Market Update

Spring 2024

McGriff.com

Content

About McGriff

When it comes to protecting what matters most in business and everyday life, we believe our clients should never settle for less than the best. For more than a century, we've relied on expertise, resources, and relationships to deliver insurance and risk management solutions focused on our clients' priorities and what they value most.

McGriff is a subsidiary of TIH, the fifth largest insurance broker in the U.S.* Our solutions include commercial property and casualty, corporate bonding and surety, cyber, management liability, captives and alternative risk transfer programs, employee benefits, small business insurance, and personal lines.

Our experienced risk management specialists develop highly tailored solutions while listening, learning, and executing with precision under the guidance of our four core principles:

> **Integrity:** We do what we say, every time.
>
> **Determination:** We relentlessly pursue success on your behalf.
>
> **Passion:** We are specialists in our field driven to serve you.
>
> **Collaboration:** We build strong relationships with teammates, partners, and you to create the best solutions.

Join the thousands of businesses, organizations, and individuals across the country who choose McGriff, a firm dedicated to building long-term relationships and helping protect your most valuable assets.

With McGriff, you'll never have to settle for less.

**Source: TIH Insurance Holdings, LLC ranking as listed in BusinessInsurance.com. July 2023*

Market Overview

While the overall insurance market has started to stabilize in 2024, with a deceleration of average rate increases, pending Property and Auto Liability insurance developments remain a concern for insurers and reinsurers.

Commercial Property Insurance

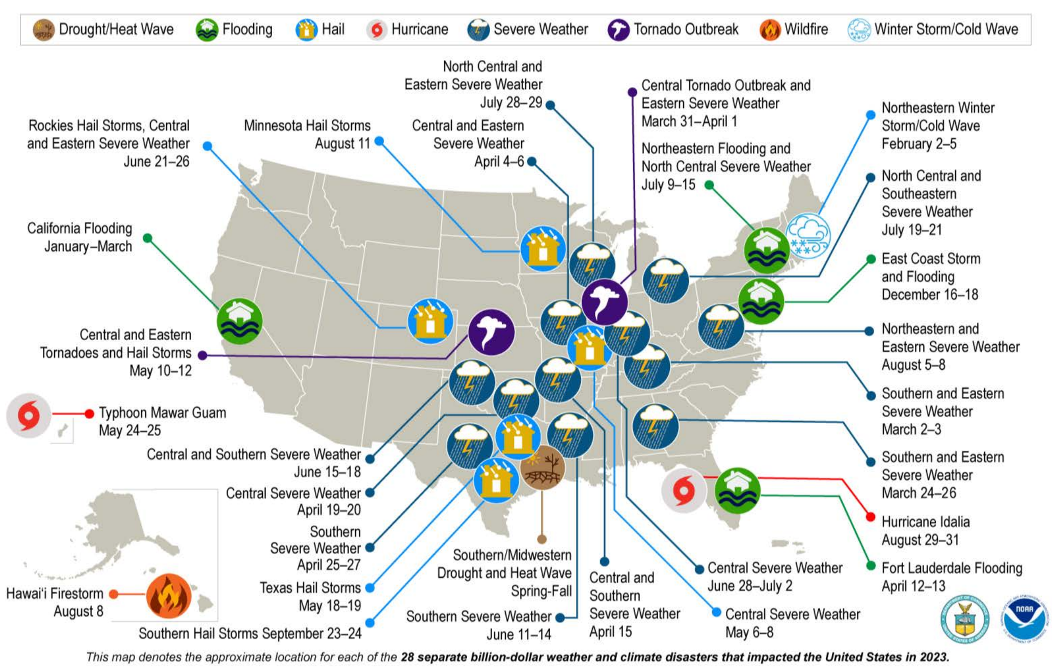
> According to the Council of Insurance Agents & Brokers (CIAB) Property insurance premiums in Q1 2024 were up an average of 10.1%, which is down from 11.8% in Q4 2023. Considering ITV increases are slowing, this is likely mostly rate driven rather than rate + exposures.

Insurers improved their Property catastrophe structures and reinsurance coverage going into January and April 2024 renewals. After multiple quarters of double-digit rate increases and higher attachment points, and a relatively benign hurricane season, better rate adequacy resulted in improved balance sheets for reinsurers. There is also an increase in reinsurance capacity.

However, it's important to note that Property insurers are nervous about the 2024 catastrophe season. Forecasts by AccuWeather and Colorado State University (CSU) indicate an extremely active Atlantic hurricane season. AccuWeather said there was a 10% to 15% chance of 30 or more named storms in the 2024 hurricane season, which begins June 1 and runs to November 30. CSU forecasts 23 named storms for the season with 11 possibly becoming hurricanes, 5 of which are projected to be "major." The historical average season produces 14 storms.

Severe convective storms (hail, wind, tornadoes) and flooding also continue to worry insurers. According to data from CoreLogic, the 2024 severe and convective weather season in the U.S. is already breaking records for hail, with storms in the last few months outstripping those from the costly year of 2023. In 2023, insured losses from convective storms reached $60+ billion.

