life sciences and healthcare industry segment and the dependency on third party manufacturing of active pharmaceutical ingredients (APIs) with major pharmaceutical companies, this will continue to be the driver of insurer capacity deployment and pricing for years to come.

There has also been an increased focus on the exposure of inventory and how this exposure can be best transferred to the commercial insurance marketplace. The life cycle of inventory from raw materials to manufacturing to finished goods is dynamic and each stage poses completely different exposures. This is even more critical when the inventory requires temperature control, bot static and in transit. Clients continue to achieve success in transferring the risk via the cargo markets through a product known as stock through put. This allows clients to tailor their coverage and policy wording to ensure they have a risk transfer product that will meet their specific needs.

Contact

Ryan Volker
Senior Director - Midwest Property Broking Leader
+1 312.288.7130
ryan.volker@wtwco.com

Industry spotlight

Real estate, hospitality and leisure

Rate predictions for 2024

Non-challenged occupancies
−5% to +5%

Challenged occupancies/CAT-exposed
+5% or greater

100% Florida accounts
+10% or greater

Key takeaway

With various challenges such as rising interest rates, inflation, and the increased severity of natural catastrophe losses, it is imperative that our real estate, hospitality and leisure clients work with their WTW team to develop a clear and concise renewal plan.

Starting the process early with a commitment to quality data collection, as well as being able to articulate their valuation methodology, business continuity, disaster recovery and capital expenditure plans to underwriters will help them differentiate themselves from their peers.

Account metrics

- Property value and business interruption calculation methodology continues to be scrutinized
- Loss performance
- Natural catastrophe exposure footprint
- Program limits and sublimits should be revisited based on revised property valuations, a client's risk tolerance and corporate strategy

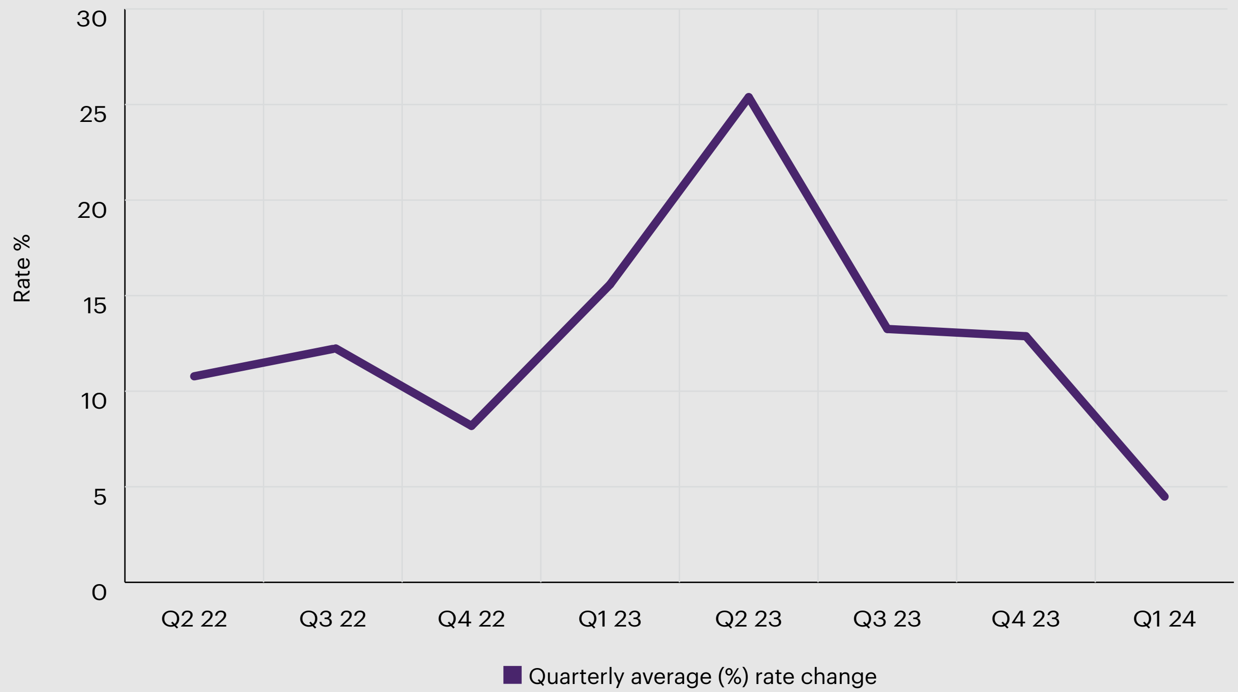
Redefining CAT perils — Secondary CAT perils

- Severe convective storm (tornado, hail)
- Wildfire
- Freeze
- Hurricane season — Entering a "neutral year"

Managing your risk

- Structured program
- Annual aggregate retentions
- Captives

Figure 4. **Quarterly average (%) rate change**



Source: WTW internal data

Contact

Dominic Gallina
+1 646.456.7330
Dom.Gallina@wtwco.com

Domestic casualty

Rate predictions for 2024

General liability
+2% to +8%

Auto
+4% to +10%

Workers compensation
–5% to +2%

Umbrella liability
High hazard/challenged class: +8% to +15%
Low/moderate hazard: +4% to +8%

Excess liability
High hazard/challenged class: +10%+
Low/moderate hazard: +2% to +7%+

Key takeaway

The casualty sector in 2024 is similar to 2023, with a two-tiered market. WTW expects modest rate increases in primary general liability and single-to-low double digit rate increases in automobile liability for low-risk clients. High-risk clients with large auto fleets or heavy product exposure are seeing higher rates. Medical cost inflation continues, but workers compensation rates are flat or negative for most clients to offset the rate needs in liability lines. Tort reform is lacking, legal system abuse is pervasive as is third-party litigation funding. Because of this, umbrella and excess coverage is experiencing a frequency of severity.

Loss trends continue to outpace rate in most casualty product lines, leading to combined ratio pressure. Continued legal system abuse with a lack of tort reform is driving up the frequency of severity losses and legal expenses, impacting carrier financial performance and necessitating insurance premium rate hikes.

Trading in a two-tiered market, insureds are experiencing varied market response and program structure augmentation. On a positive note, despite medical and wage inflation, workers compensation maintains favorable rates, indicating effective carrier strategies in mitigating rising liability costs.

This spring edition explores emerging trends in privacy laws, claim management, autonomous vehicles and artificial intelligence. These trends impact various industries and require complex insurance interdependency understanding and contractual risk transfer identification.

Additionally, the NCCI has enacted various changes that could have a material impact on experience modification factors as outlined below. Understanding the impact of these changes and contractual compliance is critical for our insureds to operate their businesses.

Data privacy and Biometric Information Protection Act — How does your liability policy respond?

One high-profile emerging issue is treatment of individuals' biometric information. Biometric information is often defined as physical identifiers unique to a specific individual, such as fingerprints, voiceprints, hand or facial geometric images, or retina or iris scans. As technology has advanced, various industries and institutions use biometric data more frequently and in novel ways. Biometric information can be used as part of identification and authorization protocols and contribute to important privacy and security checks.

The growing collection of biometric data has led to responses from legislators and regulators, civil litigation, and, of course, coverage implications. Most notably, Illinois passed the Biometric Information Privacy Act (BIPA) in 2008, which has been the source for most biometric court cases to date. In a growing number of cases, courts have issued arguably conflicting decisions as to whether CGL policies cover allegations related to biometric data. For example, in *In West Bend Mutual Ins. Co. v. Krishna Schaumburg Tan Inc.*, 2021 IL 125978 (Ill. 2021), the Illinois Supreme Court ruled that a GL insurer owed a duty to defend its insured against a BIPA class action which alleged that the insured disclosed its customers fingerprint to a third-party vendor. And in *Citizens Ins. Co. of American et al. v. Thermoflex Waukegan LLC, et al.*, 595 F. Supp. 3d 677 (N.D. Ill. 2022), the Northern District of Illinois determined that a general liability insurer had a duty to defend its insured against BIPA claims asserted by the insured's employees, rejecting the insurers' arguments that three different exclusions precluded coverage, including the employment-related practices exclusion, the recording and distribution of material or information in violation of law exclusion, and the access or disclosure of confidential or personal information exclusion. On the other hand, earlier this year *in Citizens Insurance Company of America v. Mullins Food Products, Inc. et al*, No. 1:2022cv01334, (N.D. Ill. 2024), a federal judge ruled that the insurer had no duty to defend its insured against claims of BIPA violations based on two exclusions, one which bars cover for recording and distribution of material or information in violation of law, and one which addresses access or disclosure of confidential or personal information.

Unsurprisingly, carriers and Insurance Services Office (ISO) are responding with new underwriting guidelines and revised policy terms in light of this emerging issue. At the end of 2023, ISO released updated language for CGL exclusions CG 21 06 and CG 21 08. Generally speaking, these ISO exclusions address damages arising from access or disclosure of confidential or personal information. The changes include adding the category "biometric information" to the list of confidential or personal material or information encompassed by the exclusion. And significantly, the carve back in CG 21 06 for bodily injury claims was eliminated in the 12 23 version. Separately, in December 2023, ISO introduced endorsement CG 00 69 12 23, which precludes coverage for violation of law addressing data privacy. This endorsement provides that there is no coverage for bodily injury, property damage or personal and advertising injury "arising directly or indirectly out of any action or omission that violates or is alleged to violate" statutes such as BIPA, the California Consumer Privacy Act or similar statutes or regulations that address confidential or personal material or information, including biometric information. Certain carriers are crafting their own versions of this new exclusion, which define "biometric material or information" broadly. It is imperative that liability and cyber policies be reviewed and augmented to prevent gaps in coverage.

These issues will continue to evolve as regulators and courts respond to advances in technology and emerging risks. WTW is closely monitoring the topic and is liaising with markets and policyholders to provide guidance in the light of new developments. For more information, contact your WTW broker.

Claims — A casualty update

Claim adjuster turnover

Affecting claims in 2023 and into 2024, is the high turnover at third-party administrators and insurance carriers that we continue to observe. Turnover remains at an average of 9% to 11% annually due to retirements and adjusters leaving for higher compensation. TPAs/carriers are increasing recruitment, college graduate programs and training programs. TPAs/carriers, struggling with adjuster retention, are offering a spectrum of hybrid/remote workstyles, with very few TPAs/carriers requiring adjuster to be in the office 100% of the time. The impact of high turnover can adversely affect insured's claim outcomes and experience.

Artificial intelligence in claims

The race is on in the insurance claim industry to adapt AI into the claim process. Most TPAs/carrier claim operations are using AI in various stages of complexity. Some TPAs/carriers are using AI to summarize medical reports, client status reports and other claim documents. Others are using AI to identify potential problematic claims in order to set reserves, recommend plans of action, and even settle nuisance cases. Larger TPAs and insurers, as expected, are able to invest more into AI, leaving smaller TPAs/carriers at a disadvantage. We expect to see more adaptability of AI in the claim process throughout 2024.

Highlights by line of coverage

Workers compensation

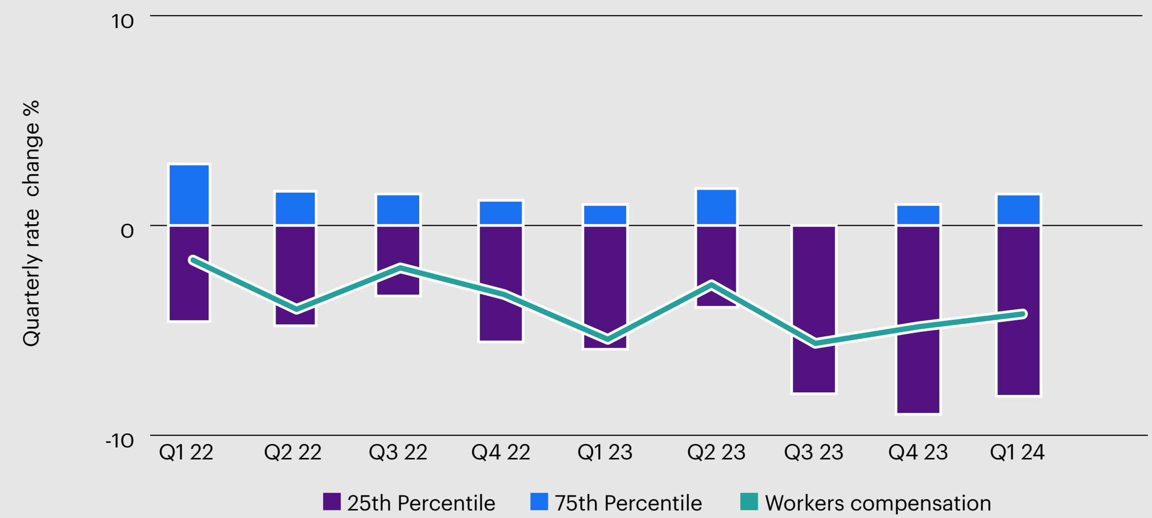
There was an 85% decrease in COVID claims from 2022 to 2023. Healthcare industry clients, as expected, led all industries in 2023 COVID claims. Due to inflationary pressures and increased WC compensation loss trend, the average paid indemnity claim increased by 11.2% in 2023. This statistic was further impacted as lower frequency of COVID claims (typically low-cost claims for indemnity) lessened in 2023, which inflated the average paid of 2023 indemnity claims. Lost time payments were up approximately 5.7%, and medical payments were up 3.3%.

General liability

New claim costs saw an increase of 13% from 2022. The average paid on GL losses increased by over 15% from 2022 to 2023. Claim duration has not experienced a significant change.

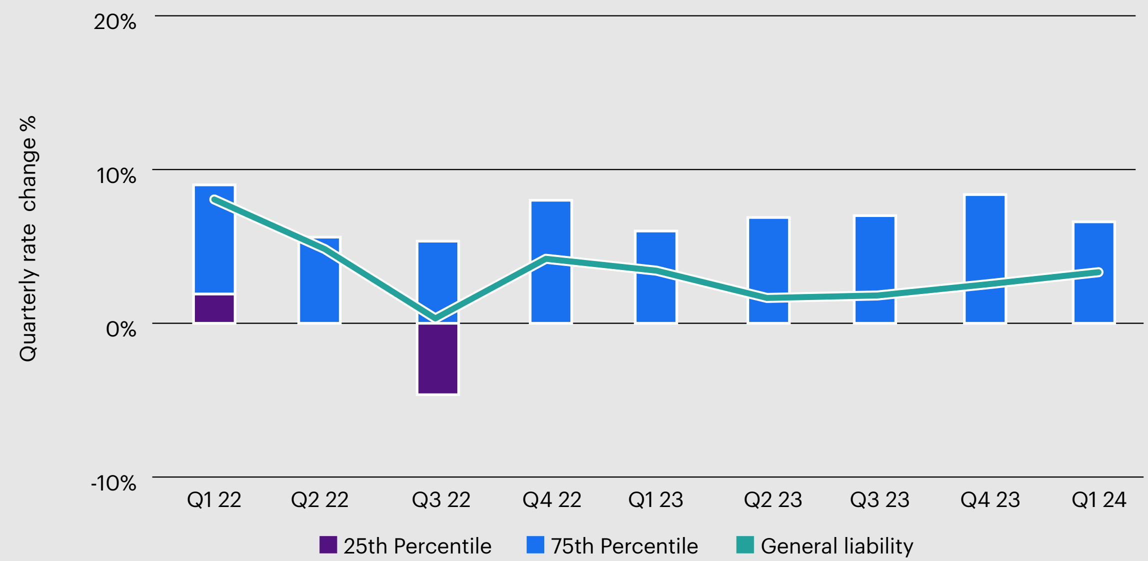
An emerging trend around the timing of legal representation is that over 50% of new GL claims are already represented by an attorney, and two-thirds are represented by an attorney within two weeks. This trend highlights the need for our clients to resolve as many minor claims as possible within the first two weeks of receipt of the claim.

Figure 1. **Workers compensation**



Source: WTW internal data

Figure 2. **General liability**



Source: WTW internal data

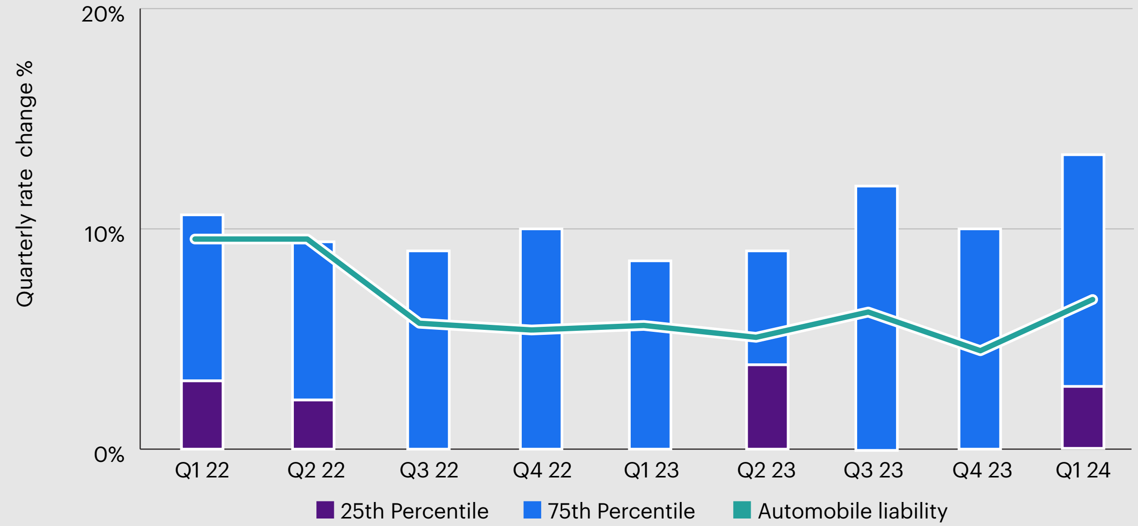
Automobile liability

With inflation, there has been an increase in auto repair costs (parts, materials, and labor) with costs rising between 5% and 8% from 2022 to 2023. Just as in general liability, over 50% of third parties are represented by counsel. For both litigated and non-litigated auto liability cases, there have been increases of approximately 10% from 2022 to 2023.

Umbrella/excess liability

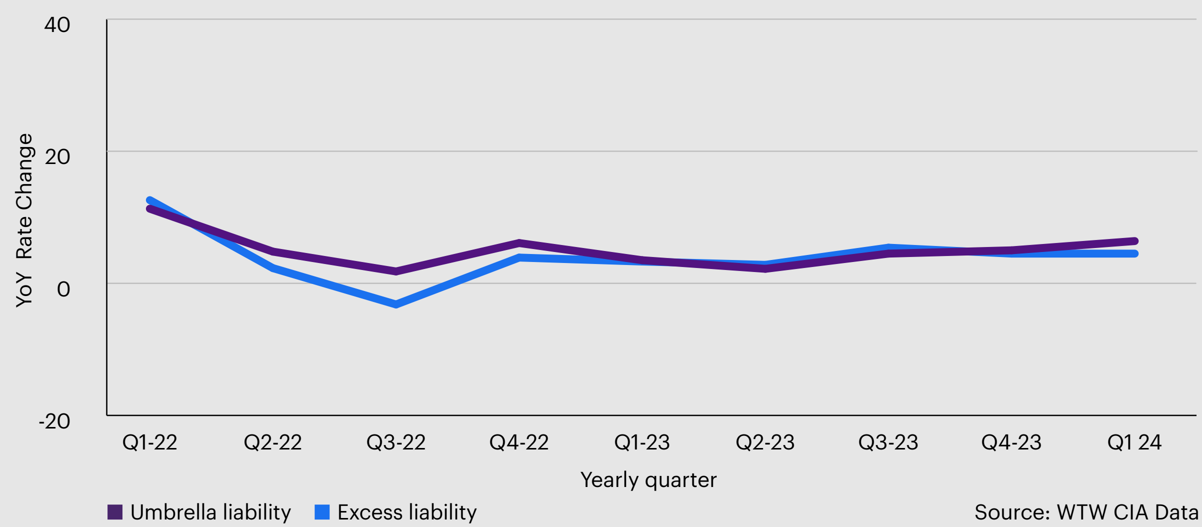
While the trend line appears stable, the frequency of severity continues to create pressure on rate and program structure for our clients. The average auto liability umbrella attachment point has increased from $1.7 million in Q1 2022 to $2.3 million in Q1 2024. The average Lead Umbrella limit purchased by our Q1 2024 clients was $10.6 million and less than 17% of Q1 2024 client renewals maintained an Umbrella limit of $15 million or greater.

Figure 3. **Automobile liability**



Source: Sedgwick Claims Management Services

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



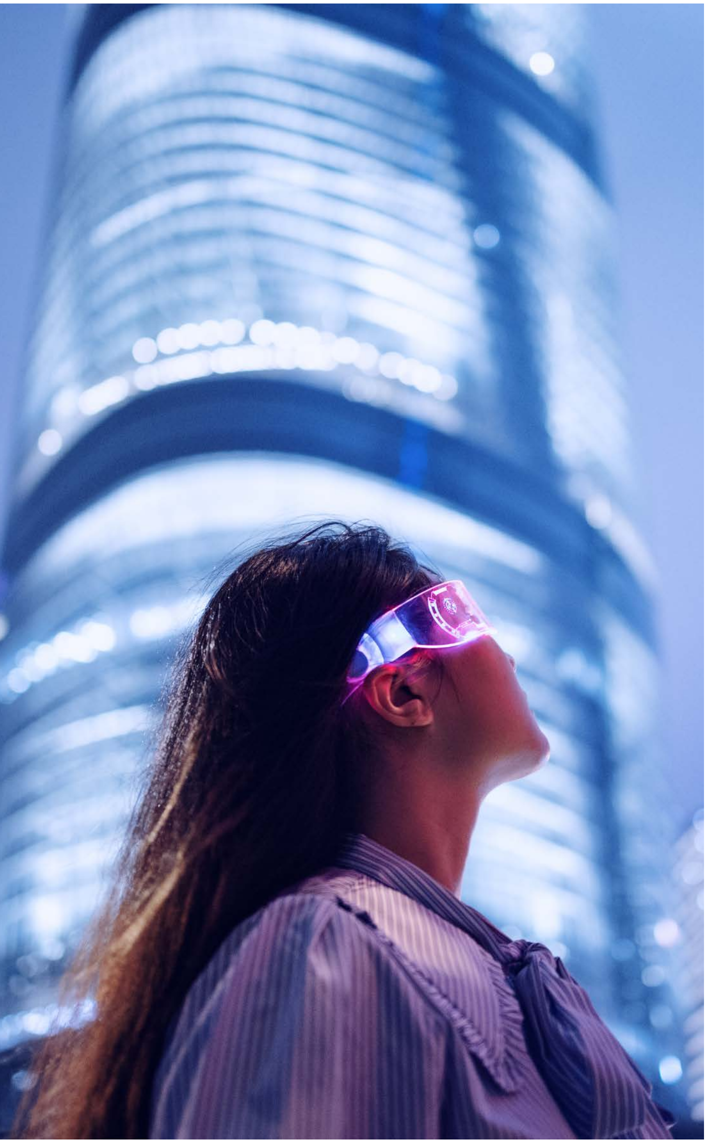
Source: WTW CIA Data

Autonomous vehicles — The question of liability

In the rapidly evolving landscape of autonomous vehicles (AVs) in the U.S., the legal and insurance sectors are grappling with the complex question of liability in incidents involving these highly automated systems. Traditional auto insurance models, based primarily on human error causing accidents, are increasingly inadequate for addressing accidents where decision-making is outsourced to an AI. This has prompted a reevaluation of liability frameworks to accommodate the unique challenges posed by AV technology. The emerging consensus suggests a shift toward a product liability model, wherein manufacturers might bear greater responsibility for incidents. However, this transition raises significant questions regarding the balance of liability between end users, manufacturers and potentially other involved entities, such as software developers or cybersecurity firms. As AVs move closer to widespread adoption, insurance companies are exploring innovative policies that reflect the reduced risk of human error, yet adequately cover the complex interplay of technical malfunctions, software glitches or unforeseen interactions with traditional vehicles.

For end users of autonomous vehicles, the shift in liability and insurance dynamics heralds a nuanced landscape of responsibilities and protections. As the burden of liability potentially moves away from drivers toward manufacturers and other entities, end users may face a changing insurance market with new forms of policies tailored to the specific risks associated with AV technology. These policies might emphasize coverage for cybersecurity threats, software integrity and system failures, rather than traditional driver-centric risks. Additionally, the delineation of liability could become contingent on the level of vehicle autonomy, with implications for user behavior and insurance costs. End users, therefore, stand at a crossroads of legal, ethical and financial considerations, navigating a future where their role in the driving equation is fundamentally transformed. This transition not only impacts individual drivers but also has broader implications for societal norms around vehicle ownership, road safety and urban planning. As we venture further into this new era of transportation, the ongoing dialogue between legal experts, insurers, manufacturers, and consumers will be crucial in shaping a coherent framework that ensures safety, fairness, innovation and responsibility.

The integration of autonomous vehicles into fleets presents a complex web of risks and liabilities, requiring risk managers to adopt a holistic and forward-looking approach, including contractual risk transfer. By focusing on comprehensive risk assessment, clear contractual liabilities, robust insurance coverage, and agile response strategies, organizations can navigate the challenges of AV adoption more effectively. Contractual liability demands careful attention to ensure that responsibilities and risks are clearly delineated among all parties involved, from software vendors to end users. In doing so, risk managers not only protect their organizations but also contribute to the broader goal of safe and responsible AV deployment.



Artificial intelligence impact on personal and advertising injury

In today's business landscape, generative AI's widespread adoption underscores its potential for enhancing operational efficiencies and capitalizing on lucrative market opportunities. With its ability to assimilate data inputs and generate diverse content formats, generative AI has attracted substantial investments, with the U.S. leading global AI funding at $22.4 billion in 2023. Businesses, including both AI system providers and end users, are held to elevated standards for mitigating AI's risks, including personal and advertising injury. While AI offers numerous benefits, a prudent approach necessitates a thorough understanding of its inherent perils prior to implementation.

Recent litigation highlights the risks associated with personal and advertising injury from AI applications. Retail giants like Macy's and Sunglasses Hut face $10 million in damages for wrongful arrest due to AI facial recognition errors. The New York Times' lawsuit against OpenAI and Microsoft and grievances from individual content creators against companies like Nvidia demonstrate the nuanced complexities of AI-related copyright infringements.

The impact of AI on general liability represents a similar emerging risk to that of biometric privacy litigation that is closely monitored with equal vigilance. Coverage for personal and advertising injury, including copyright infringement, may be limited or excluded from general liability policies.

To navigate this landscape effectively, businesses must maintain transparent communication with insurance brokers, demonstrating responsible practices and providing comprehensive underwriting information to secure optimal coverage, potentially requiring additional policies and the dovetailing of coverage among product lines.

Workers compensation experiences modification changes — NCCI, PA & NY

Employers with operations in the NCCI states (36 states and DC) will see a significant change to the NCCI Mod formula components that are used to promulgate their NCCI WC Experience Modification Rating factor during 2024. The revised formula changes will be rolled out on a state-by-state basis throughout 2024.

It is extremely important to be aware of these changes to the NCCI Mod formula components as they will impact how employers' 2024 NCCI Effective Date Mod is calculated and the resulting impact on their WC premium and state WC assessments and surcharges that are based on modified standard premium. Since the WC Mod is used at times as a "safety" indicator in some industries, these changes could also impact potential job bids.

The following summary outlines the NCCI Mod formula components that are changing, NCCI rationale for the change, NCCI's view on the impacts and NCCI's implementation process.

Macy's false arrest due to facial recognition tech
NYT Sues OpenAI and Microsoft
https://www.digitimes.com/news/a20240312PD219/nvidia-openai-copyright-lawsuit-ai-it+ce-new-york-times-software-big-data.html
https://www.bbc.com/travel/article/20240222-air-canada-chatbot-misinformation-what-travellers-should-know
https://www.independent.co.uk/tech/ai-artificial-intelligence-safety-uk-us-latest-b2454374.html

Summary of NCCI's States Mod changes for 2024

2024 NCCI Changes effective January 1, 2024 Item filing E-1409 and impacts	
What is changing?	**NCCI's rationale**
Split point (determines primary and excess) New state specific split points as opposed to national level (historically $18,500)	NCCI feels the already state-specific rates will better reconcile with state-specific split points and improves accuracy in determining exp mods
State per claim accident limitation (SAL) Equals the 95"' percentile of lost-time claims by state and generally decrease in magnitude	The new SALs make experience railing modifications less sensitive to large claims without sacrificing accuracy. This change also promotes year-to-year stability
Credibility parameters Recalibrated with more recently available data	NCCI uses credibility parameters (around payroll size) in the calculation of the weighting values and ballast values in the experience modification calculation. NCCI updated to improve equity within the Experience Rating Plan
G value (measure of average severity) Adjusted for SAL and 70% reduction of medical loss only claims	NCCI believes this will provide more consistency
Discount ratio (used in calc of expected losses) Will no longer differ for class codes in the same hazard classes.	NCCI thinks this simplification will create more stability in D-Ratios and expected loss costs year over year

2024 NCCI changes effective January 1, 2024 Item filing E-1409 and impacts	
Impact No statewide premium impact is anticipated from the changes proposed in this item. The overall average experience rating modification in each state is not expected to be impacted by these changes. Impacts to experience rating modifications at the individual employer level will vary and may be offset by changes in loss experience and routine updates to rating values. **Experience rating modifications are expected to change by less than +/–5% for most employers.** Overall, the proposed changes to the experience rating modification calculation are expected to produce Plan performance that is both improved and more comparable across states.	**Implementation** **This item will become effective for experience rating modifications with rating effective dates on and after each state's anticipated loss cost/rate filing effective on and after November 1, 2023.** For example, this item will become effective for experience rating modifications with rating effective dates on and after January 1, 2024, for states with loss cost/rate filings that have an anticipated January 1, 2024 effective date. Similarly, this item will become effective for experience rating modifications with rating effective dates on and after July 1, 2024, for states with loss cost/rate filings that have an anticipated July 1, 2024 effective date.

Employers with operations in Pennsylvania (PA) will also see a significant change to the Pennsylvania Compensation Rating Bureau's (PCRB) Mod formula components that are used to promulgate their PA WC experience modification Rating factor. The revised PA Mod component changes will take effect for all PA WC policies which renew on or after April 1, 2024.

The change to a variable split point from the single split (at $42,500) in addition to the other changes may cause a PA employer to see either an increase or decrease in their PA Mod depending on their poor or good PA loss experience.

The following summary outlines the PCRB Mod formula components that are changing.

Summary of PA Mod changes for April 1, 2024

Summary of filed changes		
	Current	**Proposed**
Plan	Single split point	Variable split point
Formula	$\dfrac{Ap \times C + E \times C \times L + E\,(1.000 - C)}{E}$ Ap = Actual primary loss, E = Expected loss, C = Credibility and L = Limitation Charge	
Eligibility	$10,000	$5,000
Credibility	0.283 – 0.938	0.690 – 0.974
Expected loss range	10,706 – 5,806,852	5,000 – 4,338,871
Split points	Single (1): $42,500	Variable (88): $10,000 -$300,000
Med-only claims	100%	100%
Capping%	+-25%	Max Mod and 40% swing limit (2-year Transition Period*)
Secondary capping	Yes (Rule #2)	Eliminate (After Transition Period*)

*Transition Period: The new Max Mod will apply, however the current capping rules (+/-25% swing limits and secondary capping) will also apply for a 2-year period to ensure mod stability during the transition to the new plan.

Summary of NY Mod changes

New York stopped participating in NCCI's Interstate Experience rating effective 10/1/2022. NCCI Experience Rating Modifications with an effective date of 10/1/2022 and later will exclude New York (NY) WC experience.

Please contact us if you have seen a rise in your NY Mod since 10/1/2022, and we can tell you why it increased. We can also help you to develop a NY Experience Mod reduction plan to get your NY Mod under control.

Trends

The following details the new NY Mod formula components:

New MOD Formula

$$\text{Mod} = \frac{Ap = Ee}{E}$$

Where:

Ap = Actual primary losses

Ee = Expected excess losses

E = Expected losses

Variable split point

A "Split point" is a dollar value that divides losses for each claim into primary and excess components. Further, split points vary by risk and area a function of each risk's expected losses in the experience period. Split points can vary as little as $1,000 for the smallest risk to as high as $170,000 for the largest risks. For example, using the abbreviated sample variable split point table to the right, a risk with $2,700 in expected losses will be assigned a split point of $1,500, whereas a risk with $90,000 of expected losses will be assigned a split point of $20,000. Under the new formula, only the primary component of actual losses is considered in the mod determination.

D-Ratios

D-Ratios are the ratios of primary losses to expected losses for each class and risk size.
By way of example, the abbreviated sample Class 2041 D-Ratio table to the right contains D-Ratios for use with class code 2041 (candy, chocolate or cocoa manufacturing).

Sample variable split point table

Expected loss ranges		Split point
From	To	
$0	$2,206	**$1,000**
$2,207	$2,892	**$1,500**
$84,072	$88,814	**$19,500**
$88,815	$93,724	**$20,000**
$3,951,100	$4,256,469	**$160,000**
$4,256,460	& above	**$170,000**

Sample Class 2041 D-Ratio table

Split point	D-Ratio
$1,000	0.046
$1,500	0.063
$19,500	0.383
$20,000	0.389
$160,000	0.984
$170,000	0.995

We have seen the expected loss rates (ELRs) across many of the WC class codes, particularly for the construction industry, decrease since 2020. For example, WC class code 5506 — street or road construction — paving or repaving and drivers.

The expected loss rate for 5506 in Texas was $1.57 in 2020 and it has dropped to $0.99 in 2024. This is a decrease of $0.58 per $100 of WC payroll or a 37% overall rate decrease.

The expected loss rate impacts expected losses, which is in the denominator or the bottom number of NCCI's Mod formula (actuals/expected). If the WC loss and payroll amounts in NCCI's Mod calculation remain similar from one year to the next, a NCCI Mod increase can still occur due to a **reduction** in the new expected loss rates. The NCCI Mod would increase due to the less favorable ratio of actual losses to the new *lower expected losses*.

The following are some of the reasons why a NCCI Experience Mod may increase:

- An overall increase in WC losses
- A change in Expected Loss Rates (ELRs)
- A change in job classifications, or the amount of WC payroll per classification
- A decrease in WC payroll
- A change in the primary/excess mix of WC losses
- A change in the amount of medical only claims
- An increase in the state loss limit
- A change in the weighting table
- A change in th ballast table

State:	Texas	Effective date of l ast update	7/1/2024
View data for payroll code		5506	

Code	ELR	D Ratio	Effective date
5506	0.99	0.38	7/1/2024
5506	1.27	0.35	7/1/2023
5506	1.38	0.35	7/1/2022
5506	1.35	0.35	7/1/2021
5506	1.57	0.36	7/1/2020

There are a lot of moving parts in the NCCI ERM formula:

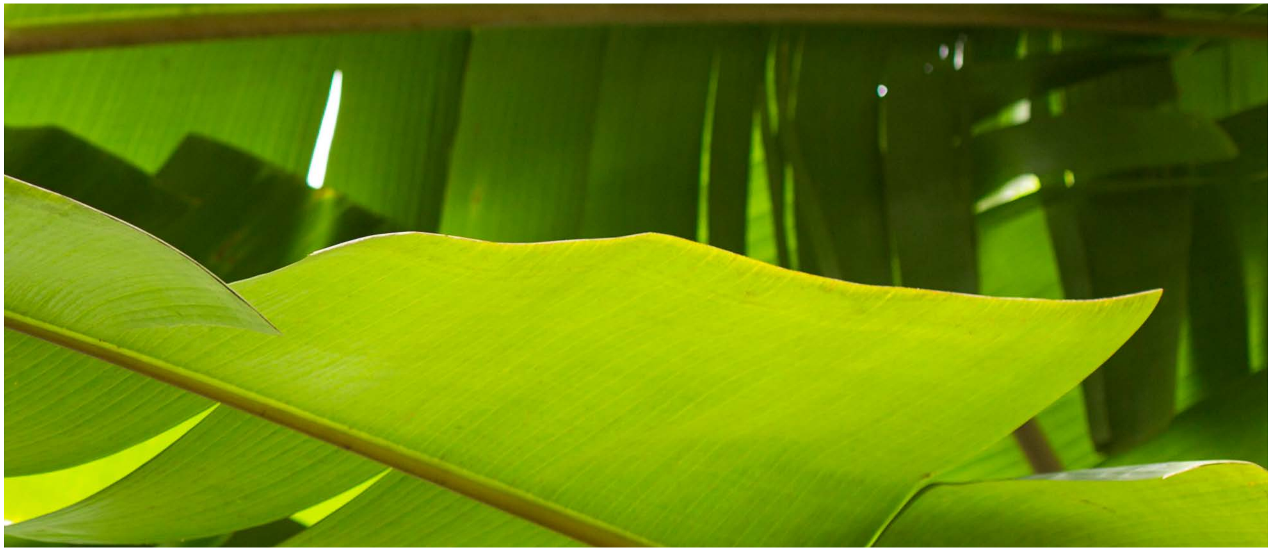
Primary losses + **Stabilizing value** + **Ratable Excess**

WC Experience Modification Factor =

$$\frac{\text{(Actual primary losses + (expected excess losses x (1-weighting value))+ ballast value + (weighting value x actual excess losses))}}{\text{(Expected primary losses + (expected excess losses x (1-weighting value)) + ballast value + (weighting value x expected excess losses)}}$$

Need help in understanding your WC Experience Mod?

We can help you to understand why your Experience Mod increased and help you to develop an Experience Mod reduction plan to get your Mod under control.



Contact

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

https://www.ncci.com/Articles/Documents/ER-MethodologyUpdate-Infographic.pdf
https://www.pcrb.com/industry-resources/pricing-programs/experience-rating-plan/
https://www.nycirb.org/officialdocs/exr/exr_pamphlet.pdf
https://www.modmaster.com/admin/ratingData

International casualty

Rate predictions

International liability
Flat

Key takeaway

The international liability marketplace remains stable thanks to a depth of competitive carriers that invest in tools and talent which help insureds deliver solutions in a complex landscape.

Capacity remains widely available from competitive and capable markets located in the U.S. and Europe.

- While related lines of business, such as U.S. and excess casualty, can influence international casualty renewals, buyers can anticipate a stable landscape in 2024 benefiting from carrier confidence and healthy competition. While it remains important to align strategy relative to coverage territory, jurisdiction and perhaps the carriers, the market remains strong and stable overall on pricing and terms.
- International casualty programs centralize the purchasing but also take on the administration, which can be significant depending on the mix of countries. Opportunities remain to leverage purchasing through multi-year agreements, partnering with carriers across multiple lines of business or purchasing a package placement. It should be noted that the property component of a package placement can attract catastrophe coverage underwriting depending on the countries involved.
- Buyers will be able to optimize results by communicating risk management protocols internally to their stakeholders, delivering clear and consistent underwriting data, structuring programs based on the unique needs of their business, and leveraging purchasing with carefully selected carrier partners.

Country-specific regulatory organizations, carrier wordings and insured business needs all play a role in the design and implementation of international casualty programs.

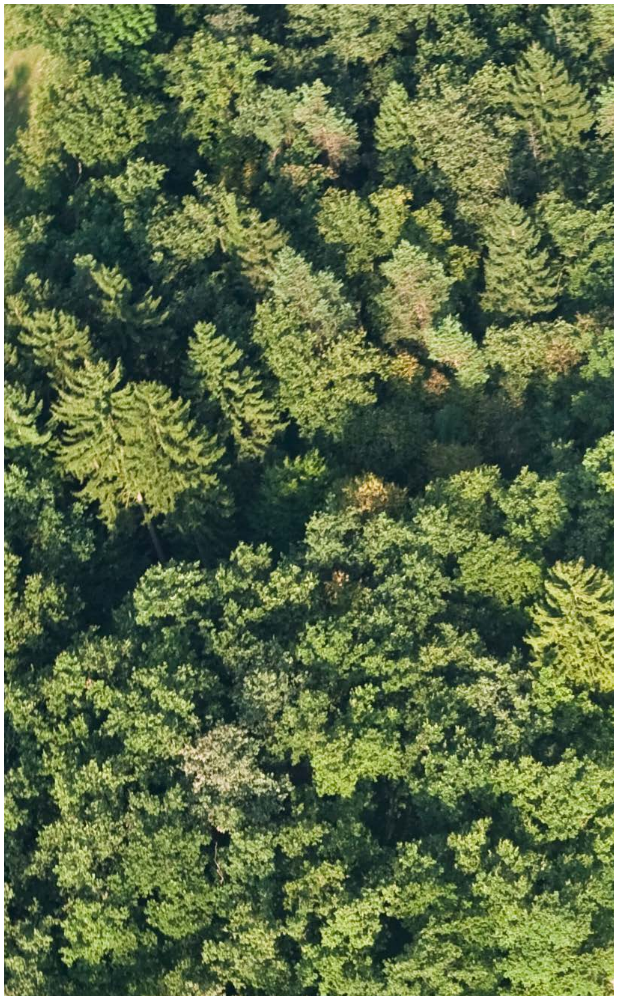
- International casualty programs allow for the ability to package other related casualty components, in the master policy as well as in-country. We recommend including employers liability at a local level in countries with significant employee counts; however, not all carriers are able to include EL locally, and certain marketplaces only allow for excess EL over local WC schemes. Other components, such as motor liability and pure financial loss, should be considered only where the risk warrants it.
- Following federal sanctions imposed in recent months in eastern Europe, global and regional carriers are restricting or eliminating coverage in Russia and Belarus. Coverage from global programs remains a challenge for buyers' subsidiaries in the region, given the unstable landscape. In these cases, insureds should seek independent coverage in the local market. Global program carriers can consider certain flexibility in the discussion of admitted coverage into Ukraine as well as offering excess/DIC limits around exposures in these countries to protect the insured's global HQ exposure.
- PFAS issues (per- & polyfluoroalkyl substances) remain visible for many insureds, particularly for those in the manufacturing and retail space, and certain buyers are asked to complete coverage questionnaires to avoid exclusionary language. Insureds can improve their results by offering carriers some detail about their product mix and a description of any risk management steps they're taking to mitigate product risks.

External factors play a significant role in the preparation and execution of global programs, with documentation remaining a focal point.

- Enforcement remains prevalent around compliance with local regulations, as global buyers become aware of rules, such as country exportability, cash-before-cover, local policy coverage territory and occasional audits. The key for global buyers is to work with their broker and carriers well in advance of renewals to outline the required documents, and to factor these issues into program structure.
- In preparation for the implementation of international programs, there are often several AML & KYC documents — and documents will vary depending on the mix of countries involved. It can often take several weeks to identify and complete these documents, so we recommend the elevation of these items prior to renewal; some markets are making them available to insured HQs to get out ahead of the work.
- Given the administrative work required with many international programs, carriers look to distinguish themselves beyond just coverage and price, investing in tools and data to reduce the administrative burden where possible. Highlighting the locations where AML & KYC documents are required ahead of renewal can reduce the surprises later and tracking the local premiums and policies will ensure smooth renewals.

Contact

Andrew C Estill
Global Services and Solutions
Corporate Risk and Broking
+1 312 288 7845
andrew.estill@wtwco.com



Middle market

Rate predictions for 2024

Favorable risks

Property +2% to +10%	**General liability** Flat to +5%	**Automobile** +10% to +12%
Workers compensation –5% to flat	**Umbrella** Flat to +10%	**Excess** Flat to 10%

Challenging risks

Property +10% to =20%	**General liability** +10% to +15%	**Automobile** +15% to +25%
Workers compensation +5% to +10%	**Umbrella** +10% to +15%	**Excess** +10% to +15%

Despite a year of significant volatility, particularly in the property market, we ended 2023 with positive signs that stability is on the horizon. In 2024, casualty market conditions entered the forefront of renewal discussions as insurers face pressure on liability reserves.

Key takeaway

While the property landscape has continued to trend favorably, carriers have refocused 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. Property rate adequacy and scrutiny on valuation will remain paramount, but the market corrections from years past have already had a positive impact on insurer profitability, which should lend itself to more capacity and stabilized property rates. Amid these shifting dynamics, we still foresee a competitive market for favorable risks, while challenged accounts (e.g., CAT-exposed, heavy losses, habitational) will feel continued pressure to differentiate their risks to achieve measured results.

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 MM teams to offer alternative program structures to this client base.
- Several middle market carriers have implemented an industry specialization strategy and are moving away from a generalist model. This specialization has led to the creation of bespoke products and enhancement for target industries.
- Carriers have introduced more accessible, specialized offerings in the middle market space, such as reputational risk, pandemic, active assailant and parametric CAT coverage. These solutions can provide affirmative coverage in response to emerging risks.
- Two-tiered marketplace dynamics persist. Carriers are eager to keep "desirable" industries and classes of business out of the market, and we're 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 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 CAT-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.

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 accounted 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.
- Property valuations continue to be a major concern for markets given record high inflation, labor shortages, construction demand and supply chain concerns. Corrective action is being taken via rate, increased values and coverage wording, such as specific limits or margin clauses (e.g., OLLE). For accounts where valuation was historically untouched, the corrections are more dramatic.
- January 1, 2024 treaty renewals were 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. As a result of these major rate corrections and increased retentions, reinsurers recorded near record profitability for 2023.
- 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 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.
- 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.
- 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, this is expected to shift in the next few quarters as reinsurance pressures amplify.
- 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 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.

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

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 following accidents thus directly impacting claim costs. Paradoxically, claimants are receiving less and less while attorneys' fees increase.[2]
- 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."
- 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.

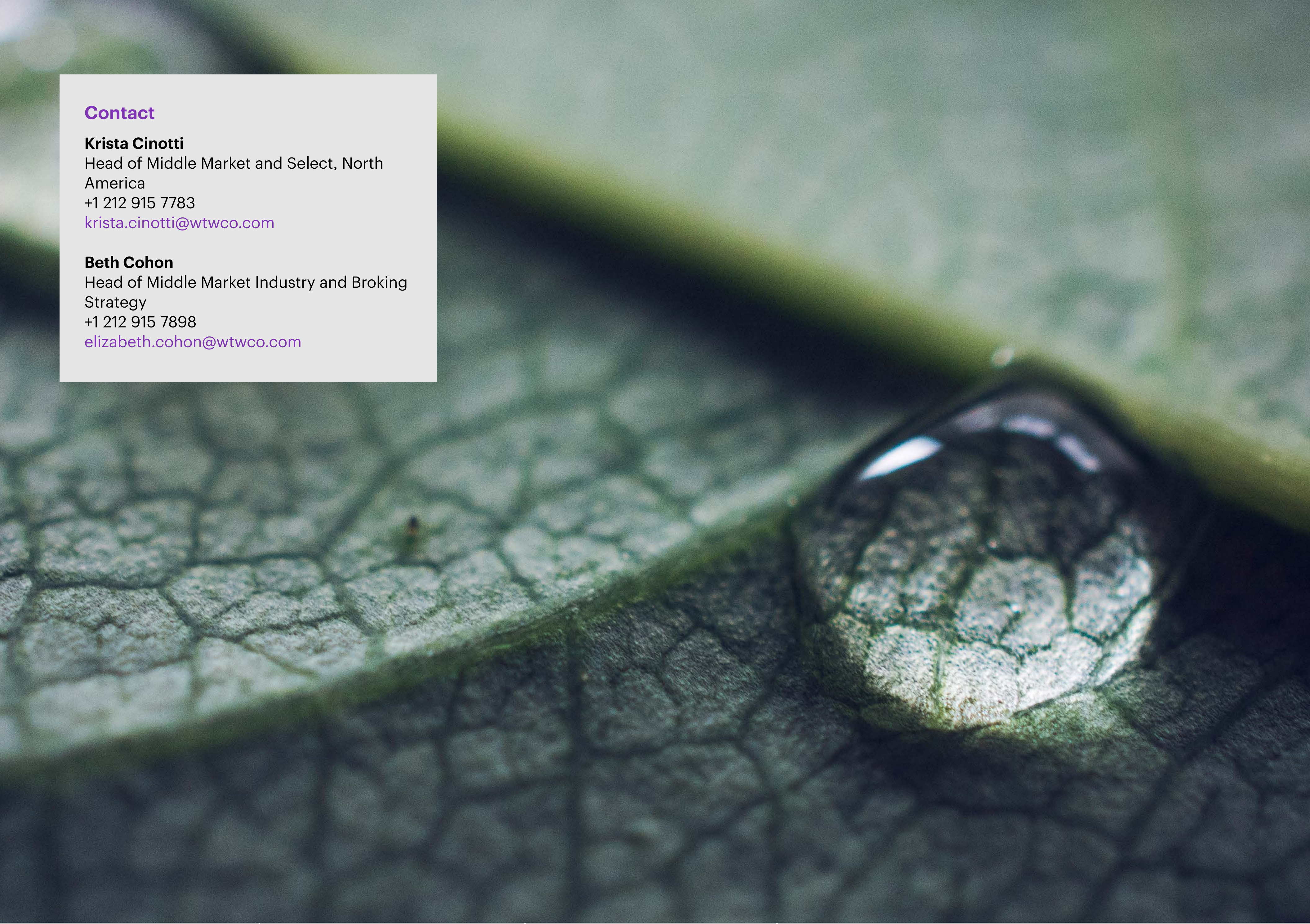
Workers compensation

- 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.
- 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 WC claims over the past few years.
- Carriers are strong proponents of technological advancements that can improve worker safety and claim outcomes, such as automation, wearable devices and equipment and AI solutions.
- 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.

Umbrella and excess liability

- Additional capacity is being carefully reinstated by umbrella and excess markets to gain a competitive edge. This capacity deployment coincides with stringent underwriting, and we expect this to continue.
- 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 (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.

[2] 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



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 Strategy
+1 212 915 7898
elizabeth.cohon@wtwco.com

Middle market: Industry spotlight – Healthcare

Rate predictions for 2024

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

Property

Loss control visits continue to be frequently required prior to quoting, especially for hospital systems with higher values. Markets are becoming more focused on understanding the extent of high-value medical equipment, how it is protected and where it is stored.

Auto liability

Patient transport exposure is underwritten stringently, and carriers are comfortable with an incidental amount, if any. Both heavy patient transport and emergency transport exposures are generally placed separately from main fleet programs. Markets for these exposures are limited. Monoline placements are extremely challenging to place.

Workers compensation

Underwriters continue to focus on controls, safety culture and claim reconciliation or lessons learned post-loss (e.g., after a workers comp claim involving an employee improperly lifting a patient, client engages with risk control and implements a safe patient handling program along with additional training).

Contact

Adam Widdop, CPCU
Middle Market Broking
Leader — Healthcare
M: +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

While the marketplace remains vigilant of the impositions felt from regulatory changes, threatening economic conditions, rapid technological advancements and emerging risks, Canadian casualty insurance buyers can cautiously expect to remain in a consumer-friendly marketplace amid the lengthening of a moderated marketplace.

Casualty

General liability

- Carriers are challenged to adopt alternative or multiple exposure metrics to rate and price against in light of the battle to manage the increases in inflation.
- A noticeable resurgence in multi-line product and cross-sell strategies is emphasizing the establishment of house accounts to capitalize on limited new business opportunities, aiming to strengthen, leverage and cultivate long-term relationships.
- Considerable investments into data and analytics nurture more Canadian-based predictive modeling, construct client integrated solutions and design personalized experiences for clients in support of retention strategies that extend beyond pricing.
- A tightening of contractual liability management focuses on strong risk transfer solutions.
- The growing trend toward implementing self-insured retention structures, application of letters of credit, and use of aggregate deductible arrangements addresses challenges in claim frequency and severity, especially for complex or specialized risk classes.

Automobile liability

- Heightened popularity of the implementation of telematics, usage-based insurance plans and the tracking of distance traveled challenge carriers to consider whether per-vehicle rating represents exposure accuracy.
- We see an expanded focus on use of eco-friendly/electric vehicles, share-economy structures and employing third parties to reduce fleet operation costs, eliminate supply challenges, and minimize the high demands of fleet maintenance.
- There remains an evident and persistent deterioration in claim trends, highlighted by a significant increase in auto theft and total auto losses, coupled with rising repair and replacement costs attributed to advanced technologies included in most vehicles.
- Carriers closely monitor regulatory developments and work with fleet operators to ensure compliance and mitigate regulatory risks, developing proactive claim reporting procedures, accident investigation protocols and loss prevention measures.

Umbrella/excess liability

- The pace of increases observed on average claim settlements will push insureds to re-evaluate total limit buy given the impact inflationary factors have in challenging values formerly considered sufficient.
- Increase in average underlying automobile attachment points is necessitated by umbrella/excess carriers. Carriers continue to limit their appetites with programs inclusive of U.S. auto exposure.
- Continued entrance of new capacity offers additional alternatives and creates increased opportunities for larger line sizes deployed on excess layers.

Innovation becoming the cornerstone for new growth and enduring customer retention.

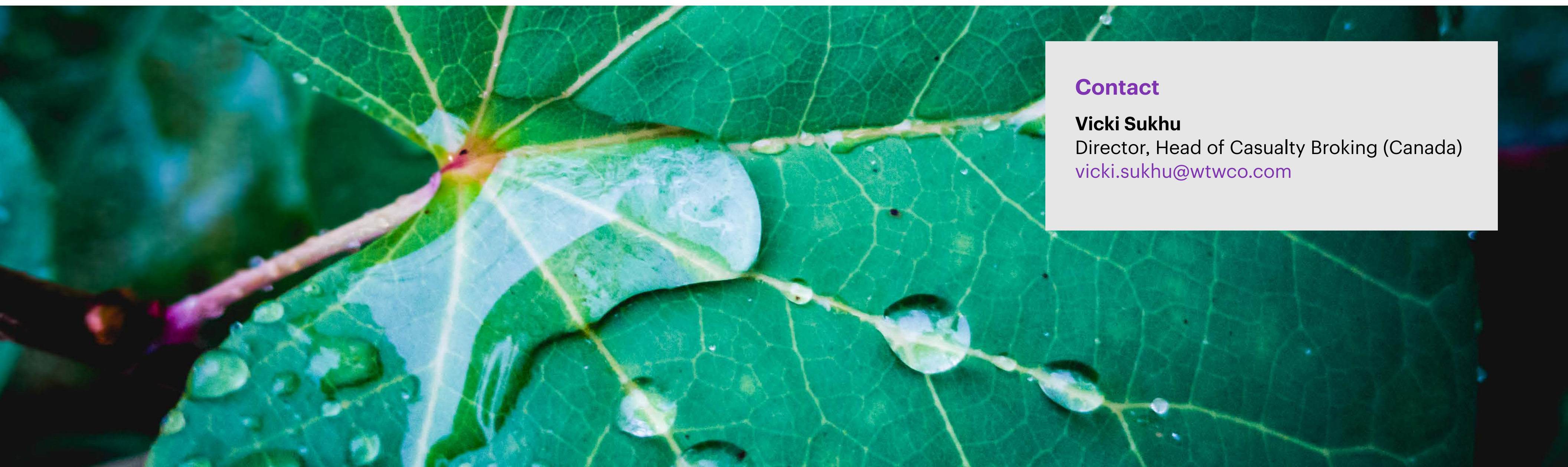
- Carriers continue to explore new ways to enhance customer loyalty and satisfaction through more personalized insurance products and intelligent pricing based on individual behavior and risk profiles.
- Industry continues to undergo digital transformation, including evaluating the value of online policy purchasing, digital claim processing, electronic document management, expanding self-service options, real time access to live data and mobile app integration for customer interactions.
- In their development of new insurance products and services, carriers address evolving risks which primarily focus on supply chain disruptions, emerging technologies and the aftermath of pandemic-related liabilities.

Heightened attention is given to how regulatory bodies and Canadian law will continue to impact and impose on the future of the insurance landscape.

- With increased prevalence of data breaches and cyber threats, regulators are expected to enforce stricter requirements on carriers regarding data privacy, cybersecurity measures and breach notification protocols.
- Climate change, environmental law and sustainability regulations are projected to tighten the protocols carriers will face in the assessment and disclosing of climate-related risks, mandates to integrate climate risk into underwriting and investment practices and the promotion of sustainable insurance solutions — the implementation of which will add complexity and influence carriers' underwriting criteria, risk assessment models and product offerings, ultimately felt by the insured.

Marketplace stability and downward pricing pressures will be tempered by the outcomes of another projected record-breaking Canadian wildfire and natural catastrophe season.

- Expectations for a challenging wildfire season in 2024 will impact coverage offerings and pricing throughout the latter half of the year, spurred by the conclusion of a mild winter and an early start to the wildfire season.
- With the increasing frequency and severity of natural disasters, prioritizing long-term sustainability is paramount. Carriers are diversifying their portfolios and taking precautions when investing in high-risk classes and regions.



Contact

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

Canada property

Rate predictions for 2024

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

Key takeaway

2024 has seen the return to stable reinsurance treaty renewals at both January 1 and April 1. January 1 saw pricing for property capacity remain relatively flat to modest rate increase for non-cat exposed accounts, and terms and conditions remain consistent from 2023. The positive trend continued at April 1, with global reinsurance capital increasing to peak levels. The increase in stable reinsurance capacity, combined with improved insurer results from market pricing corrections means insurers are now looking to deploy capacity and grow their book, thus driving competition to retain current insureds and underwrite new business. Despite this mandate to grow, insurers are still being diligent with their review of natural catastrophe perils, with a focus on valuation as inflation still looms.

Increased capacity in the Canadian market is driving competition.

- Insureds with low natural catastrophe exposure and good loss histories can see rates range from −5% to 5%, depending on the industry and limits purchased, driven largely by increased competition; clients with challenging asset profiles and those with poor loss records are seeing larger increases as there is less competition for these risks.
- MGAs (managing general agents) continue to enter the market with a focus on specific coverages and industry sectors, providing capacity for distressed areas such as residential/frame property, and also providing an opportunity for direct insurers to deploy capacity behind the MGA structure.

Insurers maintain heightened focus on natural catastrophe perils.