U.S. 2023 Billion-Dollar Weather and Climate Disasters



Est. 2023 Insurable Losses $120B

Est. 2022 Property Insurable Losses $125B

Est. 2023 U.S. Convective Storm Insurable Losses $60B

Source: NOAA/McGriff

According to NOAA National Centers for Environmental Information (NCEI), as of May 8, 2024, there have been 7 confirmed weather/climate disaster events with losses exceeding $1 billion each to impact the U.S. These events included 5 severe storm events and 2 winter storm events.

While the Property market has shown signs of improvement, McGriff recommends the following strategies to optimize your program.

Evaluate Risk Retention and Sublimits in Your Program Structure

Review your optimal risk-retention level as one way of optimizing your program structure. Structures such as plus aggregates or alternative all other perils (AOP) deductibles may potentially benefit you.

Buy Only What You Need

Purchase limits and sublimits aligned with your risk. We will work with you to analyze limits based on your modeling results to help you avoid over- or underbuying.

Explore Bifurcating Programs

Understand what is behind the cost of your program. A specific location, construction type, or risk in your portfolio of properties may be driving up your Probable Maximum Loss (PML) or Average Annual Loss (AALs). Explore a stand-alone solution for this challenging issue and optimize specialized markets for that risk, which supersede a consolidated or global program.

Analyze Non-traditional Program Structures

Non-traditional programs may include Alternative Risk Transfer (often called "ART") solutions that allow you to self-insure a portion of your property risk while complying with lenders by providing "A" rated paper. You can also consider parametric coverage, which is insurance that covers the likelihood of the occurrence of a specific event rather than the actual loss experienced. Parametric solutions bring a new option for peak catastrophe risks and are designed to provide a fast, transparent claims recovery process.

Data is Key

Meet with carriers early to understand all issues and thoroughly examine potential options. Seek underwriter commitment to general renewal terms early in the process. Proactively provide renewal exposure updates and any supplementary applications, address any critical open loss control recommendations, and provide all supporting documentation as early as possible in the renewal process but by no later than 90 days prior to renewal. Ensure exposures are current and the submission is comprehensive and thorough.

Let underwriters know about your risk management strategies to protect your assets.

Protecting Your Assets

McGriff's experienced Property insurance specialists will:

- Review critical operations to assist in developing or enhancing your business continuity plan
- Assess and mitigate property risk using catastrophe modeling
- Verify building values using Marshall & Swift software to determine adequate coverage
- Develop alternative solutions that best correspond with your company's goals and objectives

Our knowledgeable claim specialists are available to consult on the following:

- Crisis events
- Catastrophic losses and ways to minimize their impact
- Litigation and expense management
- Technical coverage analysis/claim research prior to submission of a loss to the insurance carrier
- Time element analysis to better establish the exposures that exist for business income and/or extra expense losses
- Claim auditing services, including TPA and carrier claims-handling reviews
- Training and education to enhance internal and external claim management programs

First-quarter 2024 premiums rose by an average of 9.8%, according to the CIAB.

Commercial Automobile Insurance

The Commercial Automobile insurance market continues to see rate increases. First-quarter 2024 premiums rose by an average of 9.8%, according to the CIAB, with Transportation, Auto Dealers and other industry classes with fleets experiencing higher rates. This is up from 7.3% in Q323, suggesting rates are increasing higher by quarter on auto.

Insurers remain skeptical about future adverse loss reserve developing in the Commercial Auto Liability segment, which continues to be impacted by economic and social inflation trends, according to an AM Best report. Third-party litigation funding in the U.S. continues to drive societal inflation, with sophisticated plaintiff attorney methods leading to exorbitant judgments. According to insurance industry estimates, third-party litigation yields an internal rate of return of approximately 25% for the funding entity, typically higher than traditional investments.[1]

Continued inflationary pressures have resulted in higher auto parts and vehicle repair costs, impacting claims costs. Between 2022 and 2023, vehicle repair prices surged by 23%, nearly four times the average inflation rate.[2] New vehicle technologies have made repairs more complex and expensive.

To help deal with the Commercial Auto market, we recommend:

- Implementing a robust driver safety program in managing commercial fleet risks; evaluating your safety program regularly
- Providing continued driver education and training
- Utilizing telematics and data analytics to measure drivers' safety, looking at claims trends, and proactively dealing with safety and loss control in real time
- Incorporating cameras and other crash mitigation technology as your fleet is updated
- Considering higher liability deductibles and alternative risk solutions, such as captives

Our experienced Commercial Auto insurance specialists can provide:

- **Loss Analysis:** We conduct an in-depth review of auto loss trends to provide insight into historical performance, the types of losses having the greatest impact, and where future risk management efforts might be beneficial.
- **Safety and Training Classes:** These include courses on safety leadership, driver safety training, behavioral safety training, establishing effective safety committees, and accident investigations. We also offer certified consultant-led courses, such as National Safety Council Defensive Driving Courses.
- **Captive Solutions:** We have a dedicated team that advises clients who may be interested in captive or alternative risk transfer options to help achieve more control over insurance costs.