- The start of Q2 means increased focus on key natural catastrophe perils in Canada, most notably flood and wildfire.
- Insurers will continue to adjust their underwriting toward wildfire exposure, including specific wildfire deductibles and restricted coverage for locations within a certain radius of an active wildfire.
- For insureds with exposures in British Columbia and Quebec, insurers continue to model the earthquake zone, and charge rate and apply increased deductibles accordingly.

Inflation, valuation and loss control remain in focus for insurers.

- Inflation continues to play a key role in renewals, as insurers look to ensure that values are appropriate. Insurers have seen an impact to their losses as inflation impacts the cost to replace and repair property. Where insurers do not feel confidence in the values reported, they will look to apply margin clauses (5% to 10%) or require an appraisal as a subjectivity. Insurers continue to apply business interruption volatility clauses to manage commodity price fluctuation, typically ranging from 10% to 15% with both an annual and monthly cap.
- Insurers continue to focus on supply chain, and the impact it can have from a contingent time element perspective across their portfolios. Insurers are requesting additional details from both a customer and supplier perspective and will manage the exposure via either sublimit or exclusion.
- Loss control and site surveys are also in focus and critical for insurers being able 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.

Contact

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

Bermuda

Rate predictions for 2024

Casualty

Low-hazard	High hazard or loss impacted
Flat to +10%	+20%

Property

Non-CAT	Distressed or CAT exposed
Flat to +5%	+5% to +10%

Financial Lines

EPL	D&O	Cyber
Flat to +5%	–15% to flat	–20% to –5%

Key takeaway

Bermuda's insurance market continues to address complex challenges with innovative Bermuda-only solutions, including our Bermuda-only construction facility, the ubiquitous punitive damages coverage, Bermuda-only Wage & Hour product, and the WTW Bermuda CyProtect form with the capability to offer DIC fines and penalties coverage. The emerging Executive Compensation Clawback Coverage also exemplifies Bermuda's unique value proposition in providing advanced solutions to global insurance challenges.

Casualty

The Bermuda casualty insurance market remains a dynamic and evolving landscape, characterized by disciplined underwriting practices and a focus on managing aggregates.

- WTW Bermuda has launched a Bermuda-only construction facility offering $25M (minimum) to $50 million (maximum) of capacity in excess of the lead, with follow-form of choice of law coverage.
- The injection of an additional $30 million in capacity from two new entrants, (offering $15 million in capacity each pending regulatory approvals), is greatly anticipated.
- Nuclear settlements: These large settlements are driving additional rate pressures. Nuclear settlements can happen quickly and are often driven by the twinned fears of reputational harm and social inflation, resulting in higher-than-normal and faster-than-normal settlements.
- Casualty capacity continues to be broadly stable, with only slight capacity retrenchment from some laggard markets (e.g., reductions in deployed limits on towers from $25 million to $20 million or from $10 million to $7.5 million). No Bermuda markets are deploying more capacity on renewals.
- Terms and conditions are stable, although PFAS continues to be an issue. There have been varying degrees of market response, including increased underwriting inquiries, underwriting questionnaires and exclusionary language.

Property

The 2024 outlook indicates a nuanced landscape of rate predictions, capacity shifts and underwriting discipline amidst a competitive and evolving environment. January Reinsurance renewals were “orderly” compared to the dislocation of 12 months prior. However, while pricing was stable, insurer retentions remained at elevated levels. As such, insurers will be keen to maintain terms and conditions and look for opportunities to mitigate downward pressure on rates.

- **Underwriting discipline:** Underwriters will look to maintain underwriting discipline with continued emphasis on holding terms and conditions. With particular emphasis on:
  - Rate adequacy (is the risk appropriately priced, can it bear a reduction, or is an increase warranted)
  - Risk selection (while growth is being sought across the board, market share is not a measure of success for all – profitability and margin remain critical metrics for many)
  - CAT definitions and hours clauses, deductible adequacy, and sub-limits
  - Replacement cost valuations: Markets remain focused on declared values despite relatively lower building cost inflation – a robust valuation methodology is usually needed to avoid restrictive policy language, i.e. average or margins clauses
  - Enforcing cyber and communicable disease exclusionary language
  - Understanding global supply chain issues/CBI exposures

- **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.
  - Demonstrating progress on risk recommendations can be a differentiator with incumbent and new markets.
  - ESG is increasingly part of the underwriting review process.
  - Accurate values are crucial to avoiding coverage restrictions.
  - Underwriters continue to monitor non-traditional losses and their impact on profitability, with particular emphasis on "non-modelled" exposures, i.e. flood, wildfire or hail.

- Lastly, although there were no major industry losses in 2023, the steady stream of loss events continues to erode underwriting profitability. It remains to be seen how long underwriters will be able to maintain the discipline of the past few years in what is undoubtedly a more competitive environment than we have seen for several years.

Financial lines

Competition amongst financial lines placements remains strong. Most established financial lines products, except wage and hour and lawyers E&O, are in softer market conditions. Many factors, including industry and loss history, will determine the extent of rate increases or decreases.

- **EPL:** Rates are expected to remain stable, particularly for risk profiles without losses. Bermuda's market is witnessing stable capacity, offering $15 million lines ($10 million in some instances) and typical retentions between $1 to $5 million. Additionally, many markets seek separate retentions for class actions, especially in California. Of note is a new entrant adding $5 million in Q1 2024, targeting employers with less than 5,000 employees by offering retentions as low as 250,000 and affirmative punitive damages coverage.
- **D&O:** The expectation is a continued decreased rate environment into 2024. However, achieving further cuts may be challenging due to incumbents resisting going below their minimum rate adequacy requirements for capital deployment. Insurers have been more willing to expand coverage than give back premiums in this softer rate environment. Several Bermuda insurers are poised to introduce a niche Executive Compensation Clawback Coverage in response to new SEC regulations that create an indemnification challenge for compensation clawback. This product, formerly available only as an endorsement to Side A policies, is set to launch in early Q2 2024.
- **Cyber:** the market continues to stabilise, driven by competitive efforts among insurers to retain renewals and achieve growth despite potential shifts due to the expanding cyber threat landscape. Material rate reductions, particularly in the excess market, are observed for the second consecutive year. The introduction of CyProtect Bermuda, a new excess follow-form product supported by all 11 traditional cyber markets, targeting large and complex risks and offering DIC fines and penalties coverage.

Contact

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

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

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

Professional liability lines

Click on the buttons to view each major product line

Cyber risk

Directors and officers liability

Employment practices liability

Errors and omissions

Fidelity/crime

Fiduciary liability

Financial institutions — FINEX

Cyber risk

Rate predictions

Cyber risk
–5% to flat

Key takeaway

While market stabilization has continued into 2024, largely due to intense competition among cyber markets looking to retain their renewals and meet aggressive growth goals, conditions could transition to a firming market later in the year due to the still expanding cyber threat landscape and the impact of recent significant cyber events.

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 into 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 competition. Excess carriers will undercut each other if given the opportunity.
- 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 grey area between yes/no within the applications.

While the average ransomware payment decreased in the latter half of 2023, overall ransomware incidents are still on the rise.

- According to Coveware, the average ransomware payment decreased from the third to fourth quarter of 2023, however; ransomware incidents were once again on the rise. The 2023 FBI Internet Crime Report documented over 2,825 complaints, an increase of 18% from 2022.
- According to the 2023 IBM Cost of Data Breach Report, the average cost of a ransomware attack in 2023 was $5.13m, an increase of 13% from 2022.
- Ransomware affected 66% of organizations in 2023. *Sophos The State of Ransomware 2023*

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 and the use of artificial intelligence.

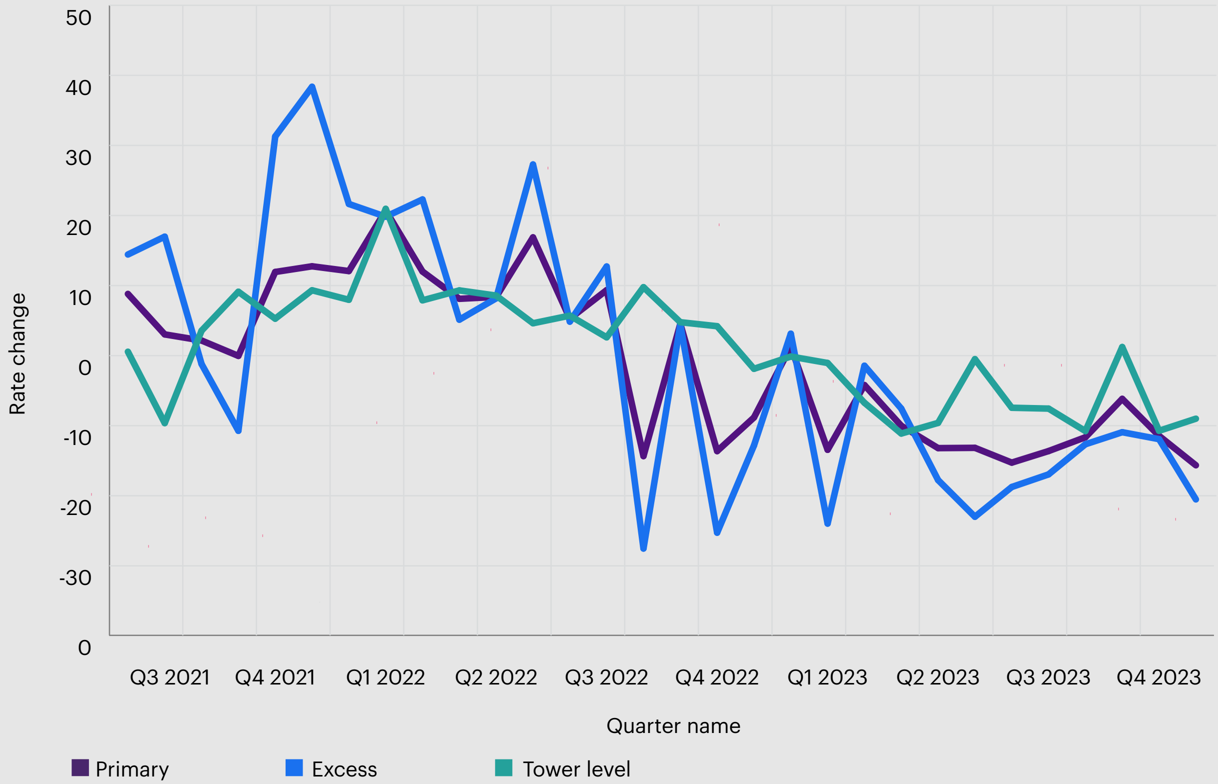
- There are a wide variety of approaches to wrongful collection coverage, as markets assess how biometric information legislation, as well as chat bot and meta pixel litigation, increased exposure to certain organizations.
- Markets are starting to monitor how clients use artificial intelligence and how this technology can lead to new exposures. However, we have not yet identified examples of the implementation of exclusions arising from the use of AI.
- The Russia-Ukraine and Israel-Palestine conflicts have caused cyber markets to reassess their war and territorial exclusions, especially as cyber reinsurance treaties come up for renewal this year. The focus is on greater market cohesion in 2024 so buyers can find consistency in coverage, given varying war risk appetites.
- The SEC adopted rules on July 26, requiring that public companies disclose cyber security breaches within four days after a determination of a material incident, making it imperative for organizations to have strong cross functional processes in place to ensure that key stakeholders can quickly make a determination to meet these new reporting obligations.

Specific industry trends

- **Financial institutions:** The Moveit transfer application vulnerability had a significant impacton 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 tends to be more competition among markets for this business.
- **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 networks 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.
- **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, relying 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 underwriter 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.

Global Cyber Rate Change through December 2023

Figure 1. **North America specific charts**

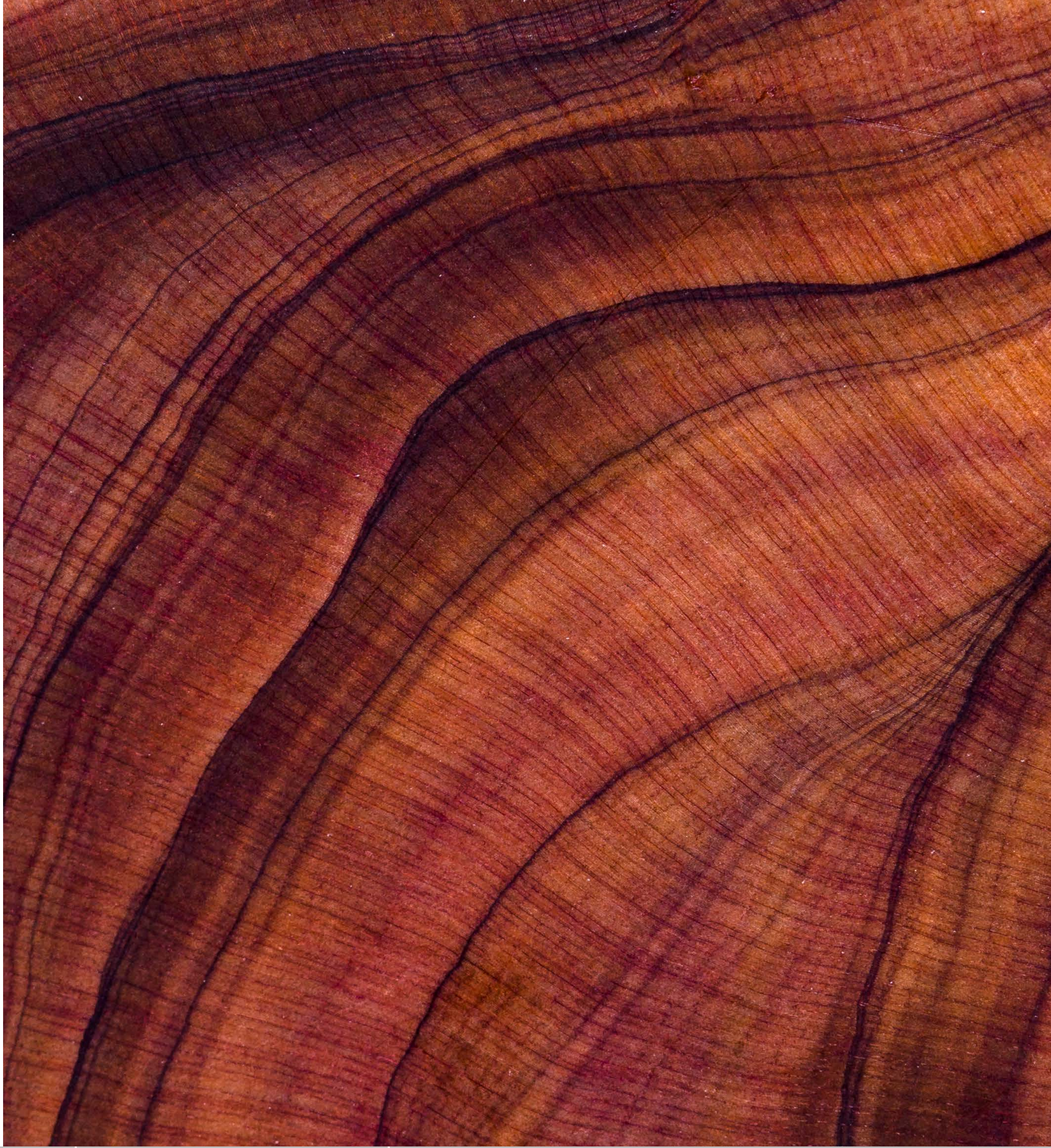


Source: WTW internal data

Contact

Jason Warmbir
FINEX NA Cyber/E&O Thought & Product Coverage Leader
+1 312 607 0096
jason.warmbir@wtwco.com

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



Directors and officers liability

Rate predictions for 2024

Stable risk profiles

Primary (public/ private co.)	Excess/Side A DIC (public co.)	Excess/Side A DIC (private co.)
–10% to flat	–10% to flat	–10% to flat

Challenged risk profiles

Non-U.S. parent, U.S. exposures	Liquidity challenged	IPOs and SPACs	Challenged industries

Case-by-case basis; potential increases; nevertheless, capacity remains available

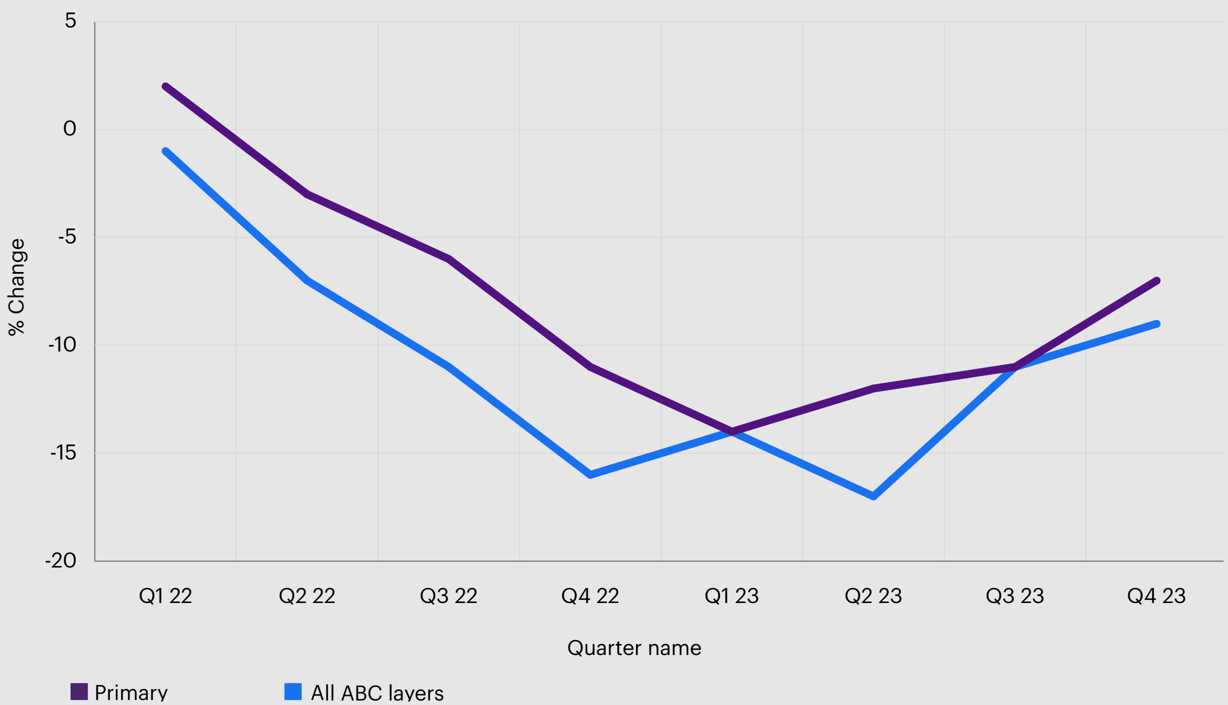
Key takeaway

Availability of abundant capacity continues to drive competitive market dynamics, but where insureds had experienced material premium relief in previous renewal cycles, the extent of decreases may begin to taper off.

Underwriting

- **Capacity:** The influx of capacity into the market since late 2020 created competition and yielded rate deceleration throughout 2021 and 2022. In 2023, we experienced flattened-to-reduced D&O premium outcomes, which we expect to continue through the remainder of 2024.
- **Rate environment:** We expect modest rate decreases to continue in the first half of 2024; however, we foresee challenges obtaining decreases with incumbents, particularly on excess, where incumbents are likely to hold the line on continued rate deterioration.
- **Focus on coverage:** In a softer rate environment, insurers may be willing to expand coverage rather than give back premium. We recommend our clients explore the potential broader coverage during their 2024 renewal cycles.
- **Private and non-profit companies**
  - **Primary:** Insureds with low and/or stable risk profiles are seeing enhanced competition, with a minimum of flat renewals and decreases when marketed. While decreases may still be available, we don't anticipate some of the more drastic rate decreases we saw in 2023. Carriers are now starting to offer guaranteed renewals as well as multiyear policy terms, with a refreshed annual aggregate. The market for high and/or distressed risk profiles is improving but can still be challenging.
  - **Excess:** For larger risks, excess markets have lowered their increased limits factors (ILFs).
  - Retentions: For challenged risks and those with large exposure increases, 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.

Figure 1. **D&O premiums**



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

Industry-specific D&O rate predictions and notes

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

Industry notes

- **Aerospace:** With recent events in the aerospace industry, there is underwriting scrutiny surrounding plane manufacturers and airlines when planes must be grounded. There are other underwriting concerns in the aerospace sector, such as leverage/debt scrutiny, regulatory (FAA) and union contracts. An ability for an insured to appropriately respond to such underwriting concerns will be reflected in their 2024 renewal outcome.
- **Healthcare:** Rate outcomes may potentially be more than specified above, depending on claims or M&A activity. There remains some pressure on anti-trust retentions and co-insurance.
- **Life sciences:** There is still significant downward pressure on premiums, but renewal outcomes may depend 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 past higher IPO retentions are regularly being reduced.
- **Natural resources:** There has not been significant deviation in the natural resources vertical recently; however, most companies are exposed to commodity prices. Some hedge but others allow themselves to be proxies for the underlying commodity. Given insurance pricing today there is likely less potential for improved pricing and more potential for a tougher market if there is a collapse of oil prices.
- **Technology, media, telecommunications:** Semiconductor-specific companies may be in a more challenged space, continuing to see supply chain issues. They generally start at a higher price point compared to other technology companies.

Developments and market driving issues

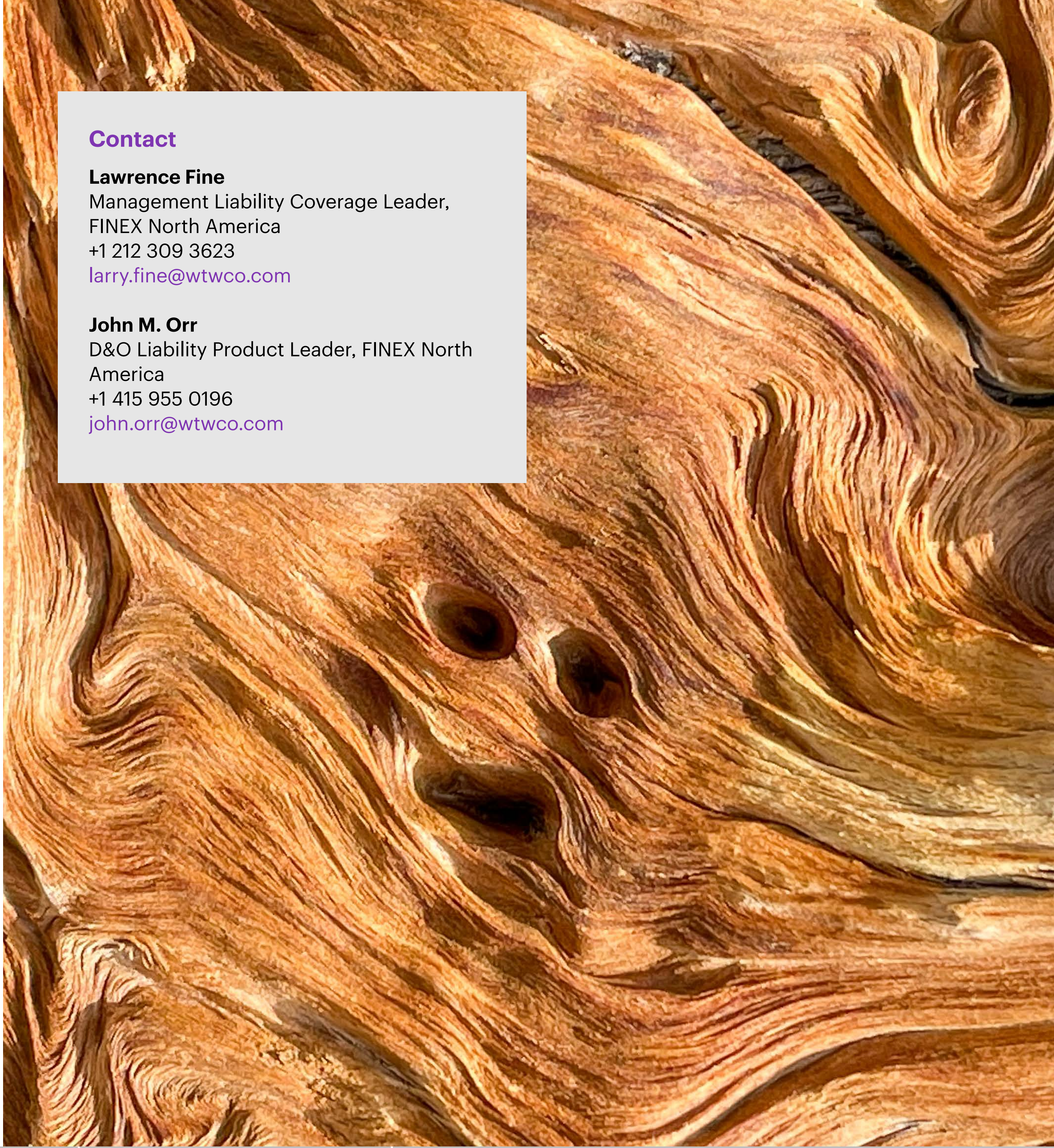
- **Securities class action (SCA) filing frequency and severity:** SCA filings increased in 2023 to 215, nominally up from 208 filings in 2022, with IPO litigation dropping from 50 cases in 2022 to 19 last year, presumably due to diminished IPO activity in recent years (Source: Cornerstone Research and Stanford University, Securities Class Action Filings: 2023 Year in Review). Average SCA settlements nudged up from $39 million in 2022 to $46 million in 2023, while median settlements remained steady at $14 million in both 2023 and 2022 (adjusted for inflation). 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.
- **AI as a D&O risk**
  - 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 two enforcement actions against companies 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.
- **The broader economy has been resilient, yet some macroeconomic factors continue to impact business:** The U.S. economy has largely recovered from previous pandemic-related complications. Fears of a recession have diminished, GDP growth has been strong, low unemployment has been lasting, and stock market indices have hit record highs. Nevertheless, interest rates, global hostilities, supply chain and labor supply concerns, as well as lingering inflation are factors that continue to weigh on businesses, with Chapter 11 bankruptcy filings increasing almost 52% year on year. To the extent securities litigation can arise — and has arisen — relative to the adequacy and accuracy of risk disclosures for public companies, D&O risk factors (and insurer losses) are potentially impacted.

- **ESG: SEC's final climate risk disclosures rule**
  - The U.S. Securities & Exchange Commission issued its final climate risk disclosure rule on March 6, 2024. The rule, as adopted, requires registrants to provide detailed climate-related disclosures in their annual reports and registration statements. The rule rolls back several mandates included in the SEC's 2022 proposed version of the rule, including elimination of the mandate of disclosing upstream and downstream greenhouse gas emissions (GHG) "in the value chain," the so-called "Scope 3" disclosure requirement.
  - The final rule also attached a materiality standard to disclosures of a company's other direct and indirect GHG emissions (Scope 1 and Scope 2 emissions).
  - The rule further introduced disclosure requirements relating to board oversight.
  - Within days of the final rule's issuance, at least nine lawsuits were filed in six different federal courts on behalf of interests ranging from an energy company group asserting the rule goes too far to the Sierra Club asserting the rule doesn't go far enough. On March 15, the Fifth Circuit Court of Appeals issued an administrative stay, putting the rule temporarily on hold pending the challenge. All challenges will be heard on a consolidated basis by the Eighth Circuit Court of Appeals in St. Louis.
  - The SEC is now among a number of authorities around the world issuing climate-related disclosure mandates, including the European Union and California, both of whose rules are widely considered to be stronger than the SEC's final rule. Note: California's rule also is being challenged.
  - On the other side of the ESG divide, anti-ESG backlash at state and federal levels has presented conflicting pressures relating both to climate and diversity, equity and inclusion. Such backlash has included not just legislative efforts to restrict companies from implementing ESG protocols but also shareholder proposals to limit ESG policies.
  - Shareholder litigation has arisen on both sides of the issue. Plaintiffs recently filed two lawsuits against U.S.-based airlines in connection with their purported actions supporting ESG-related initiatives. In another case, the Superior Court for the State of Delaware denied a plaintiff's books and records demands based on, among other grounds, the board's lawful exercise of its business judgment in implementing corporate policies.

- **Fiduciary duties of controlling stockholders** (In re: Sears Hometown and Outlet Stores, Inc. Shareholder 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 an option to other avenues for going public, including traditional IPOs.

- **Final SEC cybersecurity rules**
  - On the heels of the SEC announcing back in March 2023 a package of policies designed to protect the financial system against cyber incidents, the commission adopted rules last summer to require all public companies to disclose all cyber security breaches within four days after a registrant determines that a cybersecurity incident is material.
  - Where the SEC is involved, there are always risks to corporations and their directors and officers which may attract coverage under D&O policies. In relation to investigations by the SEC into possible violations of this new cyber breach disclosure rule, individual insured persons are likely to have broad potential coverage, while corporate coverage could generally be triggered by formal suits or enforcement actions.
  - SEC action against a company and its directors and officers for possible violations of the new rule could lead to derivative suits for failure to adequately oversee cybersecurity and disclosures, while securities class actions could allege that a failure to make a timely disclosure under the new rule is presumptively an actionable material omission. Fortunately, such derivative suits and class actions would likely be fully covered by most (current) public D&O policies.