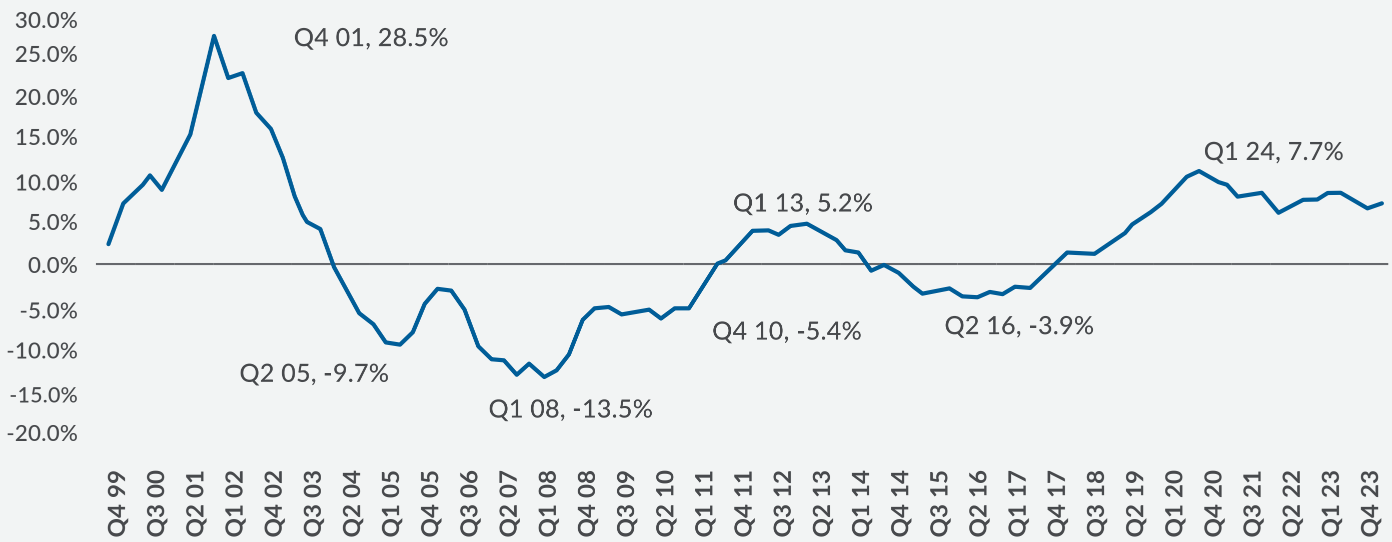
[1] AM Best
[2] https://www.cbiz.com/insights/articles/article-details/commercial-auto-insurance-market-outlook-property-casualty

Property & Casualty

The Property & Casualty (P&C) industry entered 2024 stronger than in 2023 partially as a result of 25 consecutive quarters of premium increases, a boost in return on investment for insurance carriers, and a fairly low severity hurricane season. In addition, the P&C industry is forecasted to generate modest underwriting improvement in 2024, following poor Auto insurance results and catastrophe losses in 2023, according to Fitch Ratings.

The first examples of a potential return to market stabilization are reflected in the Council of Insurance Agents & Brokers' (CIAB) Commercial Property & Casualty Market Report for Q1 2024. According to the CIAB, signs of moderation in premium increases were clear across individual lines of business. Premiums increased by an average of 7.7% across all account sizes in Q1 2024, slightly up from 7.0% in the previous quarter. Small and large account premiums both increased by an average of 7.3%, while medium-sized accounts had the highest increase for the 4th consecutive quarter, at 8.5%. Commercial Auto premiums, however, increased by an average of 9.8%, up from 7.3% in Q4 2023, the second-highest increase out of all lines, according to the CIAB.

Average Premium Changes, Q4 1999 - Q4 2023



Source: CIAB

The January and April reinsurance renewal seasons for Property insurance were much more organized. We saw reinsurers cautiously expanding their appetites and capacity following the challenging Property insurance and reinsurance markets of 2023.

Additionally, property valuations for most insureds appear to be in a better position after a vigorous push from the entire market for more accurate insurance to value (ITV) supported by appraisals and other documentation. Actual year-over-year cost trends have marginalized for those insureds who have more accurately attempted to insure to true replacement cost value over the last two years.

While premiums continue to increase due to both exposure and rate growth, according to CIAB Q1 Property rates were up an average of 10.1%, General Liability premiums were up an average of 4.1%, while Umbrella/Excess premiums also increased by an average of 7%.

The Cyber market continued to stabilize following a strong underwriting push last year for robust cybersecurity strategies by insureds. However, there are real concerns regarding systemic risks. D&O insurance premiums remain flat, with plenty of capacity available to generate market competition.

Workers' Compensation premiums continue to remain flat and competitive in 2024.

By-Line First Quarter 2024 Premiums Changes Ranged From -1.8% to +10.1%

	Commercial Auto	Workers' Comp	Commercial Property	General Liability	Umbrella	Average
First Quarter 2024	9.8%	-1.8%	10.1%	4.1%	7.0%	5.8%
Fourth Quarter 2023	7.3%	-1.8%	11.8%	3.8%	7.6%	5.7%
Third Quarter 2023	8.8%	-2.0%	17.1%	4.2%	7.4%	7.1%
Second Quarter 2023	10.4%	-0.7%	18.3%	5.2%	8.1%	8.3%
First Quarter 2023	5.9%	-0.5%	8.6%	3.9%	10.5%	5.7%
High	28.6%	24.9%	45.4%	26.0%	51.9%	35.3%
Low	-11.6%	-12.3%	-15.0%	-13.6%	-13.5%	-13.2%

	1Q24	High	Low
Broker E&O	2.1%	15.4%	-4.5%
Business Interruption	4.8%	28.8%	-10.2%
Construction	4.6%	38.7%	-10.7%
Cyber	0.4%	34.3%	-1.5%
D&O Liability	-0.8%	32.4%	-8.7%
Employment Practices	0.8%	21.9%	-8.1%
Flood	2.2%	8.6%	-2.7%
Marine	2.1%	4.5%	-10.6%
Medical Malpractice	1.4%	32.5%	-4.1%
Surety Bonds	0.7%	11.2%	-2.3%
Terrorism	0.9%	10.4%	-3.6%

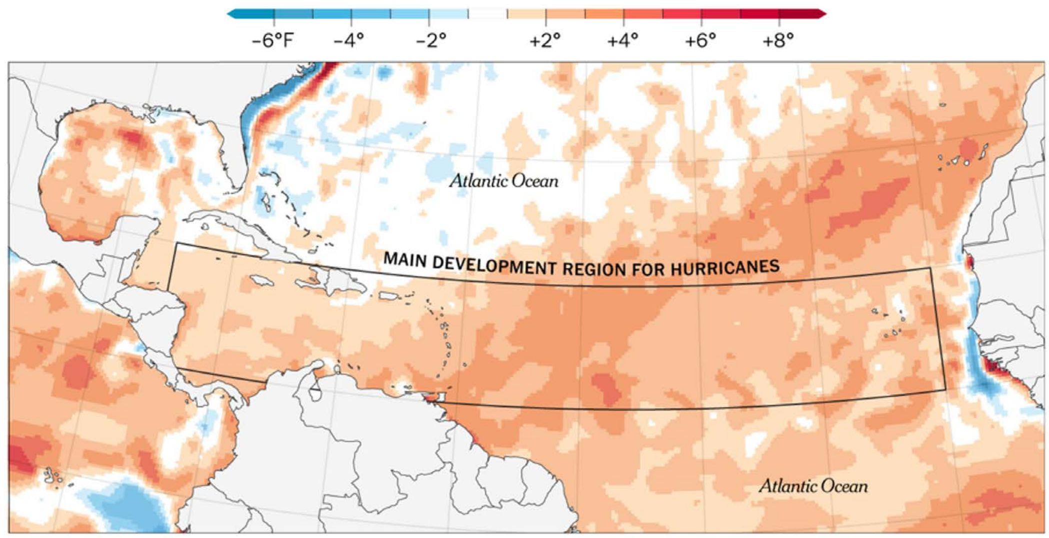
Source: CIAB

Property

As noted above, Property insurance premiums increases have moderated, although we are closely monitoring the upcoming hurricane season and its likely impact on the market. AccuWeather's long-range forecaster predicts an "explosive" hurricane season in the Atlantic – one that could "approach a record-setting pace that may exhaust the entire list of names for tropical storms and hurricanes." Meteorologists are estimating 20 to 25 named storms across the Atlantic basin in 2024, including eight to 12 hurricanes, four to seven major hurricanes, and four to six direct U.S. impacts, which is above the 30-year historical average of 14 named storms, seven hurricanes, three major hurricanes, and four direct U.S. impacts.

Colorado State University (CSU) is also predicting an "extremely active" 2024 Atlantic hurricane season due to record sea surface temperatures that fuel hurricanes and the impending end of the El Niño weather pattern. CSU is expecting five major hurricanes out of 11 total hurricanes, which is part of a projection for 23 named storms.