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

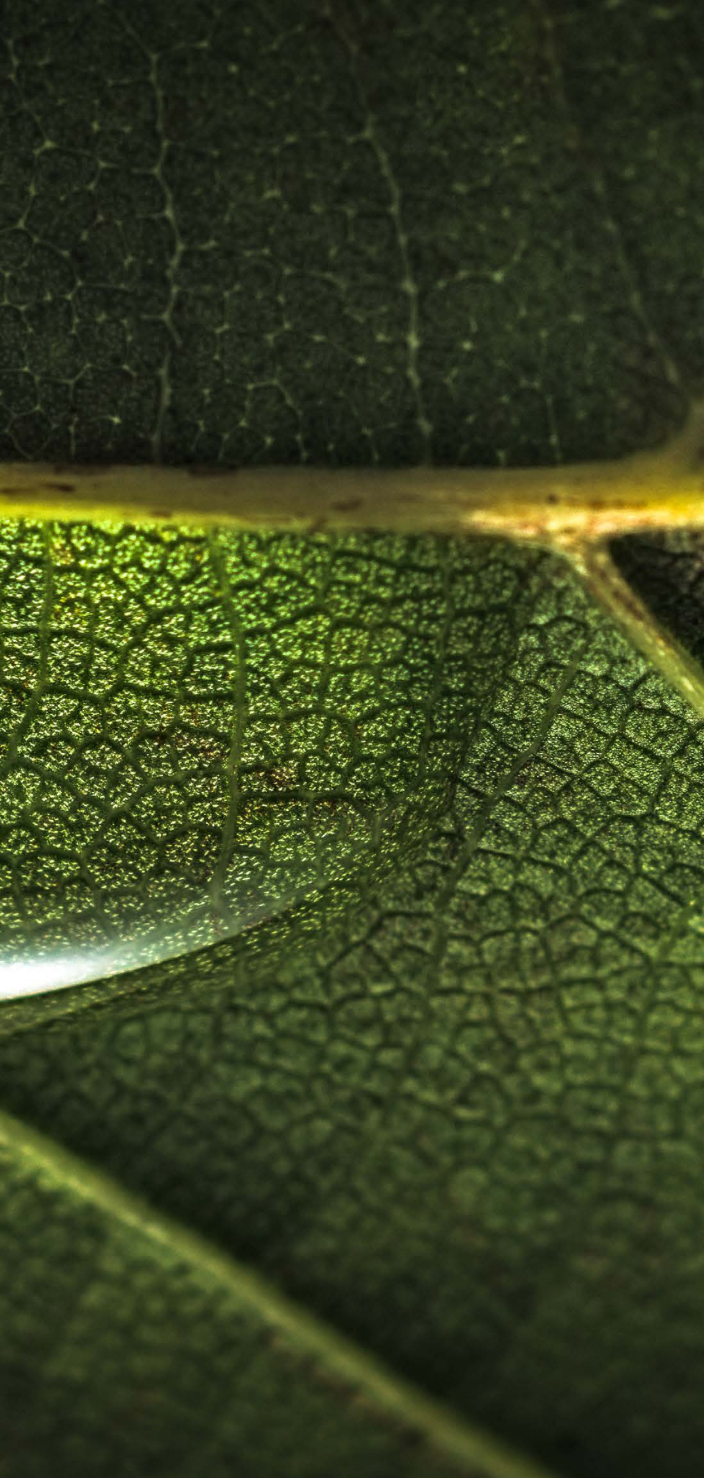
Employment practices liability

Rate predictions

Domestic markets	Bermuda markets
Flat to +10%	Flat to +5%

Key takeaway

Competition keeps the EPL market stable, but with a rise in claims and employee-friendly regulations, significant loss history can 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 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. 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.
- **Industry-related factors of note:**
  - Healthcare/technology, Media and Telecommunications : In these sectors continue to see separate retentions for high wage earners.
  - Retail and Distribution: Layoffs (with more seen at the corporate level) have impacted pricing for this sector.

The Department of Labor and National Labor Relations Board issue final rules on Joint -Employer standard and independent contractor classification.

- The NLRB's new Final Rule for determining joint-employer status under the National Labor Relations Act expands the current standard by reviewing whether an entity has authority to control at least one of the seven essential terms and conditions of employment, notwithstanding whether the entity applied that control.
  - The NLRB published a list of seven categories of terms and conditions that it will consider "essential" for purposes of the joint-employer inquiry.
  - Under this new test more organizations may be found to be a "joint employer," thereby, potentially expanding exposure. Some markets have added joint-employer questionnaires to their underwriting process.
- The U.S. Department of Labor published its final rule on employee or independent contractor classification under the Fair Labor Standards Act on Jan. 10, 2024. The final rule went into effect on March 11, 2024.
  - It implements a six-factor test for worker classification that is in line with judicial precedent. In effect, the final rule returns to a totality-of-the-circumstances analysis of "economic realities" when determining worker status.
  - This new rule will make it more challenging to classify individuals as independent contractors.

Reverse discrimination claims on the rise.

- The Harvard and UNC Supreme Court decisions have cast a watchful eye on diversity, equity and inclusion (DEI) initiatives within organizations leading to a rise in reverse discrimination claims.
- Last summer's 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.
- While affirmative action in the employment context is different and strictly prohibited pursuant to Title VII of the Civil Rights Act (the governing law for employment matters), the decision has led to more scrutiny of corporate DEI programs and their hiring processes.

The EEOC's new Strategic Enforcement Plan for 2024-2028 includes a focus on artificial intelligence in the employment context.

- Last Fall, the EEOC released its updated Strategic Enforcement Plan (SEP) for the next four years and listed six key priorities.
- The EEOC continues to focus on systemic harassment, equal pay and protecting vulnerable workers. The updated plan also focuses on employer use of artificial intelligence (AI) for hiring and other employment decisions.
  - The EEOC previously issued guidance on the use of AI in the employment context.
  - 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.

Contact

Talene M. Carter
National 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%	Flat to +15%

Key takeaway

Although the primary market is beginning to trend softer, with little new competition, several recent large claims have kept an upward pressure on rates. Overall, however, the primary rate environment has improved for firms with good loss experience. There has been a slight uptick in still historically low excess market rates due to the recent loss environment.

Lawyers

- The market is continuing to stabilize. Although excess carriers continue to seek rate, most primary carriers are reaching rate adequacy and moderating their premium targets, depending on the size of the firm, areas of practice and claim history. However, several new, large claims in the market are causing some insurers to increase their claim inflation factor.
- Excess markets continue to see claims penetration and are working to correct their historically low premiums. Many excess markets are using recalibrated models which are pushing up increased limits factors, especially for first and second excess layers as well as reducing capacity deployed on any program.
- 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 the following:
  - Financial stability of law firms, including the potential impact of inflation/recession on law firm economics
  - Law firm's controls over the use of Artificial Intelligence
  - Cyber controls including migration to the cloud
  - Firm's business with entities in sanctioned countries
  - Impact of outside counsel guidelines and possible indemnifications within law firm agreements
  - Managing client selection and lateral hire exposures

Consulting firms

- Underwriters have continuing concerns with consultants working with clients in the tobacco and opioid industries, especially when crossing the line into proposing or operationally supporting high risk strategies for regulated or high-risk products.
- Similar to law firm underwriters, consultant underwriters are paying close attention to insureds that are working with governments under sanctions.
- Some markets that offer consultant E&O coverage believe that it has been underpriced and continue to strive for rate adequacy, particularly in light of recent claims severity.
- Underwriters are focusing on:
  - Cyber controls
  - Practice Focus – Turnaround management, cryptocurrency and pharmaceuticals are not favored
  - Strong financials
  - Strategic plans to address potential downturns in the economy
  - Ensuring consultants working with sanctioned governments have the appropriate licenses are in place before the consultancy is operational
  - Controls to ensure effective use of artificial intelligence

Technology

- Evolving product and service delivery technologies are pushing the edges of technology E&O into other coverages, including general liability, cyber and other types of professional liability.
- Internet of Things (IoT) devices are interacting with people, property and equipment in ways that can create new exposures.
- New property damage and bodily injury liabilities have arisen from the use of monitoring services that run on IoT technology and connected networks. These new liabilities have led to further focus on contract requirements and interactions between insurance policies.
- Carriers remain hesitant to offer excess technology coverage on blended technology-cyber programs.

Errors and omissions (E&O), or professional liability, is arguably the most complex area of specialized insurance, with several distinct marketplaces:

- Stand-alone E&O for certain professions (lawyers, consultants, accountants)
- Technology E&O, sometimes stand-alone, but often coupled with cyber insurance
- Miscellaneous professional liability (MPL), including those industries without a specific, dedicated policy form

Contact

Geoffrey Allen
FINEX Professional Liability Leader
+1 818 915-4311
geoffrey.allen@wtwco.com

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

Fidelity/crime

Rate predictions

FI Bond
Flat

Commercial crime
Flat

Key takeaway

Pricing remains stable and competitive, which is largely attributable to the profitability of this product line. Will profitability be challenged by emerging loss trends, including check fraud and artificial intelligence?

Despite the evolving threat landscape, insurers want to write more crime business.

- According to annual data published by The Surety & Fidelity Association of America, the average net loss ratio for the top writers of fidelity bonds is very favorable, indicating a highly profitable product line.
- In 2024, crime underwriters are tasked with maintaining their crime books while managing large growth goals in a competitive environment.
- Except for a handful of challenged industry classes, crime underwriters generally have no rate initiatives and therefore flat is achievable assuming no material changes in exposure year over year.

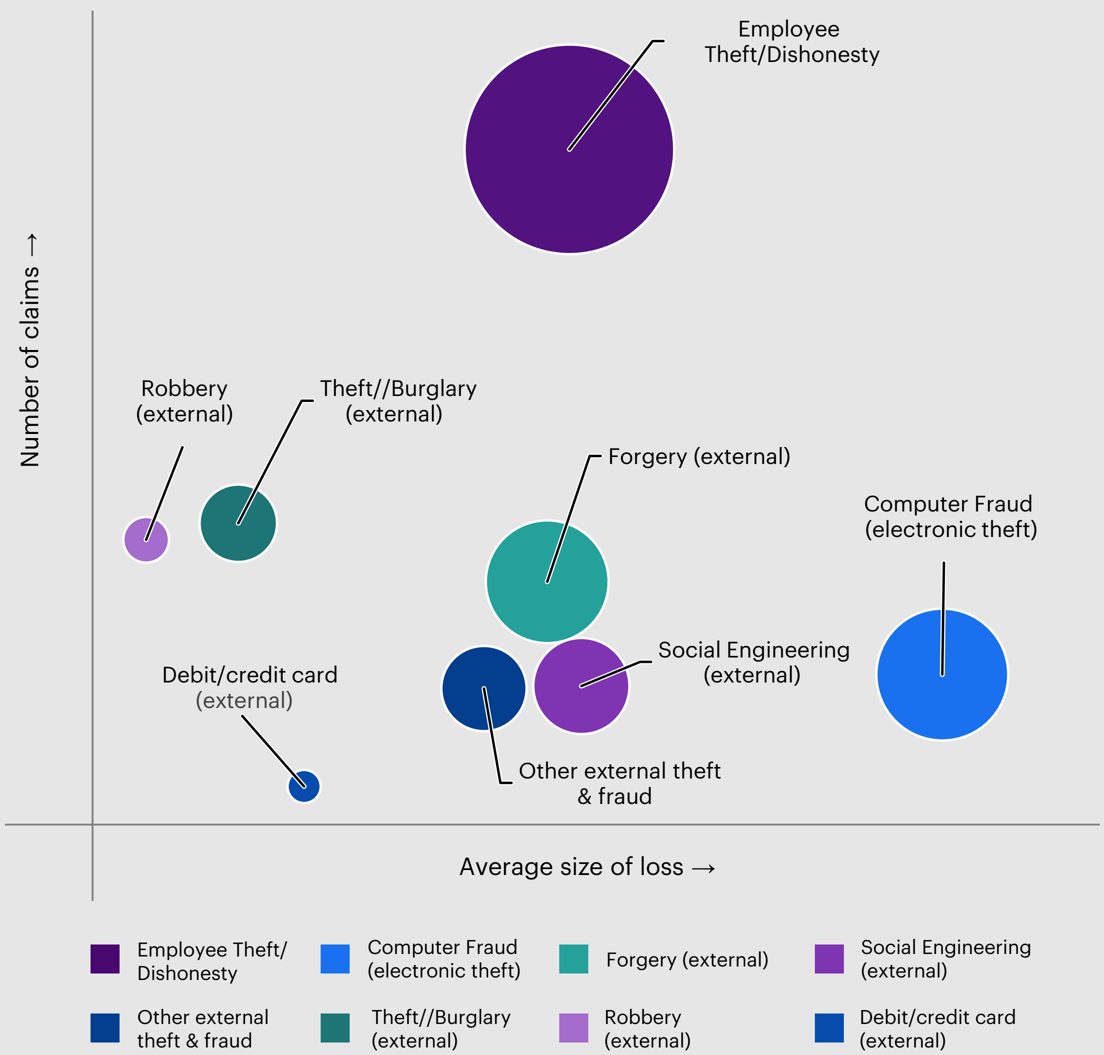
What is causing the surge in check fraud? The sophistication of criminals is only being strengthened by technology which allows the bad actors to send encrypted messages while concealing their identities.

- The types and trends of emerging check fraud include stolen checks, counterfeit, remote deposit capture and ATM deposits.
- A few tips to mitigate against forged check losses include using online payment rather than physical checks to pay your bills, using post office lobby locations instead of a mailbox or drop-box and checking your bank statements regularly.

Cybercriminals are using artificial intelligence to assist them in identifying high value targets, vulnerabilities, and in the execution of the crime itself.

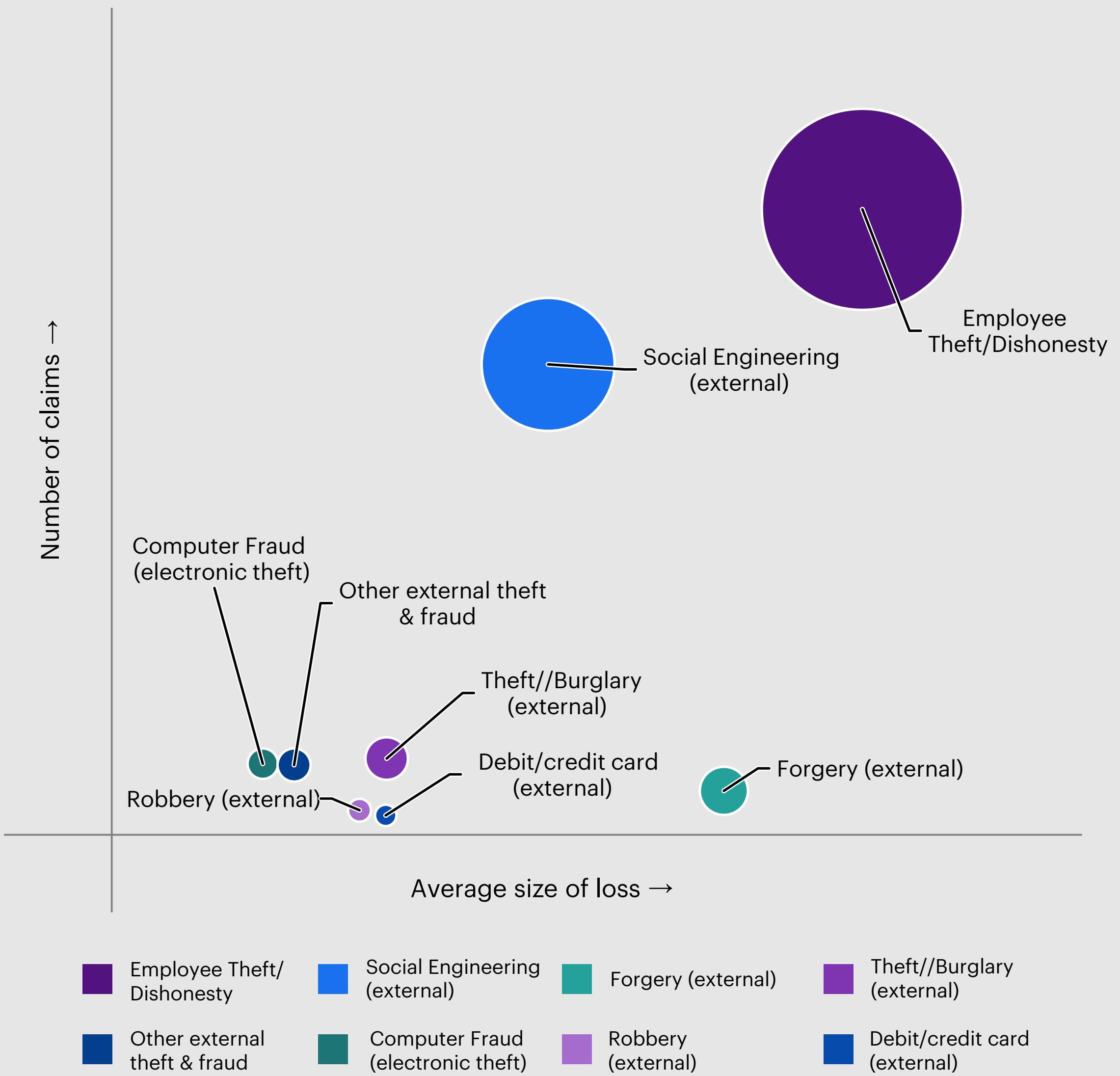
- Deepfake imposter scams, powered by artificial intelligence, are driving a new wave of fraud and could turbocharge the cybertheft economy, according to the U.S. Federal Trade Commission.
- Threat actors are using WormGPT and other generative AI tools to help them craft highly targeted and convincing spoofing emails, etc.
- Like other types of fraud that target individuals through deceptive tactics, companies must maintain robust controls and procedures to mitigate against these types of scams.

Figure 1: **Types of FI crime losses**



Source: WTW Claim analysis report 2024 Commercial crime

Figure 2: **Types of commercial crime loss**



Source: WTW Claim analysis report 2024 Financial institutions crime

Contact

Colleen Nitowski
Director, 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)
Flat to +10%

Commercial (plans assets $50M to $500M)
Flat to +7.5%

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

Financial institutions
–5% to +5%

Key takeaway

Despite conflicting positive and negative risk developments and some carriers remaining wary, a few carriers with increased appetites are leading to improved market conditions. Premiums have continued to level off, with more renewals on the lower end of ranges.

Many underwriters continue to be cautious, but some seek to build their books

- **Underwriting focus:** Despite conflicting positive and negative judicial decisions and a mostly unacknowledged drop in excessive fee class actions in 2023 (48 compared to 89 in 2022), a recent increase in the number of markets interested in writing primary fiduciary liability policies has been the main driver of a flattening of premium increases; most renewals with stable risk profiles and little year- over -year changes are seeing flat renewals.
- Particularly with commercial and large nonprofit (university and hospital) risks, underwriters are focused on defined contribution pension plans with assets greater than $250 million, where previously the cut-off had been $1 billion (some carriers don't want to quote plans with assets above $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) and, limited M&A activity.
- A recent excessive fee class action involving a health and welfare plan may cause increased scrutiny on such plans (see below re: Johnson & Johnson class action).
- 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 at least one carrier is once again offering first-dollar coverage for plans with less than $200 millionM in assets. Increased retentions of seven figures remain commonplace for specific exposures, e.g., prohibited transactions/excessive fees and sometimes all mass/class actions, although recently some carriers have offered opportunities to "buy down" the retentions somewhat.
- **Coverage breadth 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, have been seeing premium increases up to 15%, 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 usetilize proprietary funds, but their premiums have become stable and even decreased recently.
- Carriers have mostly ceased to penalize funds with Black Rock investments since eight of the 11 suits have been dismissed (only one case has managed to fully survive an initial motion to dismiss, while another was only partially dismissed).

Risks to watch are excessive fee class actions, imprudent fund selection class actions, 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

- In 2023, excessive fee claim frequency dropped from the high 2022 volume. For over a decade, a growing number of plaintiff firms have been suing diverse public, private and non-profit entities, alleging excessive investment and/or recordkeeping fees that resulted in reduced investment principle and reduced returns; many of these class actions also alleged sustained periods of underperformance by specific investment options. However, excessive fee class action volume was down in 2023 (48 compared to 89 in 2022). Several recent excessive fee settlements have been in the low seven figures. In the initial aftermath of the U.S. Supreme Court's pro-plaintiff Northwestern University decision, 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) have led to an increase in motions to dismiss being granted, particularly in those circuits (see discussion in previous Marketplace Realities).
- Most recent appellate decision: On November 14, 2023 the Second Circuit affirmed the grant of summary judgment to Cornell University in its excessive fee case. Although Cornell had been forced to go through discovery (and demonstrated a prudent procedure which resulted in reduced fees over the years), the court wound up holding that, in relation to their prohibited transaction claim, plaintiffs should have been required in the first instance to plead the lack of a relevant exemption. This decision could help future defendants in the important Second Circuit (which includes New York) to dismiss prohibited transaction claims on initial motion. For more discussion concerning the implications of the Cornell University decision, see "Second Circuit decision offers new hope for defending prohibited transaction claims."

Health and welfare plan excessive fee class action

- 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 Benefits Manager (PBM), drastically overcharges for prescription drugs, and provided 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 complaint also alleges that non-defendant Aon was a conflicted employee benefits consultant who steered J&J toward Express Scripts against their client's interest.
- 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.

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 2023, at least one substantial settlement ($8.7 million) involving a private company ESOP was reached.

- **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 two plan sponsors who have arranged for such transactions (Lockheed Martin and AT&T). 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. Both cases involve the same insurer, who is described in the Lockheed complaint as "a private-equity controlled insurance company with a highly risky offshore structure."
- **New plaintiff theory:** In recent months, one two-person California plaintiff firm has 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. These allegations seem to contradict long-established practices, seemingly endorsed by both the Internal Revenue Service and the Department of Labor. Just this year, the IRS proposed regulations concerning the timing for reallocating forfeiture, without raising any concerns.

Enforcement

- Department of Labor/Employee Benefit Security Administration (EBSA) enforcement results were similar in 2023 to what they had been in 2022 (recoveries of approximately $1.4 billion in both years), having dipped from the high of 2021 ($2.4 billion recovered). While recoveries from enforcement actions were less than half what they were in 2021, recoveries from voluntary correction programs were more than double what they were in 2021 and 10 times what they were in 2022.

The main components of the recovery were:

- Enforcement actions: $844.7 million ($931 million in 2022) ($1.9 billion in 2021)
- Informal complaint resolution: $444.1 million ($422.1 million in 2022) ($499.5 million in 2021)
- Voluntary fiduciary correction program: $84.5 million ($8 million in 2022) ($34 million in 2021)
- Abandoned plan program: $61.2 million ($83.9 million in 2022) ($50.8million in 2021)

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. To date, the rule has survived a legislative effort to block it (which was vetoed by President Biden in March 2023) and a lawsuit filed by 25 state attorneys general in federal court in Texas in January 2023 (which was dismissed in September 2023 and is currently on appeal to the Fifth Circuit). Another challenge was filed in federal court in Wisconsin in February 2023 and is still pending.

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." Defendants subsequently filed a pending motion for summary judgment, but as of now the trial date is still set for June 2024.

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.
- Among other things, 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).
- The legislation further increased the required minimum distribution age to 75 and it allows employers to match employee student loan repayments with retirement account contributions.
- 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 of SECURE 2.0, including the student loan match, Roth catch-up contributions and Roth matching contributions.
- As a result of the confusion, the IRS recently 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
Primary: –5% to +5%
Excess: –5% to –10%

D&O Private
–10% to flat

Bankers professional liability (BPL)
Flat to +10%

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

Insurance company professional liability (ICPL)
–5% to flat

Key takeaway

Capacity in the marketplace remains plentiful as it continues to drive competition across all lines of business for financial institutions (FIs). Upward rate pressure was expected through 2023 after the bank failures, but premiums have generally remained stable. We expect the current rate environment to continue through the second quarter of 2024 with possible movement in the banking sector.

Professional liability (E&O) market dynamics vary by each subclass of FI business.

Asset managers (excluding private equity firms)

The insurance marketplace continues to be favorable for most asset managers. Premiums have generally renewed flat to -10% through Q1 2024, while the abundance of capacity has created opportunities to broaden coverage under most programs. Registered investment advisors, private fund managers and mutual funds continue to be the most desirable class of business for insurance carriers, though firms with significant exposure to cryptocurrency and commercial real estate will receive added scrutiny during the renewal process. These favorable market conditions are expected to continue through at least the end of Q2 2024. The SEC's aggressive agenda, which targets such issues as ESG, climate and AI, continues to focus on the asset management industry, further heightening the risk of regulatory claims under these management and professional liability programs. In addition to regulatory matters, breach of investment mandate and cost of corrections losses continue to be the primary drivers behind claim activity for asset managers.

Insurance companies

The market for ICPL has continued to improve, with rates generally declining due to the competitive environment. Retentions and capacity are stable despite ongoing challenges, such as climate change, an evolving regulatory landscape, social inflation, cost of insurance litigation and interest rate volatility. Artificial intelligence has been identified by ICPL underwriters as a significant emerging risk, requiring buyers to be prepared to discuss both how AI is being used and the controls in place to mitigate resultant exposures. We recommend that ICPL buyers capitalize on the current favorable marketplace to challenge existing premiums, retentions and policy wording.

Banks

BPL rates and retentions generally remained stable throughout 2023. However, there are signs of potential upward pressure on rates and retentions as we move through 2024, particularly for pockets of regional banks. We saw some carriers pull back on D&O limits in 2023, but there were no real challenges replacing that capacity given continued competition in the marketplace, and BPL was not really a concern. The banking system overall remains stable and sound, and the 2023 regional bank failures were contained.

The turmoil in the regional bank space one year later is, again, not industry-wide and seemingly idiosyncratic to those banks with high concentrations of office real estate loans and less diversified portfolios, as well as banks who are not able to facilitate modifications and extensions with borrowers.

Underwriters are highly focused on liquidity levels, loan portfolio mix, commercial real estate (CRE) loan exposure and credit quality. Specific to CRE, underwriters want to understand what percentage of the portfolio is in office CRE, performance, impairments, 12 to 24-month maturities, and a view on extensions and modifications. Cybersecurity remains a top risk for banks as the level of sophistication behind data breaches continues to rise, new technology is introduced and digitalization expands. The rapid adoption of generative AI, continued transition to cloud computing, expanded digital banking footprints and increased partnerships with third parties are leading to increased cyber and fraud risks. Regulatory scrutiny and complexity persist with a barrage of new regulations, including proposed increased capital requirements and scrutiny on CRE loans. Banks are focused on compliance with the SEC's Climate Disclosure rule adopted in March 2024, while also working toward understanding the potential impacts of climate risks on both corporate and portfolio assets. Depending on how the office CRE market issues play out, we could see carriers step back from writing BPL, seek higher rates and retentions and/or manage capacity downward.

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 major product line

- Aviation & space
- Alternative risk transfer (ART)
- Architects and engineers
- Captive insurance
- Construction
- Energy
- Environmental
- Healthcare professional liability
- Special contingency risks: Kidnap and ransom
- Life sciences
- Managed care E&O and D&O
- Marine cargo
- Marine hull and liability
- Personal lines
- Political risk
- Product recall
- Senior living and long-term care
- Surety
- Terrorism and political violence
- Trade credit

Aviation & space

Rate predictions

Airlines
−5% to +5%

Airline hull war
+10% to +25%

Airline excess war liability
+25%

Airports and municipalities
Flat to +5%

Products manufacturers and service providers
Flat to +7.5%

General aviation
Flat to +10%

Aircraft lessors/ banks
Flat to +10%

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

Key takeaway

The aviation market remains strong and advantageous for buyers as insurers compete for premium share due to the abundance of capital deployed in the segment. Technical underwriting continues to mature with increased use of actuaries wherein the science is catching up to the art of aviation underwriting with more sophisticated modeling. Therefore, while capacity remains plentiful, it is important that clients favorably differentiate themselves from their peers to achieve the best results.

While clients can still expect rate increases in the war market, the increases are not as significant. In October, the U.K. High Court will hear arguments between the largest aircraft lessors and insurers hopefully culminating in some visibility into the potential impact the Russian seizure of aircraft will have on the aviation market. After the 12-week trial, which will carry its way through the busy Q4 airline renewal season, it will be interesting to see how the overall market reacts to the outcome as the impact will not be solely contained in the war segment.

Airlines

Below-average claim activity and plenty of capacity mean that underwriters are under pressure to keep adequate premium levels. The major focus remains on the potential claims arising from the Russian aircraft seizure, which could be more than $12 billion. Insurers attempted price increases earlier in the year but overcapacity in the airline hull and liability sector, combined with low claims and exposure growth, helped to keep increases in check.

- Ample market capacity allows clients and brokers choice and leverage.
- 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.
- 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.

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 H&L market? It's still too early to be totally confident that they won't.
- Deterioration of losses in the manufacturing segment continued to impact the market in 2023, although this appears to be coming to an end.
- Reinsurance renewals could mean some scaled-back lines 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.
- The outbreak of civil unrest in Khartoum exacerbated the challenging conditions.
- 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 in stabilizing the market reaction.
- Pricing will increase for both the hull war and excess third-party liability.