Where Sea Surface Temperatures Are Hotter or Cooler Than Average

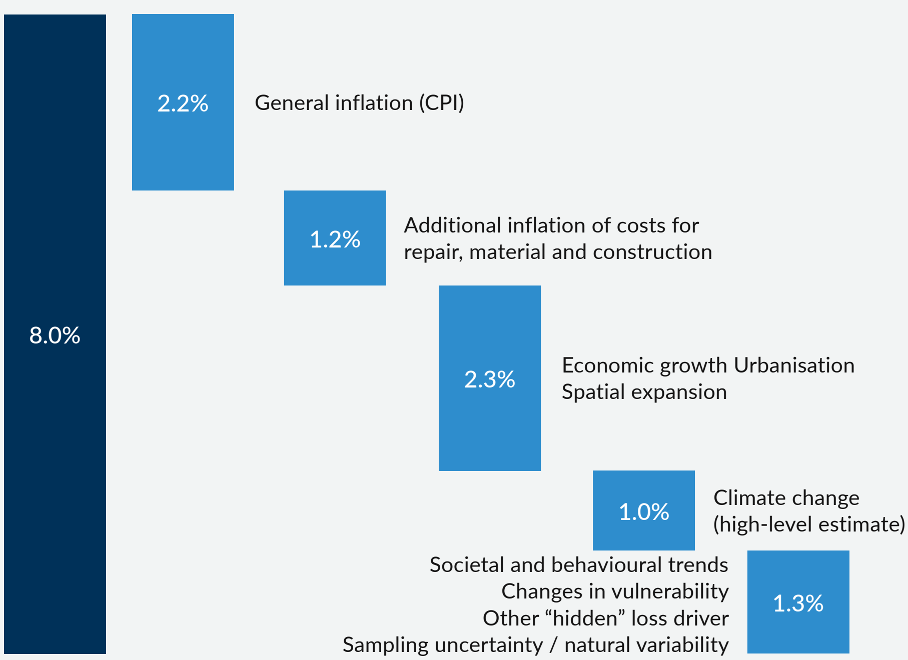


Source: NOAA/NY Times

Severe convective storms (straight-line winds, tornadoes, hail, and severe thunderstorms) continue to drive global insured losses. In 2023, insured losses were $64 billion, according to Swiss Re, with 85% of losses occurring in the U.S.

Annual Increase of Insured Loss from SCS in the U.S.,

2008 -2023 (dark blue), by driver (light blue)



Source: Swiss Re Institute

As of May 8, there have been seven confirmed weather/climate disaster events with losses exceeding $1 billion each to affect U.S., according to the National Centers for Environmental Information.

Rising construction costs are another factor driving losses in the Property market in addition to general inflation and other factors.

Building code enforcement, flood protection barriers, and mitigation measures are required to help prevent and mitigate losses.

General Liability

The General Liability market is experiencing rate decelerations following the adoption of stricter underwriting standards, capacity limitations, and significant rate increases to address loss frequency and severity. As previously mentioned, rate increases have moderated in 2024 but increases remain on the horizon for the near future.

However, the market continues to face certain headwinds, including a litigious environment characterized by rising verdicts and third-party funding, escalating medical expenses, and elevated exposures, particularly in specific industries such as construction, habitational, manufacturing, and transportation.

Commercial Automobile

While carriers begrudgingly admit that rate adequacy is improving and the rate of increase year over year appears to be leveling, most carriers are still pushing rate increases of 8-20% to keep pace with loss trends so we are still a long way from a soft market for most insureds with heavier fleets. Overall commercial Auto loss experience continues to be poor, with increased loss severity and claims frequency outpacing rate increases for more than a decade, according to an AM Best report.

Social inflationary pressures, nuclear verdicts, and rising claims inflation will continue to impact insureds with high historical loss severity and frequency, as well as those in hazardous industries such as trucking.

According to a 2022 report from the U.S. Chamber of Commerce for Legal Reform, about one in four auto accident trials that resulted in a verdict of $10 million or more involved a trucking company.

Workers' Compensation

Workers' Compensation premiums remain flat to slight decreases for well-performing accounts, while some accounts with poor loss ratios are experiencing increases. Wage growth is driving Workers' Compensation premium, with many states across the country increasing the minimum wage. A significant rise in medical inflation is a concern, as it could lead to a reduction in the reserve strength of carriers.

Lead Umbrella/Excess

Supported (in conjunction with the primary casualty), admitted Umbrella placements are typically experiencing higher single-digit premium increases. For such structures, competition and capacity remain strong, depending on primary casualty appetite and the industry class. However, when the lead Umbrella is not provided in conjunction with the underlying primary casualty lines due to severity concerns, true unsupported lead Umbrellas continue to see higher premium increases for larger fleets, product risks, or loss-driven accounts where there is less competition especially in the E&S market. The largest macro-level rate rises will most likely be due to auto exposure. Companies with big fleets, for example, are likely to see considerable rate hikes in the Excess layers, even with a good loss history.

Excess Liability

The Excess Liability marketplace continues to experience constriction of capacity provided by many carriers. Those carriers/markets that previously provided $25M, now often only provide $15M and those that provided $10M may have reduced to $5M, at least in the first $25M of limits. This especially applies to those accounts that have significant underlying auto fleets or heavy products/premises risk exposures that are driving nuclear verdicts and large awards via litigation.

Marketing of these higher limit layers is almost an annual necessity these days to minimize the impact of successive rate lift (which tends to be in line with the lead Umbrella market increases). However, the addition of more carriers to meet client limit needs also adds additional minimum premium placements by policy that could have an exponential impact on insured's total premium spend to meet capacity.