Aircraft lessors/banks

Market conditions remain challenging for this class following changes to risk perception and a continued emphasis on geographic aggregation of assets. Prior reinflation of the hull war sub-class, which led to the disproportional cost increases, appears to have now stabilized.

The uncertainty of the overall loss magnitude continues. However continued negotiation and settlements which have been achieved between lessors and Russian airlines have begun to mitigate the previously projected industry losses. The shift in risk perception as already reported for both direct and reinsurance markets in conjunction with renewals of aviation insurers' own reinsurance protections continue to negatively impact marketplace conditions into 2024.

- As widely reported, lessors' legal proceedings against insurers are expected to begin in the courts later in 2024.
- The insurance market remains unable to deliver a consolidated coverage position; reserves are, however, being set by insurers and reinsurers.
- Geographic aggregation of assets and geopolitics all remain in major focus among (re) insurer senior management and are resulting in coverage limitations now applied broadly across this sector.
- Reinsurance and retro markets continue to curtail coverage and increased pricing — similarly leading to direct insurers reducing offered shares resulting in demand/supply imbalance and higher client pricing continues to prevail.
- Market capacity withdrawals have curtailed, but limited new entrants remain; insurers continue to review application of sub-limits and cover limitations to manage their own aggregation exposures.
- For hull war sub-class, confiscation etc. (paragraph (e) perils of wording), application of sub-limits and specific country aggregates offer options to moderate pricing driven by retraction of available capacity; non-confiscation options remain available.

Aerospace manufacturers and service providers

We project the aviation sector will continue its growth trajectory, driven by increasing demand for air travel, fleet expansion by airlines, and technological advancements in aircraft design and manufacturing. Industry growth combined with recent exceptional claim events have led to a greater demand for aviation products liability insurance coverage and limits.

The aerospace insurance market is expected to remain stable in 2024, the result of opposing pressures.

The headwinds

- Insurers' rising reinsurance costs and larger reinsurance retentions
- Recent exceptional loss events and historic major claim deterioration
- Inflationary and supply chain disruption impacts on the cost of claims
- Increased actuarial approach to pricing

The tailwinds

- An abundance of capacity is mitigating insurer premium uplift desires.
- Trend of insureds seeking greater limits of liability may assist in quenching insurers' overall portfolio premium goals.
- As a result of market competition, insurers recognize that technical/actuarial pricing cannot be the sole factor in their decision making.
- The increase in forecasted industry production rates combined with significant industry claim activity has driven up demand for multiyear placements, a volatility-reducing strategy for both insureds and insurers.

While insurers continue to seek premium uplift across their portfolios, programs with favorable loss pictures can successfully mitigate cost increases. Loss-driven accounts may be subject to increases, but capacity remains available. Insureds interested in challenging the market with alternative structures and/or capacity strategies can achieve superior results.

An exception to this forecast is the war market, which remains challenging as the result of the Russia/Ukraine crisis. Settlements by Russian insurers have started to build clarity around the final loss quantum for the international insurance market; however, these settlements have slowed, and the industry awaits key court dates later this year. Capacity in this sector is restricted, but building and the rate of war premium increase continue to slow.

Airports and municipalities

Aircraft and passenger traffic continues to rebound in a post-COVID era, driving increased exposures on site. Additionally, unique claim incidents and large verdicts continue to keep social inflation and nuclear verdicts fresh in carriers' sights. These factors are leading to a general sense that pricing remains inadequate. However, with the addition of interested capacity, market pressure is shifting away from the hard market cycle of the past few years.

- Though rate 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

Overall, the general aviation sector is in a strong position and, while underwriters continue to push for uplift in rates, capacity in the market remains strong. Underwriters are looking to maintain and grow their portfolios with accounts perceived to be safety-driven with good loss records and positive market engagement.

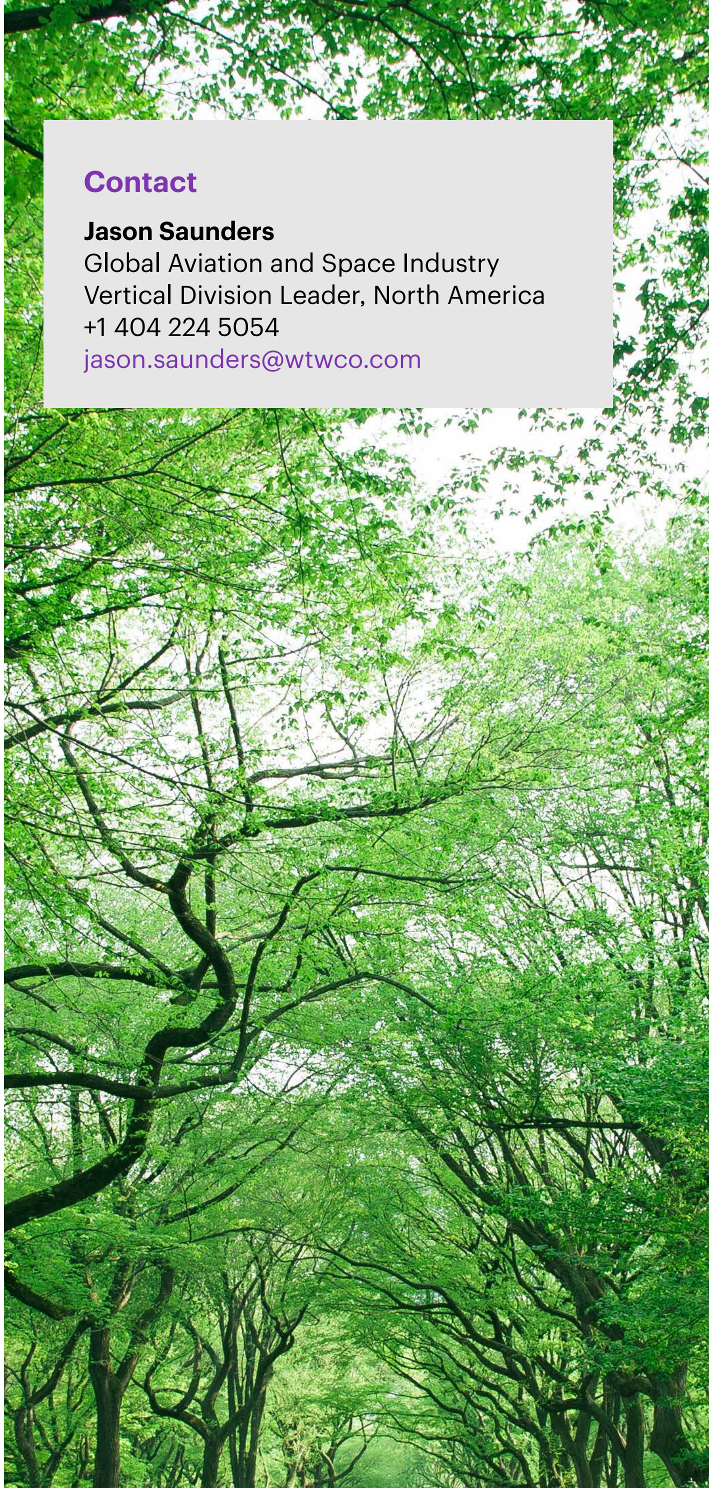
- Rotor-wing and charter losses in 2023 and into 2024 have insurers scrutinizing their portfolios to ensure they understand the specifics of their exposure and how it is being managed.
- Runway excursions and attritional losses plagued the industry in 2023 and this continues into 2024. The aggregation of these attritional losses with the high value of general aviation aircraft equipment continues to drive rating conversations in this segment.
- The ramifications of the escalation of the crisis between Russia and Ukraine two years ago continue to reverberate around the entire aviation sector, though there is some light at the end of the tunnel with some movement toward resolution happening in 2024.
- Environmental scrutiny around the general sector continues, though the move to more environmentally sensitive propulsion systems in the near term, as well as the evolution of eVTOL aircraft could make small and regional jets one of the most environmentally stable modes of transportation.

Space

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

Year	Claims	Premium
2023	~$1B	$600M
2024 (Q1)	~750M	TBD

- The market is beginning to show how it will respond to recent results.
- Premium rates have risen, but capacity requirements are a critical piece of space placements.
- Underwriters maintain focus 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

Alternative risk transfer

Rate predictions for 2024

Structured programs
Flat, with downward pressure on insurer risk margins

Parametric weather programs
Flat, as highly customized and based on analytics

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

Parametric nat cat
–5% to +10% with constrained wind capacity in FL

Portfolio programs
Limited carrier appetite

Key takeaway

Alternative risk transfer options continue to be in high demand, especially for clients with challenging risk profiles and/or poor loss experience.

Whether annual or multiyear, parametric and structured solutions will continue to be the most traded ART products in 2024, because they address insurance gaps or disintermediate traditional placements.

Parametric solutions

These programs typically address natural catastrophe or weather risks, but also pandemic and elements of cyber risk. Their deployment typically complements a property placement, adding capacity or protecting deductibles or uninsured assets. They are also used to protect against loss of revenue where weather conditions impact productivity. WTW is also often deploying these programs to support lender financing and for government-led climate, environmental and social resilience initiatives.

- Capacity is increasing in this active insurance market, both annual and multiyear.
- Earthquake 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 deploying parametric capacity to create pro-client differentiating programs.
- Wider client adoption continues following years of education and loss-proving events.

Structured solutions

These multiyear programs blend risk financing and risk transfer into a single policy. They are suitable for distressed layers, such as primary property, and auto buffer layers, especially where insurers seek to raise attachments and/or reduce capacity.

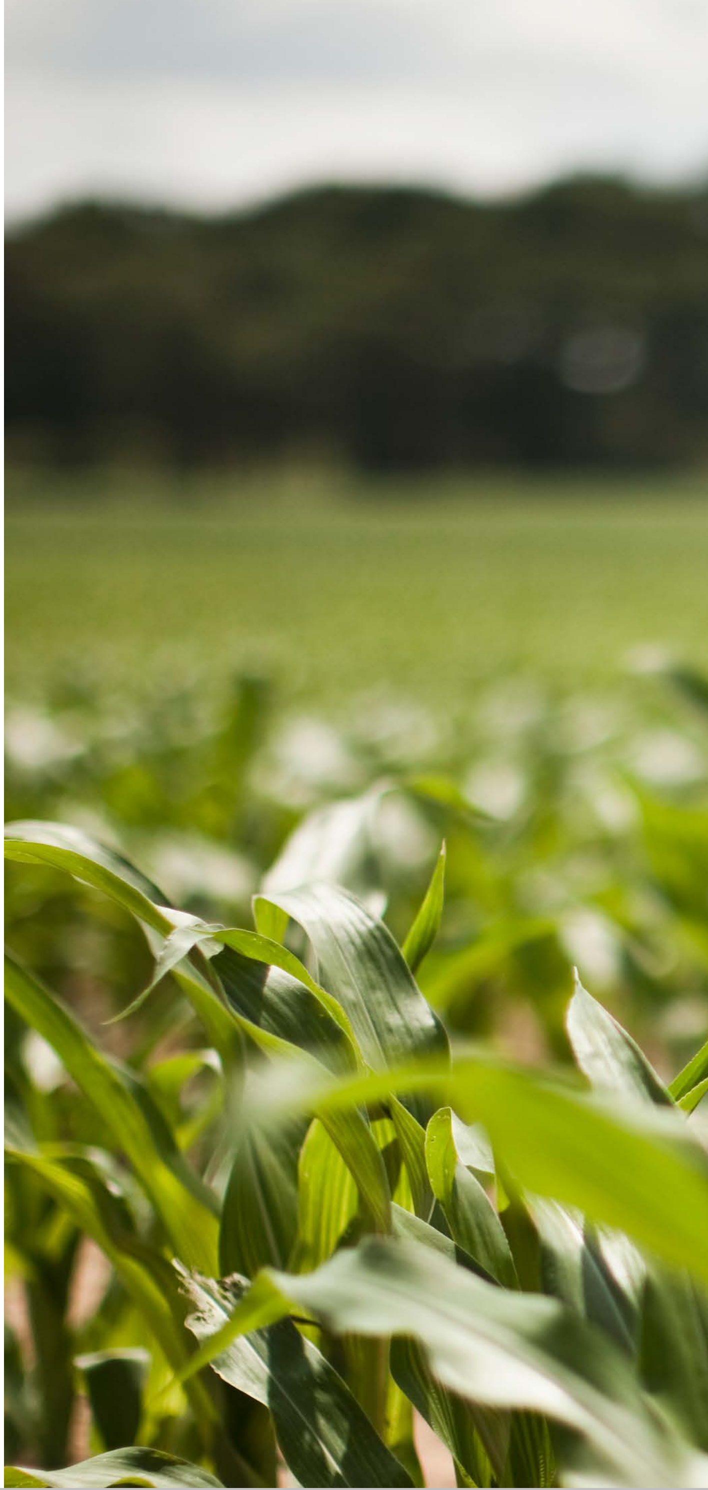
- Deployed where premium to policy limit ratios exceeds 40% annually.
- Activity focused on real estate-driven property programs, and fleet driven auto risks.
- Increasing multiline deployment as reinsurance of captive insurance companies.

Other areas of interest

- Collateral-free fronting for highly creditworthy companies.
- Portfolio/integrated risk programs.
- Capital market-led solutions.

Contact

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



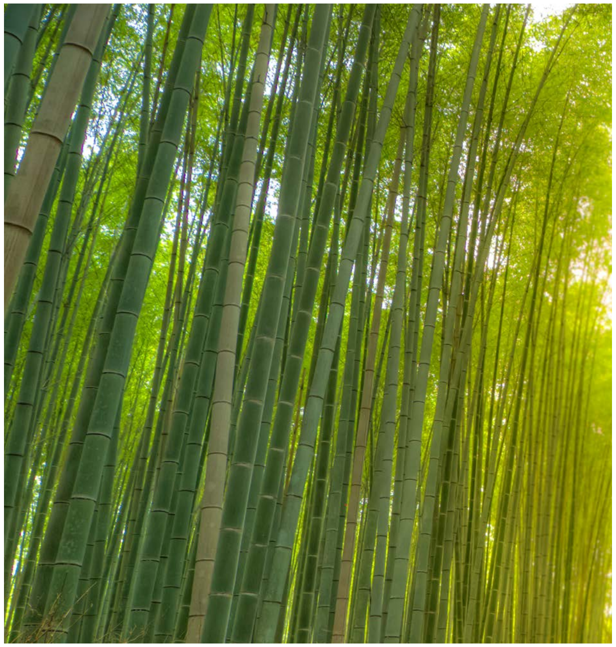
Architects and engineers

Rate predictions for 2024

Professional liability +5% to +10%	**Project-specific professional liability** Will vary based on project type	
General liability package +5% to +10%	**Auto** +5% to +10%	**WC** Flat to +5%
Umbrella +5% to +10%	**Management liability** Flat to +5%	**Cyber** Flat to +5%

Key takeaway

Adverse severity claim trends reported by most professional liability (PL) carriers continue. Social inflation is being cited as a primary driver. 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 5% to 10% 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.



Volatility of the past 24 months in the A&E professional liability marketplace is expected to remain the same in 2024; most notably in the form of rate increases, capacity constraints and a reduction in PL carriers' appetite for specific 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 appetites for risks that take on these exposures.
- While restriction in capacity was limited to select insurers in 2023, additional carriers are starting to follow suit to limit their exposures 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 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 are 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.

Claim severity continues in 2024. Social inflation is still 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.

The A&E cyber insurance market sees signs of relief.

- While the cyber market is still in its infancy, the large rate increases that were driven by high claim frequency and severity have started to stabilize.
- The continued claim activity has kept underwriting scrutiny high; however, firms with proper protocols in place have seen favorable renewals.
- Start the renewal process early and review underwriting trends with your broker to ensure you have the proper protocols in place.

Contact

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

Captive insurance

Key takeaway

As rate increases have moderated and indeed, in some cases, reductions are the norm, captive activity nevertheless remains strong. Property markets remain challenging albeit less so than a year ago, and this is still leading to increased use of captives as vehicles to assume greater levels of risk retention and to manage internal allocations of risk financing costs. 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. Changes in interest rates and the attendant cost of capital are increasing corporate focus on optimizing capital deployment — either returning excess capital from captives or ensuring that it is effectively used in the captive.

Captives have been undergoing somewhat of a resurgence in interest over the last three to four years, evidenced by increases in formations since 2021. As reported during 2023, there is continuing involvement in specialty lines and 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 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

- In 2023 Vermont surpassed Bermuda and Cayman to become the largest captive domicile in the world.
- Reports of new captive formations in 2023 remained strong across most U.S. domiciles.
- Overall growth is being offset by the continued dissolution of captives taking the 831(b)-tax election.
- Property coverage is top of mind for many current and prospective captive owners. This is driven by the price and retention escalation by the commercial property insurance market.
- Mature captives with sufficient capital and surplus continue to use as excess capacity in all lines of business to combat pricing and reduced capacity in the commercial market.
- Optimization and diversification of the captive's portfolio of risks supported by analytics continue to drive innovation.
- We see a resurgence of terrorism captives taking advantage of better pricing in the commercial reinsurance market over standalone coverage directly placed or imbedded within commercial property placements.

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 December 2023, there were 16 new captive licenses issued in Bermuda compared to 18 in the prior full year, while the total number of new licenses issued for all types of insurer climbed to 72. Cayman saw 40 new licenses issued through December 31, 2023, compared to 33 licenses issued during 2022.
- There is significant activity among insurance companies setting up internal captive reinsurers as key elements in their capital management efforts and to access reinsurance more efficiently.
- 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.
- 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 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

Favorable risks

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 +20%

Subcontractor default insurance (SDI)
Flat to +5%

Key takeaway

Despite the continuous struggles with labor shortages, supply chain issues, increased claim costs and uncertainty around interest rates, the market corrections of the past few years have contributed to improved insurer-combined loss ratios and a more stabilized rate environment in the North America construction industry. We anticipate significant construction activity will continue through 2024, primarily in technology related construction (data centers, chip manufacturing etc.), infrastructure, renewable energy, industrial manufacturing and healthcare.

Regional insights

Markets are well positioned and comfortable with deployed capacity, attachment point and overall diversification of portfolio. The general market consensus indicates that the global blended risk-adjusted reinsurance renewal rates came in around flat this past January, with ample capital to support market demand at the terms and conditions of 2023. Swiss Re Global CAT Bond Performance Index reports investor interest in CAT bonds providing double digit returns of almost 20%, creating a more profitable reinsurance environment.[1]

Though the construction industry continues to struggle with labor shortages, supply chain issues, increased claim costs and uncertainty around interest rates, the market corrections of the past few years have contributed to improved insurer combined loss ratios and a more stabilized rate environment. The challenge for contractors and their broking partners is to try to counterbalance the market's continued upward rate pressure due to inflation, litigation expense, and the continued rise in nuclear verdicts with each individual account's own loss experience and risk mitigation strategies.

Adverse incurred loss development is evident in auto liability from 2015 to the present and in general liability from 2016 to 2019, with 2019 showing the least favorable year for both lines of business. Additionally, in a Marathon Strategies publication, corporate nuclear verdicts (i.e., more than $10 million in loss) appear to be already trending toward the spike of 2019.[2]

Auto liability and lead umbrella product lines remain a challenge with the first $10 million in limits often deemed the "working layer," However, new market entrants competing in low to moderate risk profiles and/or higher excess layers has put pressure on incumbent/competing markets and contributed to more favorable rate results. As some of these new entrants gain market share and further expand appetite, we expect to see increased competition that should assist in further mitigating rate need.

Higher hazard risk groups (construction) remain outliers to industry trends with limited market appetite for high severity risk, often subject to increased rates and retentions with capacity constraints. We find contractors in this space curious about alternative risk transfer options and captive solutions. Early communication and an effective marketing strategy is critical to ensure proper expectations are both set and met. The most successful outcomes often include contractor participation in the process.

More than ever, contractors are focused on employment and hiring practices to attract and retain talent. They are investing in training and development to ensure all employees are equipped with the proper knowledge, resource, tools, and techniques required to effectively deliver a defect-free project safely and on time. Though the construction industry has typically been a slow adapter, there is increased interest and investment in technology to bridge labor shortage gaps, realize operational efficiencies and capture data in a more meaningful way. The larger and more sophisticated contractors are investing in

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

technology to mitigate loss, and they are relying on data analytics and key performance indicators to better drive performance outcomes and create a more favorable risk profile. Contractors are leveraging all resources and leaning on broker/insurer partners and peer groups for industry trends and pitfalls.

We expect a more prevalent use of technology and anticipate increased use of drones, wearables and robotics. Additionally, we see artificial intelligence and robotics gaining traction as contractors keep pace with growth goals and succession planning in a labor-challenged environment.

As a final point, and a continuation of 2023, we anticipate significant construction 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 alterative contract types, such as P3 and EPC contracts.

Capacity

Umbrella/excess

The umbrella/excess market has steadily stabilized over the last few years, and we see that trend continuing for insureds with low-to-moderate risk profiles and favorable loss history. Supported lead capacity continues to reduce competition and drive the most compelling results. Additionally, increased attachment points and year-over-year rate increases have invited market competition for low/moderate hazard classes, often driving down costs. Exposures often contribute to rate adjustment as well. With increased exposures and favorable loss experience, contractors may see flat or decreased rates, whereas if insurers appetite is reduced and/or capacity reduced in the tower, rates may creep to the mid-to-upper single digits.

For high hazard risks, including contractors with large auto fleets, New York construction operations, for-sale residential, wood-frame construction, wildfire exposed utility work and trades that participate in demolition, curtain wall and foundation work, the umbrella/excess market is significantly more limited, particularly for insureds that have a history of losses in their excess layers. Construction activities with these risk profiles will continue to see rate increases through their excess tower.

From a coverage perspective, market capacity remains limited for excess and difference in conditions wrap coverage. With ISO releasing several new endorsement/exclusions in December of 2023, we are seeing insurers adding several additional cyber exclusions, which also exclude bodily injury and property damage coverage from those cyber incidences. This is a real conundrum in that cyber insurers are not giving much, if any, bodily injury and property damage coverage (note: the WTW CyCon product provides sub limited coverage). With the continued development of remote access and control of systems and equipment, there is a real possibility that cyber hacks could lead to claims that are much more expansive than data or information systems and could result in bodily injury and property damage, leaving insureds with a gap in coverage.

PFAS exclusions (perfluoroalkyl and polyfluoroalkyl substances) are becoming more prevalent as well. In some instances, we have been successful in removing or modifying the exclusion, but often, insurers are not willing or able to negotiate/remove it.

Builders risk

The builders risk market for commercial construction has generally started to show signs of improvement coming off a hard adjustment period in 2023. Rate increases should still be expected, but not as adverse as the prior year. There are signs more capacity is available in the marketplace, indicating treaty reinsurance renewals have been positive. Quota-share structured deals are more common on larger risks and the perils of wildfire and severe wind continue to be heavily underwritten. New challenges have emerged around LEG3 coverage due to recent U.S. case law. We anticipate additional restrictions to the coverage and expect most of the market will be modifying their current policy language.
The wood frame market's available capacity has been consistent; however, appetite is dependent upon robust security and risk mitigation efforts. Finally, Nat Cat capacity, both primary and excess, remains limited, as the market continues to recover from a difficult 2022.

Coverage

Project-specific programs/controlled insurance programs (CIPs)

Construction project insurance is facing a range of challenges and opportunities as we get into 2024.

We are seeing:

- Increases in mega projects and infrastructure builds
- Trending decreases in certain types of construction projects
- Continued labor shortages and hiring challenges
- Supply chain disruption and price volatility that seem to be easing (finally)

Large contractors and big tech owners will continue to benefit from the construction boom of mega projects. Sites including multi-billion-dollar semiconductor manufacturing plants are becoming more of the norm than the anomaly.

These projects, boasting construction values never before seen in the insurance space, are causing the markets to reevaluate risks and are setting new precedents in primary and excess liability rates. We are therefore enjoying a decline in project insurance pricing compared to the past few years.

While the Infrastructure Investment and Job Act has poured over $400 billion for over 400,000 projects into the marketplace since being signed into law two years ago,[3] there is a trending decline in certain areas of new builds. Particularly, there has been a decrease in the construction of new office, retail, hotel and warehouse projects.

These projects are often more favored by the insurance markets because of their low level of complexity. Without the counterbalance of these "vanilla" placements, the markets are requiring more detailed submission information before underwriting the current complex risks.

Labor shortages and hiring struggles continue to be a challenge on construction project sites. The Associated General Contractors of America (AGC) reports that most construction firms are struggling to fill the open labor positions for their new projects. This is also driving insurance companies to require more details around hiring procedures, labor filling and vetting of a quality workforce. Contractors prepared with details around these procedures will attract more market appetite.

Finally, the supply chain disruption and material pricing volatility seem to be easing. However, contractors and project owners who were previously affected by these issues are now insisting on pre-negotiated rates and extensions for their project insurance to address the potential risk of project terms being extended. While long-term market partners are mostly responding with favorable options, we are seeing a decrease in willingness to extend project programs.

In summary, on the project side, the entrance of mega deals into the marketplace over the past year have tilted the rates on projects with over a billion in projected construction value to obtain very competitive rates and incredible terms.

Auto

Auto liability continues to be a challenge across all industries. Despite the National Highway Traffic Safety Administration's (NHTSA) report of decreased traffic fatalities in 2023 with more miles driven, the insurance industry still faces unprofitability.[4] A report from The Insurance Institute found that auto losses rose 15% since 2020 while premium fell 13%.[5] This is a clear indicator that claim severity has dramatically increased since 2020. Social inflation and increased cost of materials continue to play a more prevalent role in adjustment of auto claims.

General liability (GL)

The general liability market has remained somewhat stable for many contractors. Supply chains have slowly caught up to demand which has relieved the pressure many contractors felt in considering the use of alternative building materials and methods. There is still ample interest in exploring opportunities such as modular construction and mass timber in geographies with growing populations. However, with the returned strength of the supply chain, contractors are less inclined to take this risk when timelines and budgets are more predictable, similar to the umbrella/excess, cyber and PFAS exclusions which are routinely included in renewal programs.

Workers compensation

Workers compensation has prevailed as the most predictable, consistent and secure line of business, outperforming other major lines in the property and casualty insurance space. Though loss trends continue to reduce state rate classifications, increased labor costs may have a counter-effect on overall reduced costs. Additionally, higher claim costs and increased litigation in California, New Jersey and New York are having an overall impact on insurer rating methodology.

Professional liability (PL)

The construction professional liability market remains competitive, with stable rates for most exposures. Insurers continue to exercise caution about capacity deployment and retention levels for both practice and project policies.

Significant total capacity available for most Contractor risks

- Total U.S. capacity continues to exceed $300 million, supplemented by capacity from recent market entrants, also potentially available through London and Bermuda. Reduced capacity is available for project-specific placements because many insurers reserve this capacity for practice or annual clients.
- Many insurers offer at least $10 million per risk to insureds, with others able to offer up to $25 million. Most insurers restrict limit deployment for any one risk.
- Less capacity is available for contractors with substantial design responsibility. It is important to distinguish between in-house design versus subcontracted design services with fewer insurers participating on a primary basis when the majority of responsibility is for in-house design.
- Retentions are mostly stable, except when below market standard. Retentions are sensitive to insured's size (revenues) and limit deployment.

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

- Upward pressure on rates for certain exposures, such as design-build, with/without in-house design.
- Rate increases generally below 5% with clean loss history.
- Rate influenced by large changes to ratings basis (revenue) and revenue categories.

Most coverages available from most insurers, with some variations in approach to certain coverages

- Insurers underwrite each risk on case-by-case basis with a focus on contractual controls and designer prequalification. Certain contract and policy language requires specific attention, such as limitation 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. Nonetheless, certain aspects of product design may be covered.

[3]2 years in, infrastructure law has funded 40,000 projects', Construction Drive, November 2023
4NHTSA Estimates Traffic Fatalities Dropped in the First Three Months of 2023, NHTSA) June 2023
5U.S. Auto Insurer Claim Payouts Soar Due to Increasing Inflation', Insurance Information Institute, September 2023

Many markets reserve project-specific capacity for clients who procure annual business.

- Total policy terms (policy period plus extended reporting period) of 15 years are widely available, with longer terms available from a select few markets. Trend is toward limiting extended reporting periods to the applicable state statute of repose or contractual requirement, whichever is less.
- Reduced available capacity for design professionals, especially on design/build infrastructure projects, has impacted 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 indemnity.
- The owner's protective professional indemnity market remains robust with substantial capacity and robust appetite for most projects.

New York controlled insurance programs (CIPs)

Pricing and program structure make it difficult for wrap up programs to make sense except for very large projects or those that are part of rolling programs.

We are seeing less high-rise residential construction in NYC.

Primary market options

- Primary GL limits of 5/10/10 are still required in most cases to obtain excess coverage.
- The minimum general liability retentions in NY are in the $3 million to $5 million range depending on project size and scope.
- The GL-only marketplace is limited.
- Insurance buyers are going more toward the combined owner/general contractor project-specific route as the marketplace for this product has some competition. These insurers for the most part require the use of third-party risk management review services for qualification.

Excess market

- Excess insurers require a minimum of a $5 million attachment point.
- Few insurers are willing to sit in the lead excess position.
- Insurers are putting out reduced limits through the excess tower.

NY Labor Law 240(1) continues to make NY an undesirable state for insurance insurers

- Few new insurer entrants.
- Average settlement value of claims involving NY Labor Law 240.

The use of alternative dispute resolution continues to gain momentum and is being used on several large projects in NYC and Upstate NY.

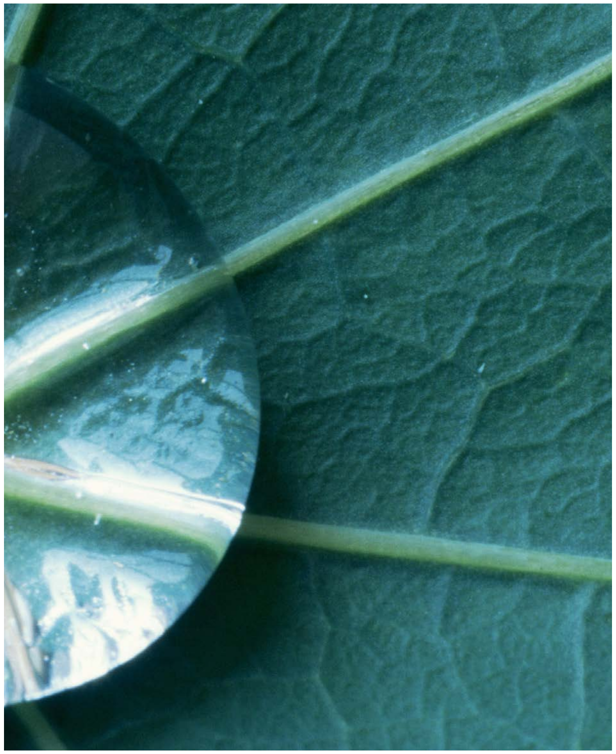
Market outlook

Interest rates and insurance premiums are correlated, meaning changes in interest rates can impact the profitability in the insurance marketplace depending on the specific circumstances and context. Insurance companies invest their collected premium to produce additional investment income which can be used to pay claims and expenses. Due to regulated investing requirements, insurance companies make substantial investments in such fixed-income securities as bonds and treasury notes. There is also the issue of bond premiums having an inverse relationship with interest rates, so if an insurance company needs to liquidate their bonds the yield could be reduced.

In contrast, reinvestment risk is introduced when interest rates rise. Insurers that have previously invested premiums in low-yielding, fixed-income securities may be missing additional profitability on higher-yielding securities, while they wait for their current assets to mature. As a result, insurance companies' investment income may be deferred so premium savings may not be immediately realized. Interest rates also have an impact on the calculation used to model the value of future claim payments. Reserve amounts calculated at present value are lower when interest rates are higher, resulting in lower reserve requirements and additional profit for insurance companies.

Although there is greater capacity in the market, particularly for well-performing insureds, incumbent partners are often willing to make compromises on pricing and terms to retain valuable clients and deter a marketing effort. Familiarity plays a lead role in underwriting flexibility when analyzing insureds' exposures. Therefore, incumbents have an advantage in retaining long-term clients.

It is important to give adequate lead time during renewals, especially when introducing new markets to an insured.



Subcontractor default insurance (SDI)

Subcontractor default insurance continues to experience growth throughout North America. With sustained financial stress impacting the subcontractor market and increases in project complexity, owners, developers and GCs alike are looking to SDI programs to provide adequate limits. With larger and more complex projects lining up in 2024, the SDI market is continuing to provide increased limits, proper terms and adequate coverage to ensure SDI programs continue to meet the specified demands and needs of clients.

- The SDI marketplace currently has six carriers actively engaged in the product line. Single limits can now be offered at $50 million or greater per loss.
- Carriers continue to offer flexibility for annual and multiyear programs and on subcontractor enrollment amounts, which is opening SDI programs for small, mid-and larger-sized contractors.
- With the introduction of new capacity and choice, buyers should review current policy terms, conditions and pricing.
- Claims and claim notices continue to grow in the SDI market — with loss multipliers and ground-up magnitudes continuing to see an increase.
- Underwriting in the current environment will continue to present challenges. SDI carriers are critical of contractors who are altogether new to SDI. Carriers are now pushing for a return to in-person underwriting and risk engineering visits, which is driving more concrete relationships.
- For the near term, contractors will have to contend with inflation, material and supply uncertainty and ongoing qualified labor constraints. We expect contractors to consider a balance of SDI and subcontractor bonds to get through this period of growth and uncertainty.
- The SDI marketplace remains robust. Markets are responding responsibly with some adjustments to their program offerings. In addition to the overall increase in market capacity, we are now seeing excess program offerings and a willingness to understand larger partner and program pursuits.
- The WTW DIG Center of Excellence continues to focus on client experience and education. The DIG team has evolved into Broking, Administration and Claims & Technical Services to hone our resources to fit our clients' evolving needs.

Environmental exposures in the construction industry persist and are expanding

- 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.

Insights from Canada

The Canadian construction insurance market. especially on the wrap up liability side, is continuing to see increased interest from the domestic insurers driving competitive outcomes on project placements along with enhanced coverage opportunities such as rip & tear.

On the builders risk side there is continuous emphasis on good, comprehensive underwriting information, which can unlock capacity and expedite the underwriting process. The overall outlook continues to be stable for Canadian project placements.

The Canadian construction sector has cooled down, however, more on a temporary basis as interest rates continued to increase back in 2023. As inflation and debt markets stabilize, we expect new projects, especially in the private sector, to move ahead in Q2 and onward for the remainder of 2024. The continuous need for capital infrastructure projects along with residential and affordable housing projects across Canada will continue to drive work for contractors and trades in 2024.

Our Canadian construction team is actively watching the recent 2023 Supreme Court case R. v. Greater Sudbury (City). This case highlights the increased health and safety responsibilities owners have along with their increased liabilities associated with project sites. Discussions with our owner clients around adequacy of wrap up limits that are being purchased on given projects along with review of contractual requirements are at the forefront.

Contact

Bill Creedon
Global Head of Construction/
Regional Construction Leader,
North America
bill.creedon@wtwco.com

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

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

Energy property

Rate predictions for 2024

Property

Tier 1	Tier 2	Tier 3
Flat to +5%	**+7.5% to +12.5%**	**+15%**
Well-engineered, well-run risks with clean loss history.	Risks with clean loss history, but lower premium income/ smaller insurer panels.	Loss-affected programs and/or challenging risks.

Key takeaway

Sector profitability in 2023 paired with stable treaty reinsurance backing has yielded a more predictable market environment. However, underwriter discipline remains, and working capacity/line size restrictions continue to hold competition in check in certain segments.

Scrutiny on reported values is slowing following years of pressure and improvements by insureds in their reporting philosophies.

- As rates of inflation rose significantly and global supply chain issues became prevalent during and after the COVID-19 pandemic, insurers pressured buyers to validate reported values.
- Many insureds had not previously challenged the status quo of reporting philosophies and baseline values, leading to potential underinsurance for some.
- Insureds have responded to pressure from the market by seeking third-party appraisals for key sites and improving the accuracy of renewal data, aiding the insurance-to-value ratio across the sector.
- Despite improvements, clients must remain vigilant and continue to track value changes and trends, employing a balance of periodic appraisals and value indexing, to remain in good standing.
- Value index rates published by several different services for varying exposure types are generally trending downward as the rate of inflation declines and the supply chain normalizes.

New and prospective capacity into the market is improving competition levels but is not enough to move the market in all segments.

- Chubb, following the expiration of their MGA relationship with Starr Tech, has aggressively written new lines on select business.
- A Lloyd's syndicate known mostly for their upstream portfolio is exploring expanding their downstream and midstream energy offerings and has hired an underwriter well known in the marketplace to expedite growth in the sector.
- Despite capacity growth, there have also been some changes, such as GSR 's venture with the backing of a large national insurer, expected to begin operations in 2023, which did not materialize.
- Allianz Houston's downstream book has now been relocated to London and, while long-term appetite in the space remains somewhat in question, capacity remains stable for now, and messaging from Allianz regarding their intent is positive.
- Overall, the growth in available capacity is a net gain despite the small exits and reductions from 2023. But for many risks, the working capacity and participation limitations are the drivers of competition rather than technical capacity.

Underwriter line size and capacity deployment adjustments are no longer a common theme in the market.

- 2022 and 2023 saw several markets reviewing capacity deployment (both dollar capacity and percentage participation) in hopes of improving results, with some making notable reductions in program shares.
- Profitability in the sector for 2023 and stable treaties have removed energy from the spotlight of senior management for now.
- Increased underwriter gross written premium budgets could lead to more aggressive price offerings from some insurers in 2024.
- While the list of reliable lead markets remains relatively short, some insurers will be looking to increase participation to capture market share and increase written premiums in a stabilizing rate environment.

Environmental, social and governance (ESG) remains an important component of conversations with underwriters but is no longer a primary focus for many insurers.

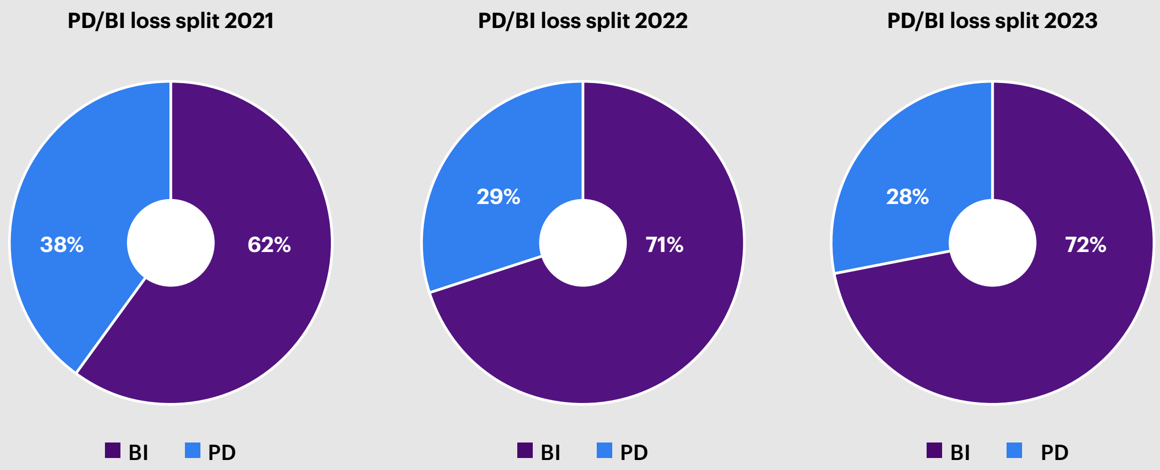
- In past years, ESG was a top priority for underwriters as they sought to understand each insured's goals and strategies.
- While ESG continues to be a topic in meetings with underwriters as part of renewal conversations, it is no longer the key driver that it was.
- Insurer ESG positions can be dynamic and must be monitored for significant changes over time, but many have remained static in recent months.
- Continental European companies continue to be the most advanced in their ESG restrictions, but appetite for a large selection of natural resource risks remains, with some exposure-specific limitations, such as coal, oil sands and arctic exploration.

A new Business Interruption (BI) Volatility Clause has been introduced in response to continued concern around BI claims.

- London Market Association (LMA) BI Volatility Clauses remain market standard in downstream with percentage caps varying based on market perception of volatility risk.
- The LMA has released a new version of their LMA 5515 Clause (LMA 5515A) which attempts to scale caps to account for partial income reductions as opposed to the previous clause which focused on complete site outages.
- The ratio of property damage to business interruption amounts in claims continues to be heavily weighted to BI.

- Insureds must continue to report BI values with a monthly breakdown and have a good understanding of the gross earning/gross profit calculations to allow for transparency with underwriters.
- Regimented review of reported values to validate cap adequacy paired with mid-term value adjustments, as needed, can relieve recovery limitation concerns.

Figure 1: **PD/BI loss split, 2021-23**



Source: WTW/WTW Energy Loss Database as at October 3rd, 2023

Contact

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

Ryan W. Medlin
CPCU, ARM, AU, AMIM Managing Director
Regional Brokerage Manager Natural Resources
+1 832 674 6238
+1 713 392 9958
ryan.medlin@wtwco.com

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

Energy liability

Rate predictions for 2024

General liability Flat to +5%	**Auto** +8% to +15%
Workers compensation 0 to +5%	
Lead umbrella +5% to +10%	**Excess liability** +2.5% to +10%

Key takeaway

Sector profitability in 2023 paired with stable treaty reinsurance backing has yielded a more predictable market environment. However, underwriter discipline remains, and working capacity/line size restrictions continue to hold competition in check in certain segments.

Auto liability remains a problem across all sectors, impacting lead umbrella pricing and capacity in 2024.

- Auto liability remains a problem across all sectors, impacting lead umbrella pricing and capacity in 2024.
- Despite eight to 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, and areas such as Louisiana and South Texas continue to be challenging.
- The industry does not expect the 2023 auto liability combined ratio to be profitable despite eight years of steady rate increases, as Fitch Ratings predicts the commercial auto insurance combined ratio to exceed 106% in 2023 .
- Clients with heavy fleets will face increased scrutiny as larger awards and settlements are impacting lead umbrella limits and pricing due to limit vulnerability.
- Excess carriers will continue to focus on hired auto liability exposures and contractual risk mitigation practices and third-party limits sought.

After a challenging 2023, the upstream operating segment should expect a relatively benign 2024.

- Offshore operators and non-operators are seeing a welcomed increase in capacity with the return of JH Blades GL/$10 million liability facility (with new carrier backing).
- Onshore capacity remains stable, and excess liability capacity remains plentiful in both the U.S. and London.
- While we do not expect this market to soften, the large rate increases (mostly experienced by offshore companies) seen in 2023 due to the shirking of capacity should not continue in 2024.
- We suspect that excess liability rate increases will lessen as the year continues.

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

- 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 in frequency, and settlements continue to be paid by lead umbrella policies, impacting limit 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 within this sector, especially those with larger fleets or large losses.
- We predict this will become more of an issue as 2024 develops.

Contact

Blake Koen
Managing Director — Natural Resources
Global Client Advocate
M +1 713 927 8216
blake.koen@wtwco.com

[1]Pertains to upstream/midstream/downstream/chemicals/mining but does not include oilfield services
[2]Source: https://www.fitchratings.com/research/insurance/us-commercial-auto-insurance-profits-struggle-amid-inflation-litigation-27-09-2023

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%

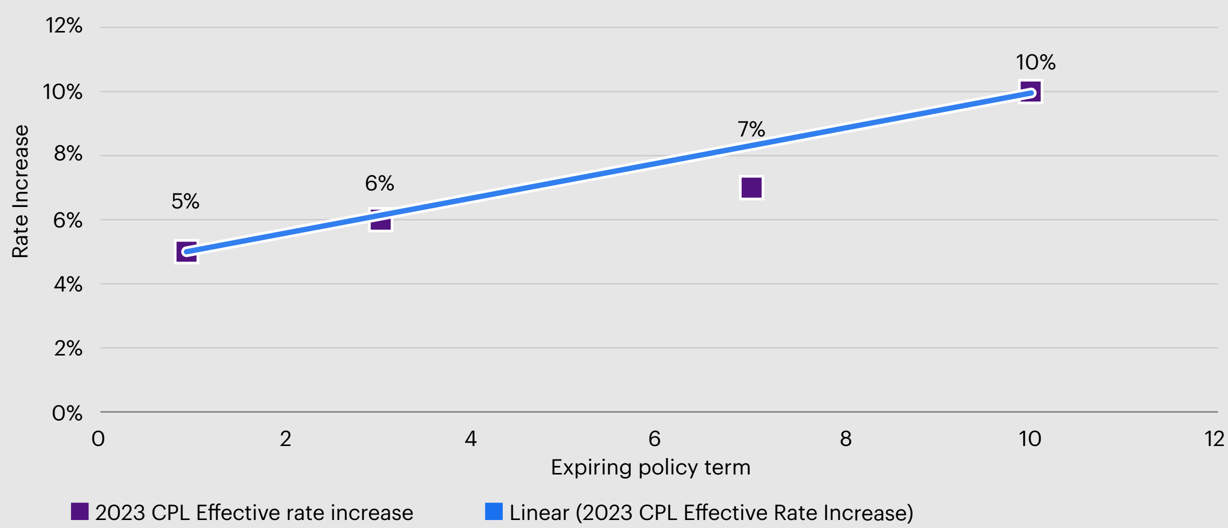
Key takeaway

Differentiating environmental exposures by industry has allowed clients and markets to have deeper and to the point conversations about specific exposures, trends, risk appetites and the true value of their coverage.

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

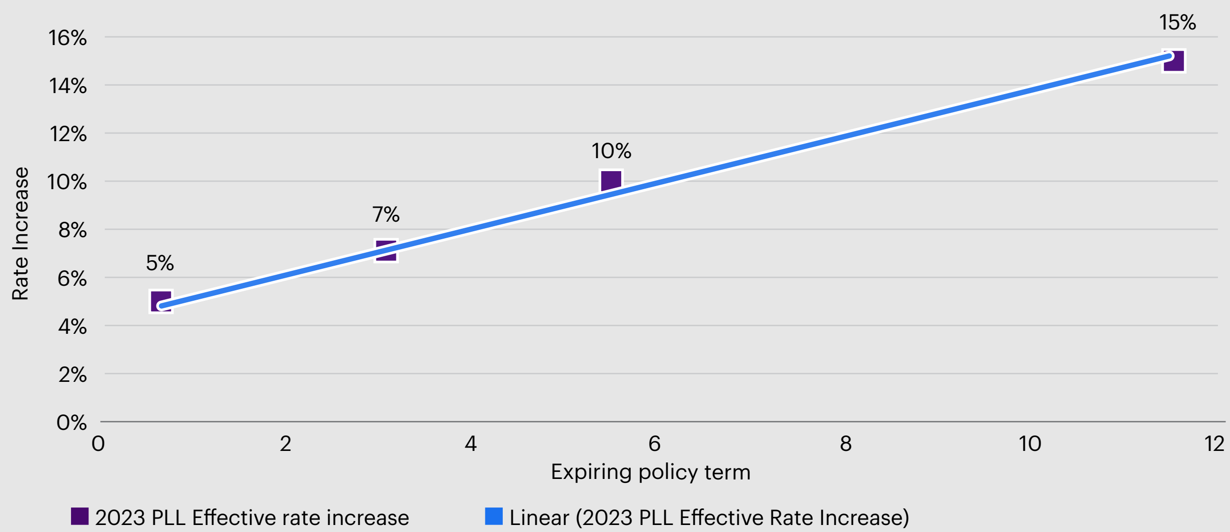
- While some investors await better economic certainty, the application of environmental insurance has become even more essential for mergers, acquisitions and real estate transactions.
- More than ever, authority approval from carrier leadership is needed on complex and larger capacity environmental programs.
- Following a period of market consolidation, environmental market capacity remains stable with few new market entries.

Figure 1. **2023 Contractors Pollution Liability (CPL) multi-year effective rate increase**



Source: WTW CIA Data

Figure 2. **2023 Site Pollution Liability (PLL) multi-year effective rate increase**



Source: WTW CIA Data

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

- After spending years as an emerging risk, two PFAS (per- and polyfluoroalkyl substances) chemicals were recently declared hazardous substances under CERCLA (Superfund) by the EPA who quickly moved to establish their allowable limits in drinking water with reporting thresholds and cleanup standards in other media soon expected to follow.
- With the arrival of regulatory thresholds for PFAS and other GenX, PFAS (per- and polyfluoroalkyl substances) restrictions are 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 as a potential contaminant to watch.

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.

Environmental exposures in the construction industry persist and are expanding.

- 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

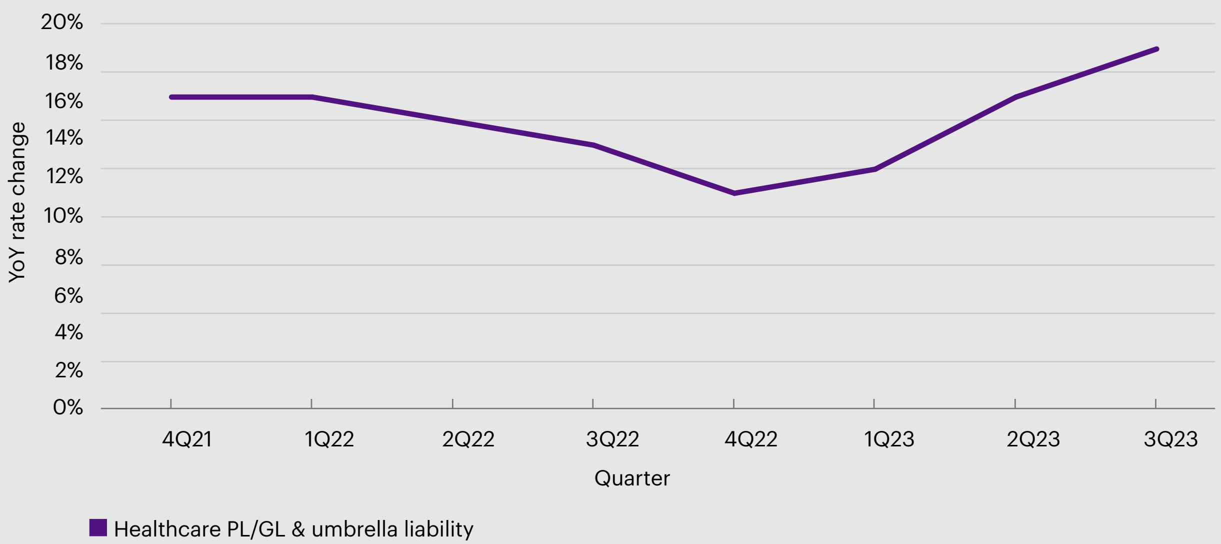
Rate predictions for 2024

Overall healthcare professional liability +5% to +15%	**Allied health** +5% to +15%	**Hospital professional** +5% to +15%
Managed care E&O +5% to +10%	**Physicians' professional liability** +5% to +15%	**Senior living** +5% to +15%

Key takeaway

Underwriters remain concerned about aberrational/nuclear verdicts. In response, even well-established insurers are reducing their deployed limits to as low as $5 million, and they are pushing for increased attachment points for underlying coverages, especially professional liability and auto. Concerns remain about staffing, practitioner burnout, aging workforce. Hospitals particularly Non-profit systems are facing significant financial challenges — according to Fitch Ratings; non-profit hospitals will continue to operate under a cloud of labor shortages and pressured margins in 2024. Related Acts coverage is now employed, particularly with respect to sexual abuse. Emerging issues include biometric data, privacy and artificial intelligence for diagnostics and treatment protocols.

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
347-439-7058
Michael.Faralli@wtwco.com

Joanne Kowalczyk
Senior Placement Specialist
973-382-2614
Joanne.Kowalczyk@wtwco.com

Life sciences

Rate predictions

Favorable risks and loss history

+3% to +5%

(for attractive risks, the market may deliver rates close to or at flat)

Key takeaway

Product and professional liability rate predictions remain in the mid-single digits. Capacity remains steady at $10 million to $15 million for U.S.-domiciled risks, while non-U.S.-domiciled risks are catching up and reducing the larger tranches previously committed (i.e., from $25 million to $15 million). A steady introduction of new capacity has driven relative stability and reasonable competition in the product liability marketplace.

As with most insurance, underwriting concerns vary depending on the products and services underwritten. Below we address several core concerns specific to the pharmaceutical, medical device and service provider sub-segments.

Pharmaceutical

The following items remain a concern for underwriters in the pharmaceutical space.

- **Acetaminophen:** In the Acetaminophen MDL, plaintiffs allege that prenatal exposure to products containing acetaminophen caused a later diagnosis of autism spectrum disorder (ASD) and attention deficit hyperactivity disorder (ADHD) in the exposed children. This has led to many insurers attaching some level of acetaminophen exclusionary language to their product liability policies. The industry is closely watching developments in this MDL and its long-term impact on carrier appetite for acetaminophen.
- **Product impurities:** We continue to see recalls for products containing benzene, which tends to be prevalent in personal care products, such as lotions, deodorants, antiperspirants, sunscreen, shampoo/conditioners, body wash and hand sanitizers. As a result, we are commonly seeing benzene added to the list of excluded impurities.
- In response to the nitrosamine impurities issues stemming from as far back as 2018, the FDA has now provided drug manufacturers with critical guidelines for conforming their products to what the agency has determined to be safe nitrosamine exposure limits for patients. The product liability insurance marketplace continues to exclude claims in any way related to nitrosamines.
- **PFAS:** As with several other sectors, litigation over per- and polyfluoroalkyl substances (PFAS) in the U.S. is causing concern for life sciences product liability carriers. These forever chemicals are prevalent in cosmetics as well as medical devices and pharmaceutical products. While there is still much unknown about the long-term effects of these chemicals, PFAS exclusions on product liability programs are becoming more prevalent.
- **Standard broad-based coverage exclusions:** Virtually all insurance policies include a broad-based product exclusion for historically litigated pharmaceutical products. These exclusions in some cases can be modified, but care and research must be taken by the client and broker to review and negotiate with insurers to maintain the broadest coverage available.

Medical device

The following considerations continue to drive underwriting conversations in the medical device space.

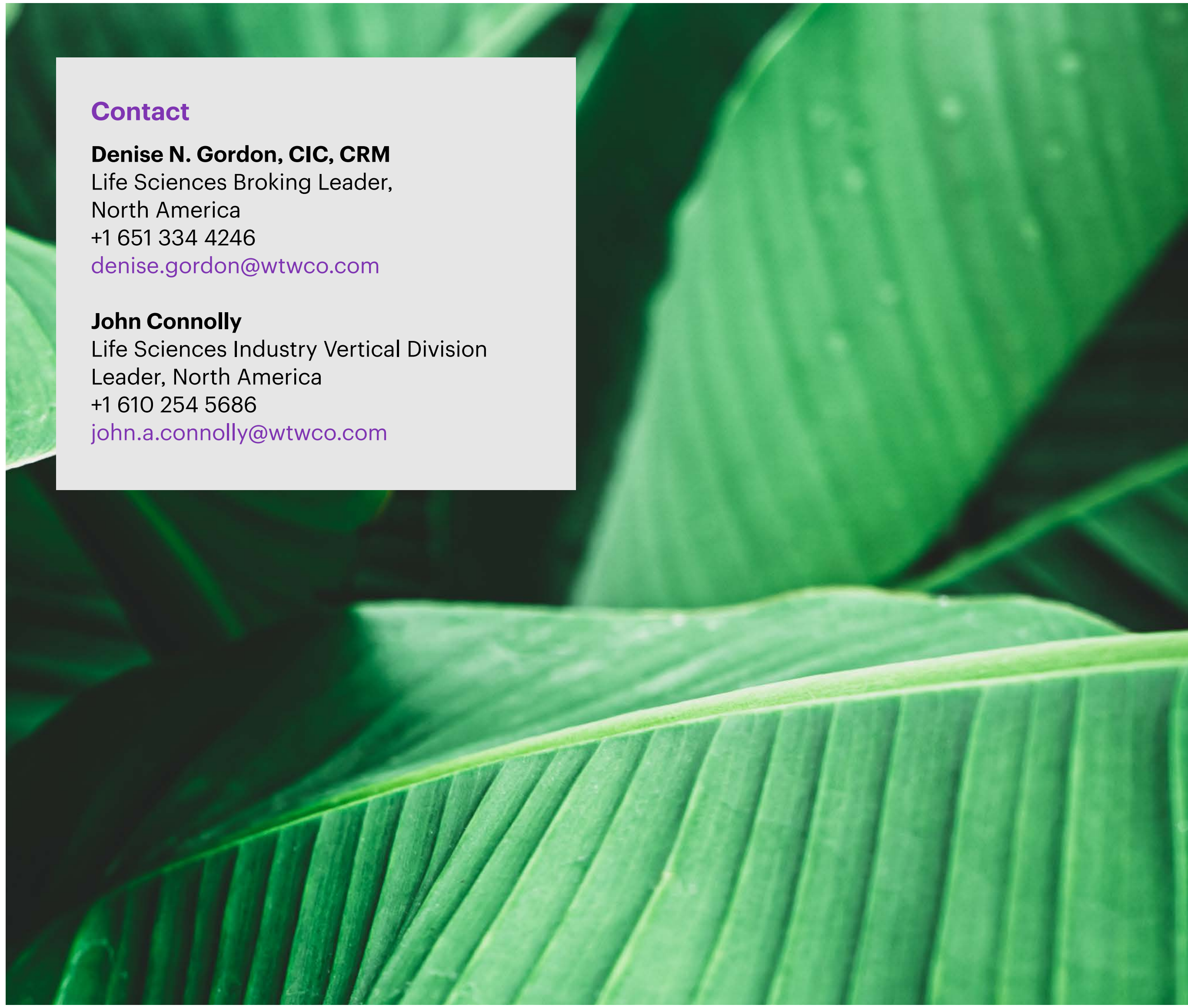
- Implantable medical devices: Capacity for certain highly litigated product classes, such as orthopedic implants, pelvic mesh and IVC filters remains limited. However, capacity remains generally available outside of highly litigated classes for implantable medical devices.
- Convergence of product, technology and service: With the demand for medical devices rising, along with the rapid advances in technology, the convergence of medicine, technology and follow-on services is driving challenges for both insureds and insurers. For some clients in this intersection (i.e., wearables, web enabled devices, etc.), healthcare professional exclusions are being introduced by some insurers and can be significantly problematic for these dynamic companies. The adequacy of coverage for the unique breadth of exposures must be carefully considered for manufacturers striving to provide novel and more comprehensive products.