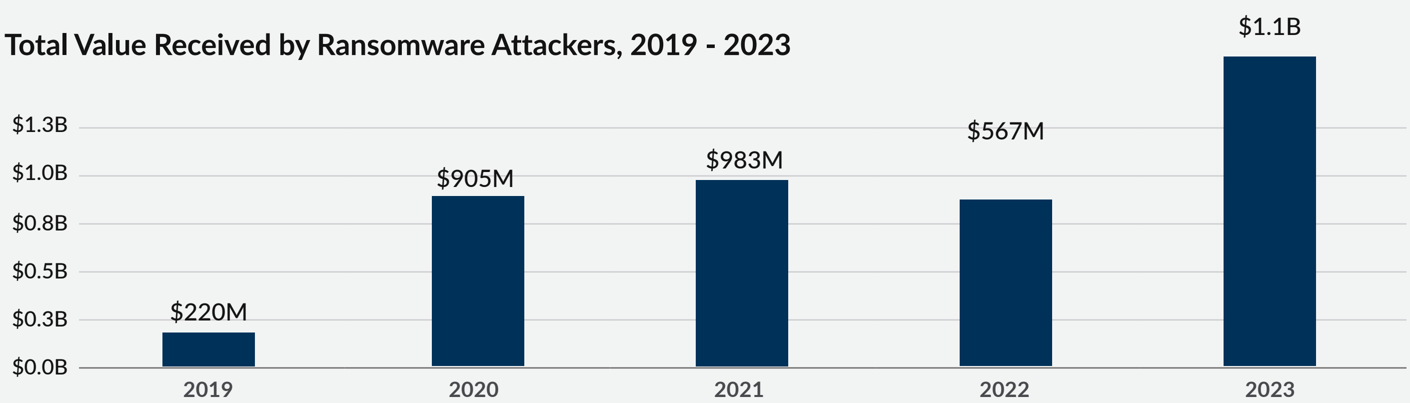
Cyber Liability

The Cyber insurance market continues to remain mostly stable, although cyber incidents are ranked as the highest risk concern among businesses, according to the Allianz Risk Barometer 2024. Hackers are increasingly attacking IT and physical supply chains, conducting large-scale hacks, and devising new ways to extort money from organizations of all sizes.

Ransomware payments in 2023 surpassed the $1 billion mark, the highest number ever observed, according to Chainalysis. In addition, 2024 started with the highest number of January attacks ever recorded. There were 76 attacks, representing a 130% increase compared to 2022 figures, according to BlackFog.[1]

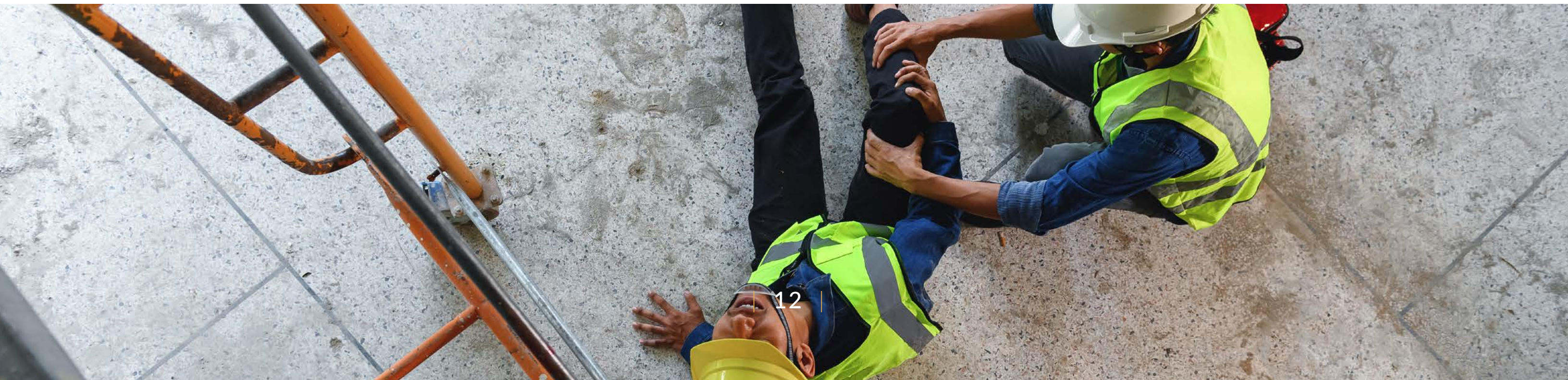
There is continued emphasis on employing robust, up-to-date cybersecurity practices and strong discipline concerning vendor risk governance.