Service providers

Service providers face risk of financial loss given their position in the stream of commerce. Key conversations include:

- **Financial loss:** Contract manufacturers, contract research organizations and other service providers are exposed to risk of third-party financial loss if an act or omission leads to a loss of revenue for their customers. It is imperative that these insureds consider including errors & omissions coverage as part of the product liability program to address this exposure. It is also important to review any cyber-related exclusions in the E&O coverage, ensuring that language dovetails with any cyber program to eliminate potential gaps in coverage.
- **Service provider coverage exclusions:** Several core exclusions should be examined for service providers because reasonable arguments can be made for companies with a strong quality record to expand coverage to increase balance sheet protection provided by the errors & omissions insurance policy.

It is critical to the long-term success of life sciences companies that they can effectively quantify, mitigate and transfer risk. The convergence of the consumer product and healthcare industries continues to create coverage challenges that the insurance marketplace is struggling to keep up with. WTW is continually working to push the boundaries of traditional insurance policies to ensure that insureds have adequate coverage in place to meet evolving client needs.



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 +10% for E&O; Up to −10% decrease for D&O (Depends on size of entity)

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

Private company, other lines of business
EPL, Flat to +7.5%; fiduciary, Flat to +15%; crime, Flat to +10%

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

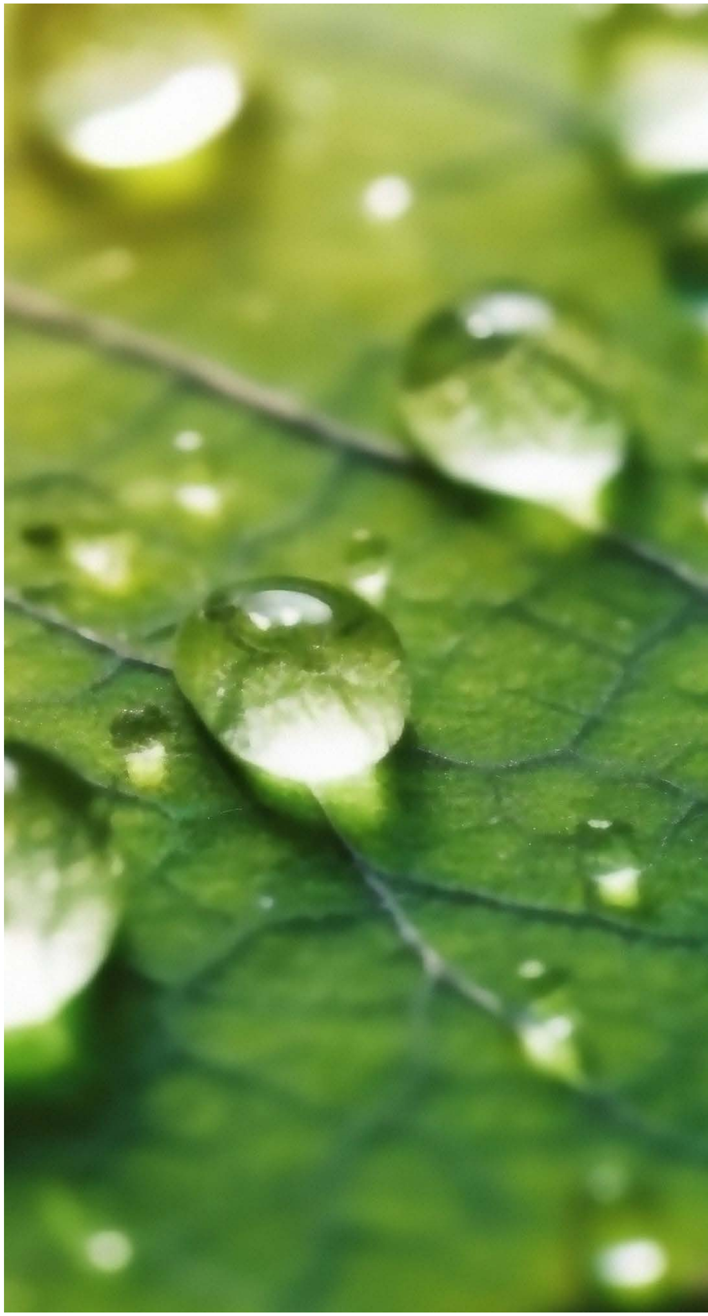
All other MCOs
Flat to +5% for E&O, Up to +10% for D&O

Cyber liability
MCOs that are excellent risks: −5% to +5%
For less-than-optimal risks: Up to +15%

Key takeaway

E&O and D&O pricing for managed care organizations (MCOs) is softer. Additional primary capacity could reduce rates. But inflation and litigation costs may prevent significant reductions.

Risks with limited primary markets, like TPAs, have higher pricing. Systemic risks, regulatory investigations, mass torts, and class action claims concern carriers. Coverage restrictions continue, especially for larger, complex organizations.



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 cyber event may impact future renewals. Public companies continue to see rate reductions in their D&O programs, but these reductions are slowing and are for organizations that perform well and have good loss experience.

E&O and D&O rate increases have leveled off, 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 is 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.

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 cyber event may impact future renewals. Public companies continue to see rate reductions in their D&O programs, but these reductions are slowing and are for organizations that perform well and have good loss experience.

E&O and D&O rate increases have leveled off, 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 is 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.
- We have not seen any new domestic or offshore carriers enter this space, but we anticipate new primary E&O and D&O capacity. No markets have exited.
- Non-core business diversification is driving risk and coverage limitations.

No Surprises Act

The No Surprises Act was intended to reduce to number of "surprise" bills for health plan members, shift the costs of the dispute over costs to the providers and plans, and provide an arbitration form of dispute resolution to facilitate closure and reduce dispute-related costs. The regulatory scheme behind the NSA has been subjected to one court case after another and an ever-changing set of regulatory rules. It is also being driven in some measure by the price and reimbursement rules related to hospitals and health plans. An ongoing stream of regulatory and court disputes and lobbyists are also altering the landscape. This process has had an impact on the out-of-network billing practices of some providers, but that is not always positive. Most of these claims and disputes fall within even lower retentions, and the actual amounts owed are not typically covered losses. No class claims or other "mega" claims have impacted carriers.

Merger and acquisition activity continues to rise.

One continuing industry trend that impacts market response is mergers and acquisitions, driven by the involvement of private equity investments, health plan acquisitions and diversifications. The current administration in DC, the chair of the FTC and the antitrust division of the DOJ have made it clear that they intend to scrutinize both pre- and post-M&A activity in healthcare. There has been significant activity in Congress and in the enforcement agencies aimed at M&A activity in healthcare, but much of that spotlight has been on PE ownership and activity in the space. A number of state legislatures have also gotten involved, and several states have passed limitations and regulatory oversight at the state level of healthcare transactions. Due diligence related to risk, exposure and solutions — innovation related to risk transfer — is required as the combinations create a significant set of risks that are not typically seen or evaluated when looking at the marketplace. However, this scrutiny by antitrust enforcement agencies may lead to further restrictions in coverage, outright exclusions or rate increases for E&O and D&O coverage.

The Dobbs Decision is a controversial subject creating a lot of debate.

The Supreme Court Opinion in Dobbs (June 2022) overturning federal constitutional protection for abortion rights has resulted in significant upheaval at the federal and state (even local) levels. Since the opinion came out, many states have either “revived” old laws still on the books or enacted new, and sometimes drastic, limitations on abortion and other reproductive health therapies. For the most part, managed care entities have escaped, while agency review and law enforcement efforts have been aimed at providers and patients. The obvious difference between the current administration in DC and many state capitals puts self-funded health plans and some MCOs at risk, but compliance issues have been limited. The number of claims related to benefits in the space have been limited as well. The current case related to medicinal abortion availability will further illuminate or complicate the picture. The marketplace is paying close attention to the political and ideological fights raging throughout the country related to access to reproductive healthcare. However, to date, there has been no drastic change.

Regulatory and policy uncertainty

With the continued difficulties and changes in health policy as administrations change driven by politics and ideology as well and enforcement priorities, the payor industry is seeing consistent — if not constant — threat to business strategies at the federal and state levels. Regulatory investigations, compliance and related claims (E&O, D&O and cyber) continue to keep pressure on underwriters to anticipate risk and exposure. When there is limited information, but consistent change and the possibility of risk/exposure, underwriters err on the side of caution, which limits coverage and drives up rates. This is not likely to change any time soon. With an election later this year, this trend will continue no matter who wins in DC and state capitals.

Buyers should be aware of claim scenarios that can create coverage problems.

- **Antitrust:** Over the last 25+ years, the managed care industry has been involved in many antitrust claims. The ongoing In Re BCBS Antitrust Litigation is but one example. Antitrust claims can take many forms and follow various legal theories and may be prosecuted in state, federal and foreign jurisdictions. They can be filed by members, providers, competitors and governments. These claims are not limited to monopolies or certain enumerated actions by those with significant market share or groups of entities; they also include a wide variety of unfair and/or deceptive trade practices under federal and state law. They can be class actions, but many are not. They require specialized legal representation and are expensive to defend. The resulting losses are not always 100% covered. Coverage for these claims is tightening significantly. The recent passage of the federal CHIRA legislation, the Biden administration’s focus on antitrust in healthcare, and the increase in state laws and regulatory pressure continue to create disruption.
- **Network security and privacy:** Cyber risk is a top risk for every MCO. MCOs maintain large amounts of protected data on millions of members, send and receive billions of dollars monthly and collect biometric data. Efforts to obtain this information by foreign governments, criminal enterprises and other hackers are an everyday occurrence. Claims related to lost business income, ransomware payments, breach response expenses and first- and third-party losses are all on the rise. While there is capacity in the marketplace, buyers must take note of coverage restrictions, the need to dovetail coverage terms with other lines and the difficulty of determining proper limits. Social engineering, ransomware and technology E&O coverage restrictions are growing. Changing state, federal and foreign exposure based on legislative and regulatory action is also adding to the pressure.
- **Government fines and penalties:** Because MCOs are so tied to government reimbursement, plans are likely targets of government investigations False Claims Act action, whistleblower lawsuits or administrative fines/penalties. Beyond restitution, damage awards, fines and penalties, defense costs alone can exhaust a risk transfer program. International regulatory compliance is another risk in countries (e.g., the U.K., EU, India) where many MCOs now have business operations.
- **Behavioral health claims:** Behavioral health claims are on the rise and COVID-19 has compounded the issue. Mental health parity claims, at both the federal and state levels, can be costly to defend, especially the class actions. Demands tend to be for benefit payments, penalties and restitution, which are not covered by managed care E&O policies, but there is usually defense coverage.

Contact

Kenneth White, J.D.
NA Managed Care Practice and COE Leader
National Healthcare Practice
+1 954 615 1887
kenneth.white@wtwco.com

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

Marine cargo

Rate predictions

Marine cargo including STP

Flat to +5%

Key takeaway

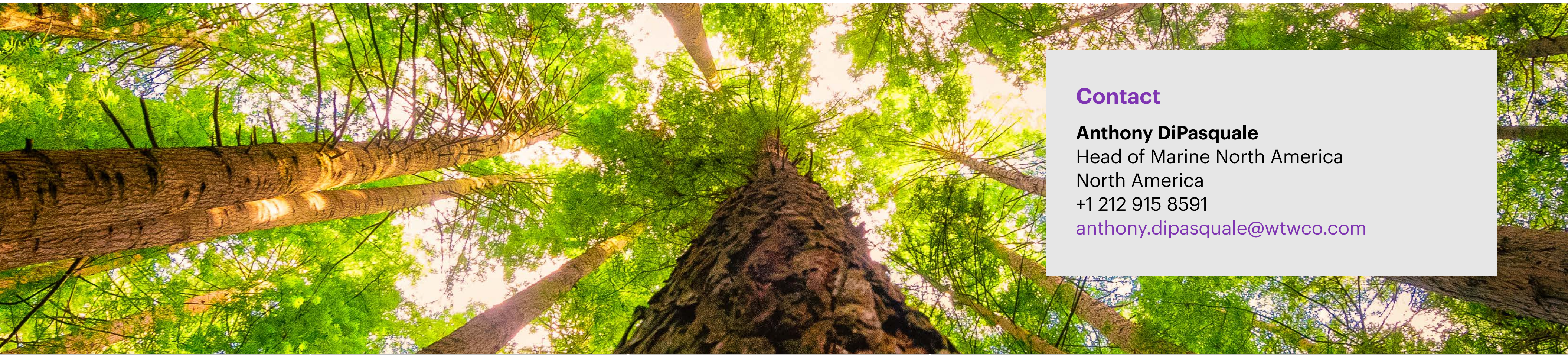
Generally, the marine cargo market remains stable and, for accounts with a favorable loss ratio, continue to see close to flat rate renewals. Considering favorable underwriting results from prior year, insurers seek to gain market share by using quota share program structures. Capacity remains readily available, and additional capacity is looking to enter the marine market.

Global supply chain challenges

- **Container ship Dali:** Supply chain disruption is yet to be determined in the wake of the incident involving the Container Ship Dali and the Francis Scott Key Bridge at the Port of Baltimore. We expect that East Coast ports will need to accommodate increased volumes leading to potential delay and further stress to the supply chain.
- **Red Sea and surrounding region:**
  - Some insurers have issued notice of cancellation for War/SR&CC and placing a specific region outlined by latitudes/longitudes "On Application."
  - The increased transit time to bypass the Suez Canal and pass through the Cape of Good Hope creates stress on the global supply chain, such as increased costs, transit time, return of empty containers to origin and inherent risks of these longer voyages.
- **Panama Canal:** There continues to be reduced capacity of vessels transiting the Panama Canal due to recent water shortages.

Stock throughput considerations

- Stock throughput program structures continue to be explored as an alternative to the traditional property placement addressing static inventory.
- Working together with a property team often yields most favorable outcomes on pricing and overall insuring conditions.
- Benefits may include reduced deductibles, increased available limits including catastrophic perils, and premium savings.



Contact

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

Marine hull and liability

Rate predictions for 2024

Hull and machinery (U.S.) 0% to +2.5%	**Hull and machinery (London/International)** 0% to -2.5%	**P&I (U.S.)** +2.5% to +5%
P&I with crew/towing (U.S.) +5% to +7.5%	**P&I (international club)** +5% to +7.5%	**Marine liability (primary U.S.)** +2.5% to +5%
Marine liability (excess U.S.) +5% to +10% (more for underlying crew/towing — 1st Layer)		
Marine liability (London) +25% to +30%	**U.S. L&H mutual** Flat to +2.5%	

*All rate projections shown above are subject to good loss record accounts (higher increases 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).

On March 26, 2024, the M/V Dali fully loaded with containers struck the Francis Scott Key Bridge while departing the Port of Baltimore. The accident tragically resulted in the death of six bridge workers. The accident will result in exceptionally large claims in both the marine and property-casualty markets. Too early to realistically estimate the losses but the marine market is bracing for at least $1 billion. The claim has already influenced the marine excess liability markets who reinsure the International Group P&I Clubs in excess of $100 million limit. Prior to the Dali accident, minor single digit increases were the norm, and this has vastly changed post incident. The Dali will likely impact International Group P&I renewals and marine reinsurance treaty renewals, which will be clearer in January 2025 when those programs renew.

Underwriting in the current environment remains demanding.

- Marine underwriters require premium increases for claim inflation (personal injury and increases in raw material cost).
- Excess liability underwriters carefully review non-marine underlying coverages (specifically auto liability) scheduled under marine bumbershoot policies and require higher minimum attachments points (no longer accepting $1 million underlying auto limit for fleets of significant size).
- Excess liability underwriters are reducing capacity and requiring ventilation between layers requiring quota share placements and additional market capacity.
- Due to political unrest globally, specifically due to Ukraine/Russia, and Houthi rebels in the Southern Red Sea and Gulf of Aden has created volatility in the Hull War market.
- Underwriters are seeking additional retentions on U.S. Gulf area hull risks due to consistent NAT-CAT losses.
- There has been an increase in capacity in the London market due to new entrants in 2023 and 2024, which has enabled the softening of market rates.
- The recent bridge incident in Baltimore is having an adverse impact to the overall marine marketplace where it is expected to be one of the largest maritime incidents in history.

International group P&I clubs

The P&I club market is starting to stabilize after several consecutive years of large pool claims, high average market combined ratio and lower investment returns. However the Dali will likely have a negative impact on the 2025 renewals which we will report on in the next issue.

Contact

Phil Gran
Shipowners Leader
North America
+1 212 915 8312
philip.gran@wtwco.com

Personal lines

Rate predictions

U.S.

Homes +15% to +20%	**Homes with losses** +50% or non-renewal
Cat-exposed homes +50% to +100% w/limitation or non-renewal	**Cat-Exposed Homes with Losses** +100% or non-renewal
Auto +15% to +25%	**Personal umbrella liability** +20% to 25%

Canada

Homes +8% to +20%	**Auto** +6% to +10%	**Personal liability** +1% to +2%

Key takeaway

We continue to predict a pervasive hard market in personal lines across all lines of business with rate increases persisting in 2024. Carriers remain focused on profitability over growth and, as such, have firmed up their underwriting appetite and risk exposure. At the same time, as inflation has lessened, reinsurance has stabilized, giving carriers more comfort with rate already taken. As a result, some moderation is becoming apparent with lesser premium increases at renewal and lower inflation adjusted coverage requirements. CA, FL, TX, CO and NY remain problematic as carriers continue to shed unwanted risks. Yet, some carriers are now indicating the end of large book cancellations and willing to consider well-protected risks in these areas, particularly with their non-admitted products. Capacity shortage from carriers limiting growth or pulling out of states all together is still in play, but we predict that will lessen, with the exception of states like CA, NJ and others who struggle to adapt their regulatory requirements. Extreme weather, poor driving habits, increased litigation, and inflated claims costs will continue to impact carriers; these factors combined with any "shock" event could reverse any moderating.

Homeowners being underinsured is still a major concern.

Carriers and clients are still struggling to match policies with actual replacement costs as labor and materials continue to increase.

- Economic inflation coupled with social inflation is still pushing loss costs.
- Pervasive labor shortages mean higher wages, which increases building costs.
- Frequent convective storms, wildfires, freezes, floods and hail country-wide are driving $1 billion+ losses, which collectively are worse than single major events like a hurricane of $10 billion+. (2023 saw the most ever of these loss events with 2024 likely to experience the same.)
- Flooding continues to be the most common type of natural disaster world-wide and the most underinsured.

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

- Reinsurance as well as 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.

Personal auto premiums are still significantly on the rise in the short term, but some moderation is possible with better results later in the year.

- Personal auto results have started to improve somewhat as large rate increases and strict underwriting is helping better results. However, carriers are still not satisfied and will continue to seek significant rate until consistent results over several quarters materialize.
- 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.
- Elevated used car prices and extended repair times have lessened, but remain a drag on auto carriers' ability to remain profitable in 2024.
- Large auto liability losses and outsized settlements are still a significant concern.
- Car theft crisis continues to impact Canada and U.S.
- Personal umbrella liability pricing accelerates; underwriting tightens.
- Carriers are concerned with outsized settlements due to social inflation.
- Carriers are also worried about excessive litigation, which drives outsized settlements.
- Automobile liability losses especially have put a strain on limits being offered and on pricing increases.

Contact

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

Political risk

Rate predictions

Political risk

+10% to +40%

Flat for anniversaries within multi-year policies (same host country sub-limits), flat to +10% for increases in host country sub-limits

Key takeaway

The ongoing crisis in the Middle East underscores that geopolitical flashpoints are becoming not only more common but also more pronounced in their intensity. We advise clients with a global footprint to approach the political risk market proactively, especially for countries with dust clouds on the horizon.

Overall, the PRI market remains resilient and open for new business but has hardened with the following emerging dynamics:

- Self-insured retentions (SIRs) are being used more regularly, particularly on transactions with many host countries.
- Several carriers are lowering their line-size per transaction to not have too much capacity on any one risk given their unpredictable nature; placements require more syndication.
- Appetite for large numbers of host countries has declined, several carriers preferring single-country transactions or a smaller set of countries, such as five; pricing on programs of a higher number of countries has increased.
- Having said the above, the hardening is beginning to taper off and stabilize.

Crisis in the Middle East

- Exchanges of fire between Israel and Lebanese Hezbollah intensified in Q1. Attacks by Houthi rebels in Yemen on global shipping decreased in frequency, but increased in severity, with the first sinking of a vessel and, in a separate incident, the first deaths of sailors. The U.S. became increasingly public in its criticism of Israeli policy, leading to a UN Security Council resolution demanding a Gaza ceasefire.
- Following intensive U.S. strikes on militia targets, attacks on U.S. bases in the Mideast region largely ceased in Q1.
- Flashpoints for escalation include the possibility of war with Lebanese Hezbollah, the spread of attacks on shipping to a wider geographic area, rising political unrest in Israel or neighboring states, and the possibility of a direct military confrontation between Iran and either Israel, the U.S. or both.
- Political risk insurance markets are closed to new risks in Israel at the moment, other than potentially expropriation coverage only, and taking a cautious approach toward neighboring countries more broadly.

2024 will be the "year of elections" with some key elections around the world that could create new geopolitical uncertainties.

- Countries where political power is contested, but not through free and fair elections, might be susceptible to more turmoil. These countries include Belarus, Chad, the DRC, Iran, Russia, Rwanda, Uzbekistan and Venezuela.
- From a geopolitical perspective, elections of particular importance will take place in the U.S., Europe (for the European Parliament), the U.K., Mexico, India, South Africa and Indonesia. Recent research by WTW and Oxford Analytica suggests that geopolitical alignments are shifting rapidly, and these key elections could drive some new shifts in that regard.
- With elections comes the risk of populist rhetoric. Recently, Nicolás Maduro, the President of Venezuela, has made various statements regarding the territorial dispute with Guyana and reiterated Venezuela's historical claim to a vast territorial landmass. Several major international oil companies are involved in offshore exploration and production activities in Guyana's waters, and an escalation in tensions might draw in Western presence in the region.

Sovereign default risks can create economic risks for global business, including currency devaluation, non-payment by sovereign entities and outright currency crises leading to exchange non-transfer and private sector defaults. In some cases, sovereign defaults could lead to political violence.

- According to the International Monetary Fund (IMF), 36 low-income countries are at high risk of debt distress or are already in distress, and thus struggling under an unsustainable debt burden.
- Recent coups that emerged in Africa since 2020 have also been underpinned by high risk of sovereign default and unpopular cuts in government spending. Protests broke out in response to cuts in government spending in Chile in 2019, Sri Lanka in 2022, and France in 2018 and 2023 demonstrating this trend around the world.
- In 2024, some notable countries at risk of unrest include Argentina, Lebanon, Ecuador, Brazil, Sri Lanka, Ghana, Colombia, Jordan, Oman and Kenya. Our latest Political Risk Index analyzes the relationship between austerity measures and public protests in greater detail.
- In our recent Political Risk Index: Spring/Summer 2023, we examine how today's cost-of-living crisis fuels political turmoil. In addition, as all our Political Risk Index editions do, we provide analysis on 61 countries with respect to their risk levels for expropriation, currency inconvertibility, political violence, terrorism and sovereign default.

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
+5% to +10%

Key takeaway

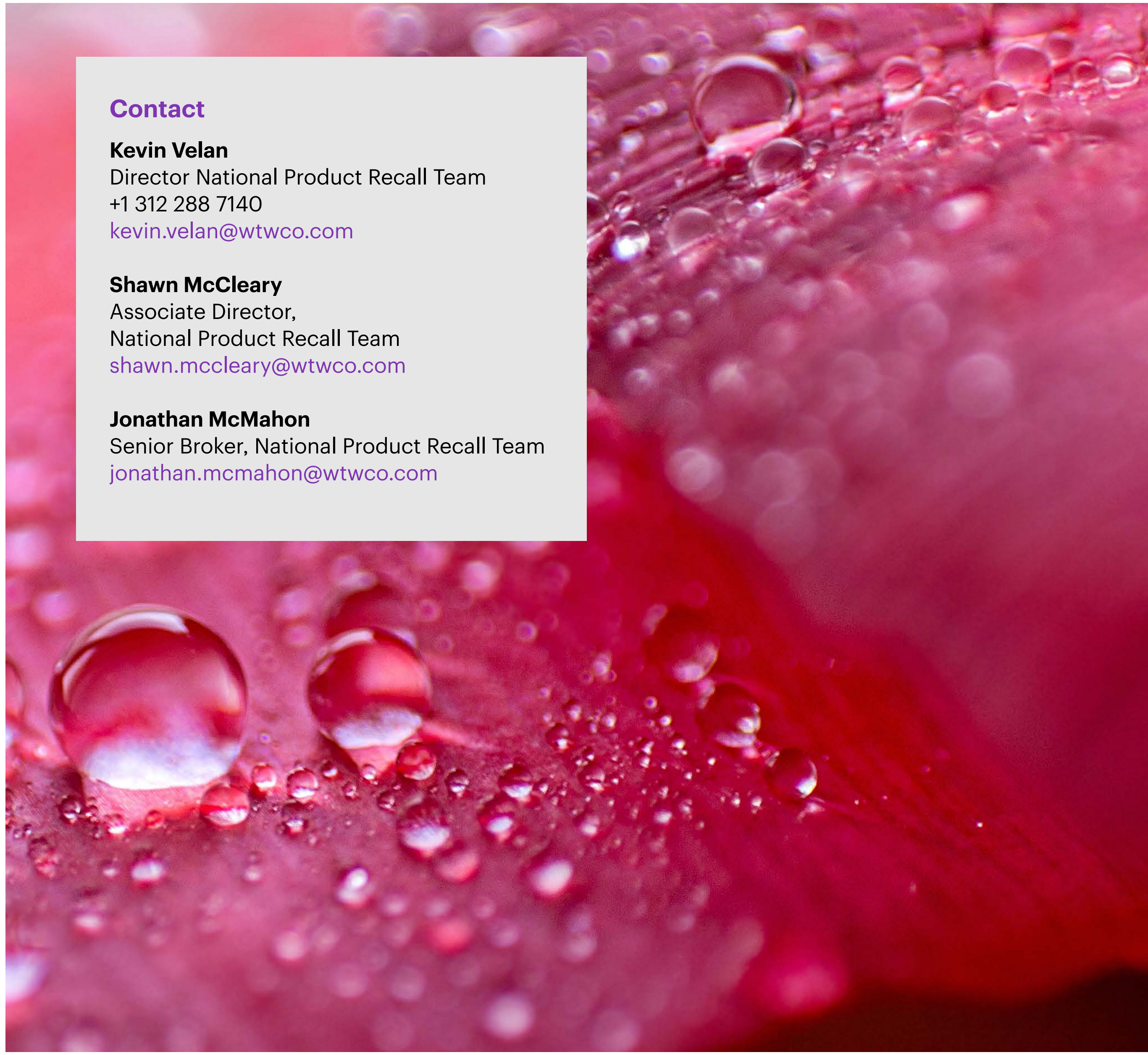
The product recall market has seen an easing of rate to approximately 5% on flat revenue/exposure renewals over the last two years. The market has sustained several very large +$100 million losses in both the food and non-food space. We expect that, going into the 2024 and 2025 renewal cycles, the market will be looking to increase rate on more difficult risks that do not have longstanding relationships with their incumbent carriers.

The key takeaway from this is due to the uptick of recalls — increasing over 115% since 2018. Renewals are being handled on a case-by-case basis from the market with a heavy emphasis on product scale, claim history and frequency as well as insured/carrier relationship.

Large losses sustained in the market include:

- $105 million automotive component recall
- $150 million food contamination recall
- $ 45 million packaging defect recall
- $150 million baby formula recall
- $ 20 million medical device unit recall

Due to the current state of the 2024 product recall market, it is important to obtain all submissions at least 60 days prior to the renewal. This allows us to leverage risk review and competition with incumbent markets.



Contact

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

Shawn McCleary
Associate Director,
National Product Recall Team
shawn.mccleary@wtwco.com

Jonathan McMahon
Senior Broker, National Product Recall Team
jonathan.mcmahon@wtwco.com

Senior living and long-term care

Rate predictions

General and professional liability with favorable loss experience and venue

Flat to +20% for accounts with favorable loss history and venues. Anticipate higher variability and larger rate increase for challenging accounts.

Property with non-challenged occupancies

0% to +10%

Property with challenged occupancies

+10% to +20%

Workers compensation

–5% to +2%

Auto

+7.5% to +17.5%

Key takeaway

Continuing frequency of severity, coupled with overall inflationary pressures on many fronts, is driving rate increases for property, general and professional liability and auto coverages. In property coverage, which created great angst among owners and operators in 2023, there has been some stabilization, albeit a reduction in rate increases, with a slight expansion of capacity. Workers compensation is still a ballast in the overall insurance spend, although it bears watching with rising medical inflation and salary increase pressures.

Professional liability and general liability

In Q4 2023, we began to see rate stabilization similar to what we saw in 2022.

- Risks with developed losses and difficult venues will continue to be closely underwritten and could see increases.
- There continues to be frequent reluctance to deploy significant capacity in litigious venues such as NY, NJ, CA and FL. Other less-than-desirable venues are Philadelphia, PA and Cook County, IL.
- Courts have reopened, resulting in more verdicts being issued, and losses continue to trend upward.
- Pennsylvania venue shopping rule was repealed effective 1/1/2023.
- Economic and social inflation is being priced into all business.
- Sexual abuse and class action capacity continues to be difficult, and carriers are restricting coverage terms on existing business.
- To reduce total cost of risk, many insureds are assuming larger deductibles or self-insured retentions, although increasing retentions is often not offsetting rate increases as we anticipated.
  - Buyers need to be proactive in securing lender waivers when retentions exceed those allowed in standard loan covenants or when captives and other self-insured approaches are used with acceptable fronting or trust agreements.
  - Clients seeking to differentiate their risks must focus on incident reporting, claim mitigation, policies and procedures. Emphasis on the clinical program management will also have a positive impact, particularly for those with a focus on fall management, elopement, medical management and infection prevention and control.

Property

- Focusing solely on the average rate change can obscure the wide variation of rate increases we see in this market. In Q4 fewer clients were forced to choose between self-insurance and risk transfer because market capacity stabilized and increased in some areas. Deductible and term changes imposed by the markets, however, are not captured in the average rate change.
- Challenging 2023 insurer reinsurance treaties resulted in direct insurers pushing price increases and retentions, although it waned in Q4 due to expanded direct insurer capacity/supply and appetite.
- The shift in available capacity continued to pressure rate for both challenged and non-challenged occupancies to varying degrees during Q4 2023.
- Insurers looked to deploy new/expanding capacity due to a benign Atlantic hurricane season and to meet year-end budgets, although constrained capacity remains for accounts with losses, as are those heavily CAT-exposed (e.g., Southeast windstorm and California earthquake)

- CAT losses from severe convective storms contribute to what experts are calling the worst in history. U.S. severe convective storm losses so far in 2023 total close to $60 billion with total U.S. CAT losses more than $110 billion with further adverse development possible.
- Insurers retain focus on severe convective storm exposures, resulting in a market push for sublimits and percentage deductibles.
- Valuation methodology continues to be scrutinized but with less focus on requiring large year-over-year increases as inflation concerns recede. FM Global trend factors for 1/1/2024 indicate a 1.5% increase since January 2023, which is substantially below the cost trend factors for the pandemic era heavy inflation years leading up to 2024.
- Submission flow into the market is still high but insurers are proactively seeking new business opportunities due to increased 2024 new business goals. Detailed submissions with robust modeling data and methodologies continue to differentiate risk quality.
- Continue to re-evaluate cost efficiency of risk transfer vs. risk retention, with potential consideration for alternative risk strategies/ solutions and parametric products.

Workers compensation

- While the workers compensation marketplace in 2023 benefitted from the tailwinds of rising wages and strong investment income attributable to monetary policy actions, 2024 should bring more muted renewal outcomes as wage levels for highly compensated employees stabilize, and the Federal Reserve contemplates interest rate reductions.
- Medical cost inflation, the main driver of large claims in workers compensation programs, continues to exceed top-line inflation figures; we expect carriers will be less accommodating on their rate stances as a result.
- While 2024 may not be as insured-friendly as 2023, workers compensation remains a bright spot compared to other major lines of coverage as insurers continue to turn a profit. Insureds with good loss history or improving trends who did not seek alternatives in 2023 may still be able to take advantage of favorable marketplace competition.
- Excess workers compensation trends should be similar; however, less competition resulting from a smaller number of carriers in the excess workers compensation marketplace is leading to average rate trends that are not as strong as overall workers compensation.

Auto

- Despite 29 consecutive quarters of rate increases, the auto liability marketplace continued to deteriorate over the course of 2023. Adverse renewal outcomes accelerated for most insureds (60%) who experienced rate increases >5%.
- After a decline in accidents during the pandemic, frequency rates have returned to pre-pandemic levels. Coupled with much higher severity resulting from inflation, medical costs and supply chain restraints, insurers are struggling to adequately price for their ever-increasing loss costs.
- Higher occupancy vehicles continue to be viewed less favorably and may add rate to a community’s auto premium if its fleet involves multiple vans and/or buses.
- We recommend proactively evaluating alternative retention structures to minimize the total cost of risk and optimize renewal outcomes, where possible.

Contact

Maryann McGivney
Healthcare Industry Leader, North America
+1 678 777 5994
maryann.mcgivney@wtwco.com

Randy Stimmell
Senior Vice President, Client Executive
+1 312 288 7414
randy.stimmell@wtwco.com

Special contingency risks: Kidnap and ransom

Rate predictions for 2024

Special contingency risks
+5 to –10%

Key takeaway

The special risks insurance markets have almost uniformly either restricted or excluded coverage for exposures in Belarus, Russia and Ukraine.

- Coverage restrictions for high-risk territories, such as Haiti and Israel, are selectively applied by a few insurance markets, but we could expect to see these positions shift in line with the security developments in the countries concerned.
- The number of kidnap incidents has returned to pre-COVID levels in several countries, notably Colombia, Mexico and Nigeria.
- Noticeable have been the increase in threats reported, specifically in North America and security evacuations out of historically high risk world regions as well as from recent conflict flashpoints — special crime policies can cover both perils under selected endorsements.
- Moreover, criminals have continued to invest in schemes, such as virtual kidnappings (an alleged kidnap has occurred with a quick ransom), to exploit the current environment and maintain a cashflow to fund further illicit operations.
- Cyber extortion has also continued unabated, as many technology-related crimes are not impacted by lockdowns or reductions in social and business interaction. Indeed, the steep rise in people working from home has presented cyber criminals with a wider range of softer targets.

Insurers are maintaining coverage restrictions or exclusions for Russia, Ukraine and Belarus.

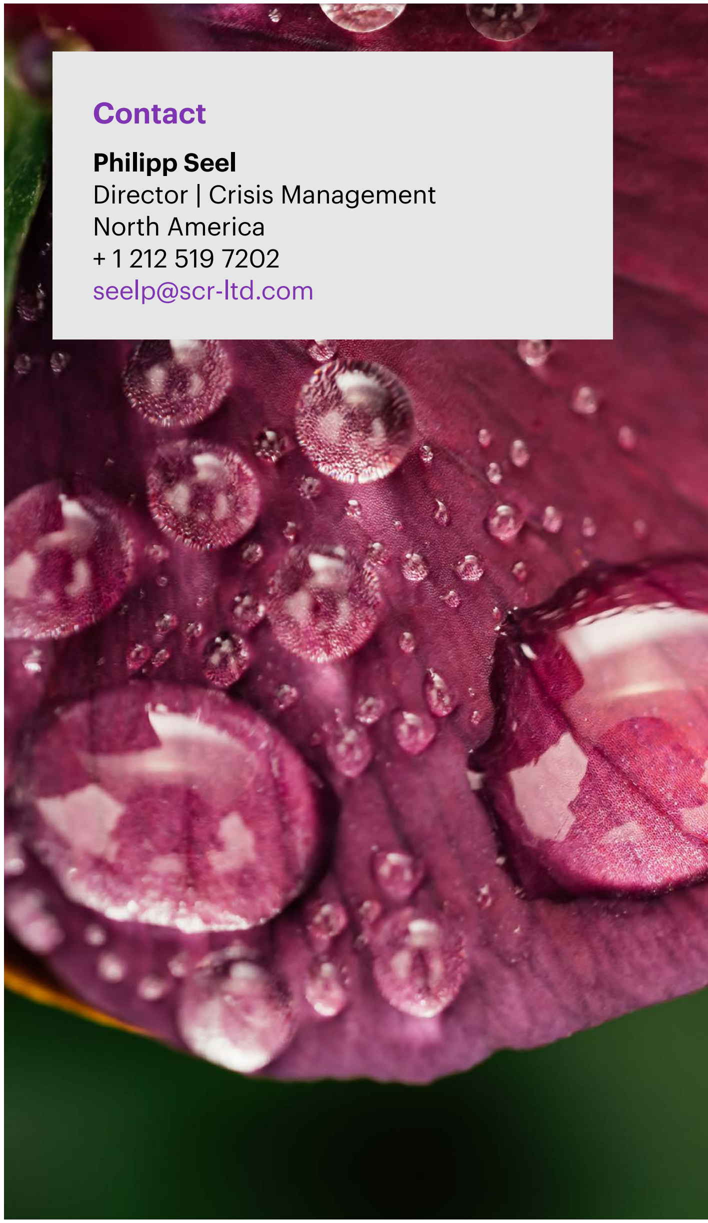
- As a result of the ongoing crisis in Ukraine and the imposition of sanctions against Russia and against certain elements in Belarus and parts of Ukraine, insurers have introduced coverage restrictions and exclusions.
- The restrictions and exclusions apply to programs with historical, actual or anticipated employee headcount or travel exposure in/to those countries.
- The scope of coverage exclusions has varied by insurers, ranging from restrictions such as sub-limits to blanket exclusions across the entire program or exclusions under selected endorsements only.

Interest in active assailant coverage is growing.

- The market continues to develop and promote policies that respond to a broader range of security-related perils.
- We have seen special crime insurers, as well as other specialty insurers, show greater interest in active assailant coverage and offer increasingly customized solutions (either via endorsement or stand-alone policies) with a focus on post-incident crisis management support, legal liability, business interruption (both physical and non-physical damage) and indemnification of a variety of incident-related expenses.
- These solutions go beyond traditional terrorism and/or political violence coverage and are increasingly being used to complement traditional policies.

U.S. active assailant | Pricing, terms and conditions

- Rates are generally unaffected by the wider political violence market hardening but are increasing in response to the change in risk environment, albeit slower than in 2023:
  - + 5% — 10% where liability coverage is excluded
  - + 7.5% — 20% average with liability coverage — some policies subject to complete re-rating if insurers deem previous pricing doesn't meet rate adequacy requirements
- Market capacity and participants (30+ insurers) relatively static overall; however, a number of insurers are showing a greater active involvement toward product development and participation than in previous years.
  - Capacity for programs, including liability coverage, remains significantly more cautious than those without, but is still generally available.
- Market wordings continue to provide coverage wider than the metrics most law enforcement or intelligence sources track incidents by — coverage provided with a lower "minimum victims" trigger requirement and following attack methodologies with other weapons than just firearms.



Contact

Philipp Seel
Director | Crisis Management
North America
+ 1 212 519 7202
seelp@scr-ltd.com

Surety

Rate predictions for 2024

Surety
Flat

Key takeaway

Surety companies continue to be profitable, and we continue to have adequate capacity to meet our clients' needs. The sureties are cautiously monitoring inflation and other risk factors impacting exposures.

Contract surety

The U.S. surety industry has begun to experience a modest increase in loss activity. The Surety and Fidelity Association of America reported 2023 third-quarter results that had an industry direct loss ratio of 21.0%, up from 15.0% in 2022. Surety reinsurance results were more dramatic as they have absorbed higher losses that developed over the past few years. The industry remains profitable and underwriting terms have been stable.

- Primary surety companies remain profitable
  - Reinsurance rate increases will eventually impact business.
  - Interest rates seem to have peaked.
  - The economy remains stable, and inflation is cooling.
- Strong underwriting teams vital to consistency and success
  - Executive surety leadership retirements may result in changes in underwriting style.
  - The depth of experienced underwriting talent remains an issue.

Commercial surety

Surety companies had another profitable year in 2023. Claim activity is picking up in the commercial surety market; however, losses appear to be remaining low. Commercial surety continues to see additional entrants with both direct writers and MGA/Us taking flight in Q1 2024. Traditional appetites continue for most sureties; capacity is readily available for average-to-strong credit clients.

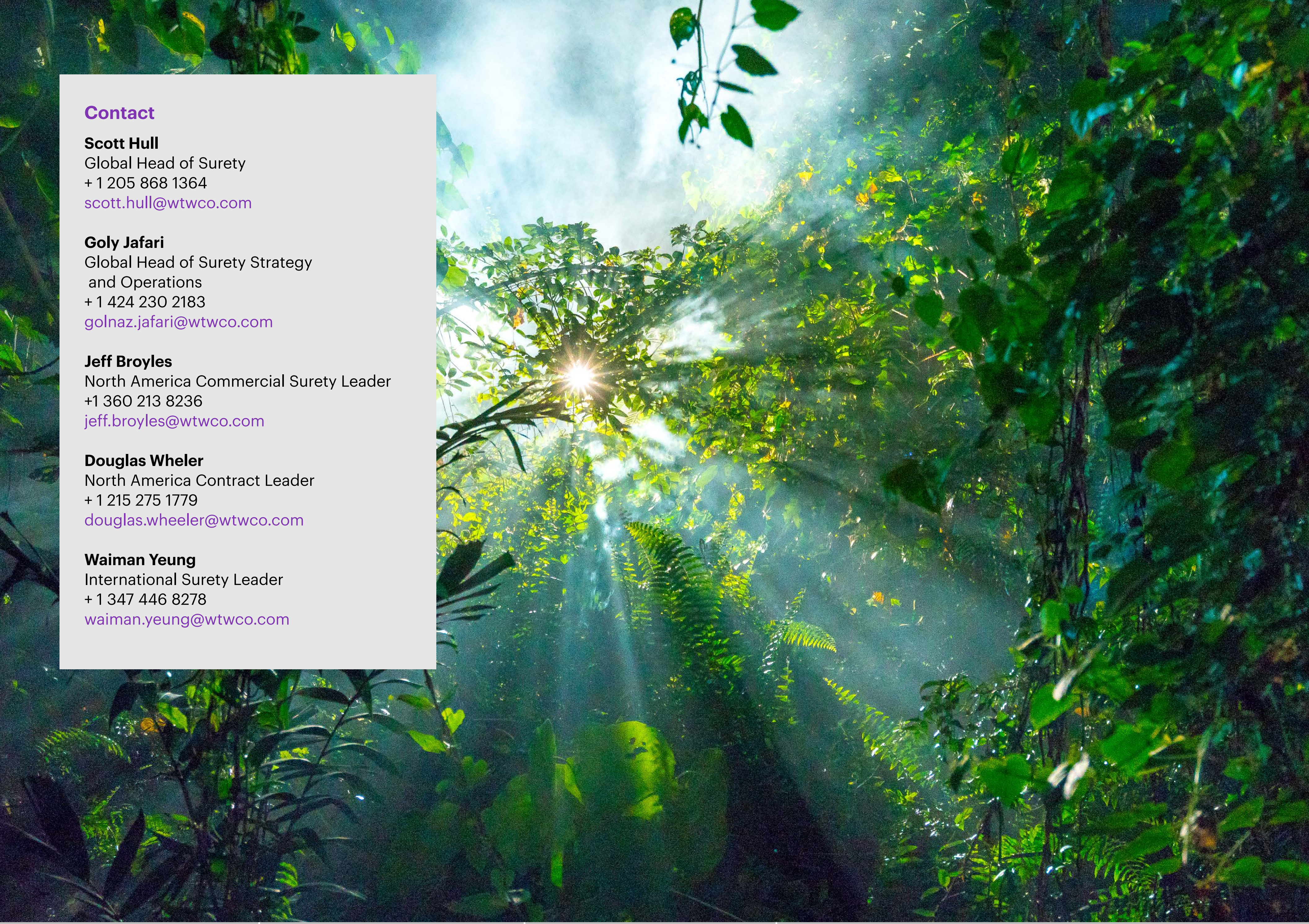
- Surety activity should increase in the energy marketplace throughout 2024 with both traditional and renewable energy sources. The need for steady funding for renewable energy production and distribution sources will create a robust market throughout this year.
  - Renewable energy production relies steadily on federal funding.
  - Solar installations will continue to outpace and outperform wind assets.
  - Global instability will keep supply tight and prices elevated for both renewables and traditional energy products. Demand remains strong, causing domestic production of oil and gas to rise.
- Technology continues to be a strong driver of the economy in the short term, bringing to the forefront demand for digital infrastructure.
  - Federal infrastructure dollars have been directed to the digital marketplace.
  - Digital infrastructure could benefit from greater surety application.
  - Supply chain challenges and an uncertain political climate will impact pricing and speed of expansion.
- Commercial surety growth is coming from many industries, with capacity flowing back into the banking sector, hospitality and leisure showing strong growth, and an impending M&A resurgence are driving increased demand for surety.
  - Banks are finding renewed surety capacity in a tighter credit market.
  - Continued economic volatility should increase demand for deposit security.
  - The commercial real estate sector remains a challenging space for many sureties.
  - Positive results from hospitality names in 2023 and a similar outlook in 2024 will continue to make this space attractive.

International surety

International surety demand continues to grow as sustained higher interest rates, increase in surety needs by small and medium enterprise (SME) companies, higher demand in emerging countries, and liquidity constraints make surety more economically attractive and accessible than bank guarantees internationally. In addition, strong global construction growth, increasing use of surety bonds in commercial sectors, and higher court surety bond demand will result in increased overall dependance on surety.

- Global surety revenues totaled $U.S. 18.2 billion[1] in 2023 (up 5.8% from $17.2 billion in 2022[2]), and is forecasted to expand by 5.8% CAGR, totaling $27 billion[3] by 2030. While North America remained the market leader by region with 43% of 2023 market share[4], surety revenues market share outside of North America has been steadily increasing since 2019 (53% of 2019 market share[5] to 57% in 2023). Emerging market demand is expected to fuel the growth in the international sector as new markets begin accepting surety solutions (such as India in April 2022), larger infrastructure projects compel governments to increase bonding requirements to mitigate risk (such as in Brazil with Law No. 14,133, which increased the surety bond penal sum from 10% to up to 30% for public projects), and SME recovery continues worldwide. Sustained higher interest rates (up 400bps in advanced economies and 650 bps[7] in emerging markets since 2021) will also continue to steer usage to surety bonds internationally as bank guarantees become less economically attractive and accessible.
- Global construction output grew 3.4% in 2023[8] buoyed by strong growth in China. Excluding China, global construction output expanded 2%[9] primarily benefitting in an upturn in U.S. construction in the second half of the year. The continued downturn in the residential sector will impede global construction output soon. Residential sector output contracted 4.5% in 2023 and will decline further by 4.6% in 2024[10] due to sustained high interest rates. We predict that advanced economies will feel the impact more with a 1.2%[11] forecasted retraction in construction output in 2024. This is particularly evident in North America and Europe where residential building permits have plummeted. Emerging economies are expected to grow 2.6%[5] due to expansions in China and India. We also predict that commercial construction will remain slow due to the current economy. Offsetting the difficult residential and commercial sectors, is strong spending in the infrastructure, energy and utilities, and industrial buildings sectors. Governments globally have passed legislation to promote and fund projects in these sectors, including China's $137 billion sovereign debt issue in October 2023, the United States' IIJA, IRA and CHIPS acts, and the EU's Recovery and Resilience Facility delivering up to 385 billion euros in loans and 338 billion euros in grants to members promoting the green and digital transitions.
- Digitization will drive surety growth and remain a major focal point. 73% of surety companies[13] are planning investments in digital and analytical platforms to ensure an improved customer experience. In addition, 68% of surety bond clients[14] have expressed a preference to receiving bonds digitally. As electronic bond demand continues to grow, governments are enacting legislation to ensure principal and obligee safety from acceptance to issuance to recording digital bonds. In addition, industry groups, such as The International Credit Insurance & Surety Association, are also forming working groups to help streamline bond issuances, including the online attorney registration and signature verification process.

[1, 3, 4, 12, & 13] "Surety Market: Global Industry Analysis and Forecast (2024 -2030) Trends, Statistics, Dynamics, Segmentation by Bond Type, End-User, and Region", Maximize Market Research.
[2] "Surety Market to grow at a CAGR of 5.8 percent reaching USD 25.5 Bn over the forecast period," Maximize Research, April 21, 2023.
[5] "North America Surety Market Forecast to 2027 - COVID-19 Impact and Regional Analysis By Bond Type (Contract Surety Bond, Commercial Surety Bond, Court Surety Bond, and Fidelity Surety Bond); and Country," Business Market Insights, August 2020.
[6] "Higher-for-Longer Interest Rate Environment is Squeezing More Borrowers," IMF Blog, Tobias Adrian, October 10, 2023.
[7] "Higher-for-Longer Interest Rate Environment is Squeezing More Borrowers", IMF Blog, Tobias Adrian, October 10, 2023.
[8, 9, 10, 11, & 12] "Global Construction Outlook: Key Trends and Opportunities to 2027", Global Data, December 2023.



Contact

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

Goly Jafari
Global Head of Surety Strategy and Operations
+ 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

Terrorism and political violence

Rate predictions

Terrorism and sabotage

Non-volatile territories	Volatile territories
Flat to +10%	+10% to +25%

Political violence

Non-volatile territories	Volatile territories
Flat to +15%	+15% to +30%

Active assailant

excl. liability	incl. liability
+5% to +10%	+7.5% to +20%

Rate changes since Q3 2023

Coverage type and exposure volatility	2023 Q3		2023 Q4		2024 Q1	
	Low	High	Low	High	Low	High
Terrorism and sabotage (non-volatile territories)	5.0%	15.0%	5.0%	15.0%	0.0%	10.0%
Terrorism and sabotage (volatile territories)	15.0%	30.0%	15.0%	30.0%	10.0%	25.0%
Political violence (non-volatile territories)	15.0%	25.0%	15.0%	30.0%	0.0%	15.0%
Political violence (volatile territories)	25.0%	40.0%	30.0%	50.0%	15.0%	30.0%
Active assailant (excl. liability)	5.0%	15.0%	7.5%	20.0%	5.0%	10.0%
Active assailant (incl. liability)	10.0%	40.0%	15.0%	40.0%	7.5%	20.0%

The terrorism and political violence market has seen some easing from the larger rate increases of 2023, though insurers are very cautious of 2024, given this is the year of elections and the heightened possibility of a wider conflict in the Middle East.

- Multiple geopolitical and socio-economic concerns are on the risk radar for insurers — Taiwan Cross-Strait relations, potential global or regional recessions, global energy crisis and increasing social inequality gap. Pricing reaction to conflict in the Middle East is currently localized, but dramatic escalation in the future could reverse improvements in rate hardening, reigniting larger rate increases globally, especially policies with political violence coverage.

Rate increases are tempering compared to late 2023, but insurers are still looking to rebalance their books to combat increased losses and treaty costs.

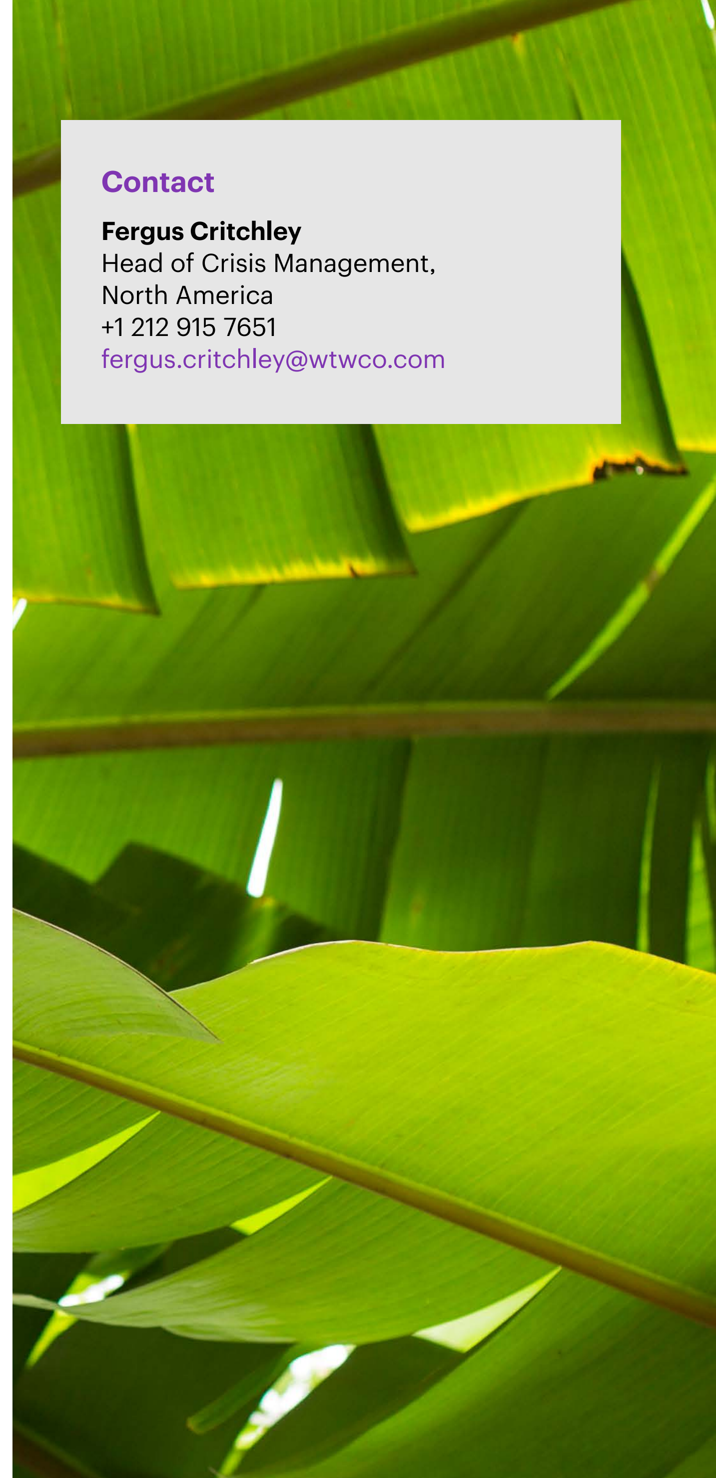
- Re-pricing focus remains on minimum rate requirements for capacity and aggregate exposures, especially on excess political violence layers.
- Many subsequent renewals post-initial 2022 and early 2023 are hardening, seeing lower increases than in the prior year, with market competition and insurer retention goals helping drive this.
- Treaty reinsurers have mandated large-scale reductions in political violence exposure in the Middle East and neighboring countries, concerned with a regional escalation.
- The potential for reactive pricing to quickly jump throughout the year remains, due to varied and ever-changing security risk environments. Equally, there may also be some reductions later in the year if current countries of concern do not see major incidents or unrest after elections.
- Some insurers are considering automatic termination clauses on certain risks due to escalation of events in the Middle East.

Insurers are still reviewing coverage, with a focus on reducing non-physical damage business interruption and contingent exposure.

- Insurers continue to push direct, indirect or blanket territorial exclusions for Russia, Belarus, Ukraine and Moldova; however, they have generally agreed to remove when not applicable.
- There is a reduced appetite for denial of access, contingent business interruption and automatic or miscellaneous coverage extensions as insurers push to improve exposure monitoring, strongly driven by treaty restrictions imposed on them and continuing into 2024.
- Specific business interruption waiting periods are returning, as well as increasing deductibles in volatile territories and higher risk occupancies.
- Valuations require inflationary consideration — policies without margin clauses and incorrect declaration penalties are under increased scrutiny.
- Appetite for multi-year policy periods is limited.

Active assailant rates are generally unaffected by terrorism & political violence market dynamics but are increasing in response to the change in risk environment, albeit slower than in 2023.

- There is reduced appetite and larger rate increases for programs that include legal liability coverage.
- For residential programs, the market is limited by the lack of appetite from insurers, especially when requested to provide legal liability coverage.
- California signed into law SB553 requiring most California employers to implement a comprehensive workplace violence prevention plan by July 1, 2024, with the potential for other states to follow suit, triggering an increase in interest in consultancy and insurance solutions to support this change.



Contact

Fergus Critchley
Head of Crisis Management,
North America
+1 212 915 7651
fergus.critchley@wtwco.com

Trade credit

Rate predictions

Trade credit

Flat to +5%

Key takeaway

Economists continue to predict an economic slowdown for North America; however, the U.S. has shown much resilience in staving off any material decline. This translates to low loss levels and a competitive trade credit marketplace.

Insurers see less new business activity from traditional purchasers.

- Soft market pricing and appetite continue to dominate as applications have slowed and losses are low.
- Trade credit is a discretionary spend and becomes one of the first casualties as companies cut expenses.
- The lack of awareness of this key tool remains a major obstacle for growth.

Bank-driven programs remain the growth engine.

- Bank-driven programs continue to drive growth and provide insurers with exceptionally low loss experience.
- In trade finance, insurers have been open to offering groundbreaking innovation on policy language and structural offerings. It will only be a matter of time for these policy and structural innovations to move to the corporate sector.

The cost of capital is becoming a key factor in rate development.

- The increased cost of capital for U.S. financial institutions directly impacts the cost of capital for trade credit insurers.
- Insurers need to develop new models to better manage their capital while effectively servicing their clients.
- Low loss levels over the past 10+ years have led to a pricing floor based on capital return models.

Contact

Haydn Morris
Head of New Business, USA
Political & Credit Risks,
+1 212 309 0954
haydn.morris@wtwco.com

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

WTW_143600_04/23

wtwco.com