Total Value Received by Ransomware Attackers, 2019 - 2023



Source: Chainalysis

[1] https://www.blackfog.com/the-state-of-ransomware-2024/

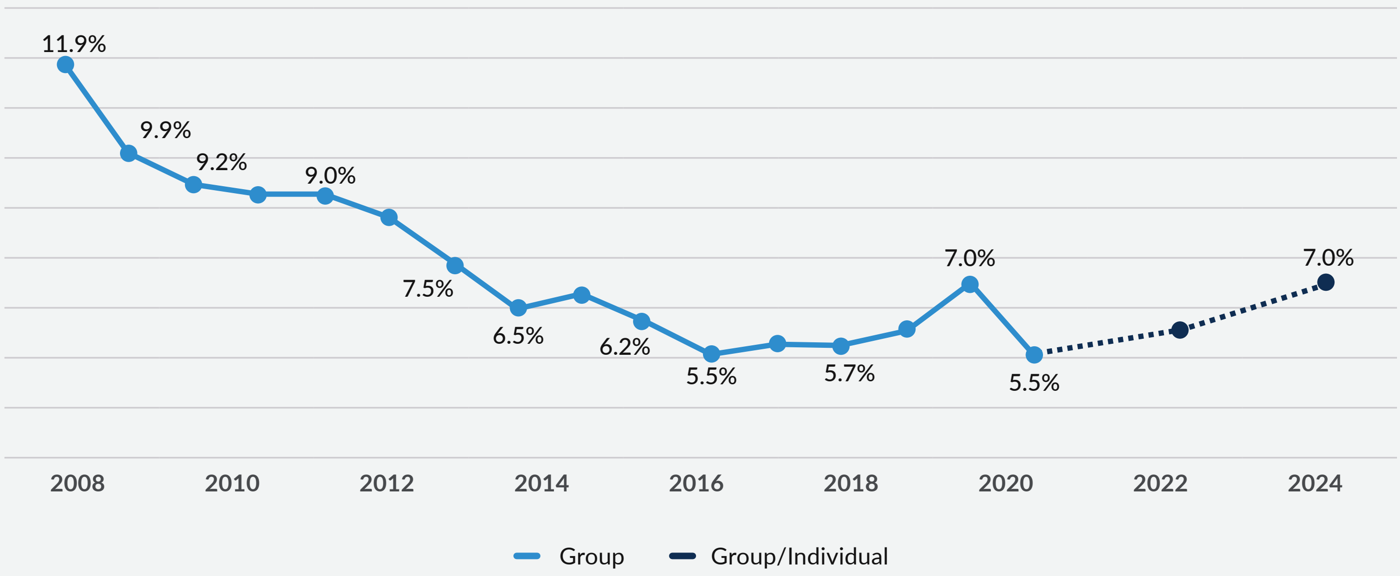


Employee Benefits

Employers continue to focus on cost management as group benefit plan expenditures rise while also seeking to provide better benefits to attract talent. Inflation, healthcare provider labor shortages, the high cost of specialty medications, an increased number of individuals remaining in the workforce well beyond retirement age, and other factors contribute to the high cost of insurance.

PwC estimated an increase of 7% in healthcare costs to plans for 2024, higher than projections for 2022 (5.5%) and 2023 (6%). Other reports also show that healthcare costs increased between 6% and 8.5% in 2024. As a result, employer-sponsored healthcare plans may cost more than $15,000 per employee.

HRI projects medical cost trend to be 7.0% in 2024, up from 6.0% in 2023.



Source: PwC

Pharmacy cost trends are also not slowing down. According to PwC, the inflationary impact of pharmaceutical pricing is expected to reach high single or double digits from 2023 to 2024. However, the adoption of biosimilars to specialty drugs has substantial potential to manage rising drug costs, according to PwC's report "Medical Cost Trends: Behind the Numbers."

Strategies for Containing Costs

Employers are looking at the following strategies to help contain healthcare costs:

- Offering customized regimens for diabetes, musculoskeletal issues, and pain management. These initiatives, which provide customized assistance and resources to employees with specific diseases, can help improve health outcomes and reduce expenses.
- Controlling the cost of specialized prescription drugs. Employers are considering formulary development, utilization research, and discussions with pharmaceutical companies to give affordable access to important medicines.
- Developing virtual care options beyond traditional telemedicine. This might include providing access to virtual dermatologists, reproductive care providers, and cardiologists, as well as remote monitoring tools and digital health platforms.
- Providing navigation and advocacy services to help employees make informed decisions about their care.

Issues We're Watching

We are paying close attention to several emerging and topical issues, including how legislative changes and the political landscape will impact group health plans. In the aftermath of the Dobb's ruling in 2022, which ended federal abortion protection, Alabama's IVF ruling earlier this year, and the current Supreme Court case involving the safety of mifepristone, all eyes are on women's healthcare. The direction that individual states decide to take on these and other women's healthcare issues, along with an upcoming presidential election, could impact how employee benefits are designed moving forward.

Impact of Inflation Reduction Act Changes on Employer Plans

We are also closely monitoring Medicare Part D redesign changes under the 2022 Inflation Reduction Act (IRA) and their impact on group health plans. As of January 1, 2024, some Medicare Part D enrollees have out-of-pocket drug costs capped at about $3,500. In 2025, yearly Part D out-of-pocket costs will be capped at $2,000. In addition, older workers who do not have what qualifies as "creditable drug coverage" under their group plan will pay a penalty on the premium for Part D coverage, regardless of employer size, when they sign up for Medicare. The penalty is one of the standard premiums the government sets for each month the worker could enroll.

HR departments should ensure that their health insurance plan's prescription coverage is creditable, regardless of whether their policy qualifies a 65-year-old employee for a Medicare Part B deferment. If the prescription coverage does not meet the Medicare criteria, employees can avoid the Part D penalty by enrolling in a drug plan during the same seven-month initial enrollment period around their birthdays as for Part B. Note: The government may be considering changing this rule or grandfathering specific plans.

The IRA changes also affect plan sponsors who provide retiree coverage and receive federal government assistance, either through the Retiree Drug Subsidy (RDS) program, which directly reimburses plan sponsors for prescription drug expenses, or through an Employer Group Waiver Plan (EGWP), a type of Part D plan offered by an employment-based plan. In 2025, the government subsidies available through the RDS program will change dramatically from those offered through an EGWP prescription drug plan (or Medicare Advantage prescription drug plan). Plan sponsors should ensure they understand the implications of the modifications to their programs.

Enrollment in the Affordable Care Act (ACA)

In 2024, a record number of people enrolled for coverage through the Affordable Care Act. According to CMA.gov, 21.3 million people selected an ACA Health Insurance Marketplace plan. Subsidies in the ACA contributed to the increase in enrollment, providing an affordable option for those without access to employer-sponsored plans.

Coverage for Weight Loss Drugs

GLP-1 medications, such as Ozempic and Wegovy, which are intended to treat type 2 diabetes, gained popularity as a weight loss strategy in 2023 and quickly became popular among employees. As a result, healthcare providers began to evaluate whether to cover these drugs for weight loss.

Some evidence suggests that more employers will cover these medications. According to an October 2023 survey of 500 firms conducted by healthcare firm Accolade, 43% expect to cover GLP-1 medications in 2024, nearly doubling the share of employers that did so last autumn. At the same time, 38% of HR leaders cited the costs associated with GLP-1s as a potential barrier to providing coverage, while another recent survey by Virta found that the high costs of GLP-1s, driven by an expected increase in utilization, are a concern for the vast majority (72%) of health plan leaders.[1]

Cyberattacks Front and Center

The cyberattack against UnitedHealth-owned technology company Change Healthcare in February shut down its systems for over a week, disrupting payment, billing, and prescription processing and delaying insurance claims. Change Healthcare confirmed in March that ransomware group AlphV, also known as BlackCat, was responsible for the attack. According to Wired magazine, the hackers received a ransomware payment of $22 million.[2]

Change Healthcare manages one of every three U.S. patient records, which amounts to 15 billion transactions a year, according to The New York Times. As a result, the cyberattack affected not only UnitedHealth's clients but also those of many other insurers.

In late March, UnitedHealth reported it had advanced more than $3.3 billion in loans to care providers impacted by the cyberattack. The insurer also reported it began processing a backlog of more than $14 billion in medical claims starting March 22.

The Department of Health and Human Services is investigating whether there was also a breach of protected health data.

The Change cyberattack is sounding the alarm with regard to cyber threats against the healthcare sector. With organizations like UnitedHealth vulnerable to cyberattacks, we expect to see other providers redouble their efforts to prevent such threats.

Utilization Delays

Although the pandemic is no longer having the same economic impact, we are still experiencing a high number of cases. Additionally, as we reported in our 2023 Fall Market Update, due to muted medical utilization during COVID-19, experts continue to see more patients with advanced stages of cancers that would have otherwise been detected earlier through standard screening and diagnostic tests. What would have been a Stage 1 cancer diagnosis is now Stage 3, resulting in costlier and lengthier treatments.

Inflation, Tight Labor Market, and AI

Inflation and a tight labor market put pressure on healthcare providers and insurers, while hospital systems grow into some of the country's largest conglomerates. As providers grow, they are looking into how they may use artificial intelligence (AI) to improve administration efficiencies, claims results, patient understanding, and patient care.

AI assistants and chatbots, for example, can assist patients in finding available physicians, scheduling appointments, and even answering some of their questions. Access to these technologies can also assist professionals in finding treatment regimens, clinical tools, and appropriate drugs more quickly. Providers are also utilizing AI to document patient encounters in near real time. This enhances documentation while reducing time-consuming recordkeeping activities. Some hospitals and providers use AI to verify health insurance coverage and prior authorization for procedures, which can help reduce unpaid claims.

Looking Ahead

Continue to work with McGriff to stay current with recent and upcoming legislative changes impacting employee benefit plans. We will assist you in navigating an ever-evolving healthcare landscape, provide alternative solutions to your workforce, manage costs, and maximize the value of your benefits.

[1] https://www.shrm.org/topics-tools/news/benefits-compensation/employers-covering-glp1-drugs-could-nearly-double-in-2024-accolade-weight-loss-ozempic-wegovy

[2] https://www.wired.com/story/alphv-change-healthcare-ransomware-payment/

Market Update by Industry Sector and Coverages

Aviation

Several factors are currently influencing the Aviation insurance industry. The evolving risk landscape, including emerging technologies, presents new challenges for insurers in assessing and underwriting risks. Geopolitical tensions, natural disasters, and ongoing impacts from the pandemic have heightened uncertainty and volatility in the Aviation sector, impacting insurance premiums and coverage terms.

Regulatory changes and compliance requirements, mainly related to safety standards and environmental regulations, continue to shape insurers' risk assessment strategies and operational practices. Staffing shortages, claim activity, and a heightened focus on safety initiatives influence insurance market dynamics, pricing trends, and capacity availability. Navigating these complex factors requires insurers and brokers to remain agile, innovative, and collaborative in managing risks and serving the evolving needs of the Aviation industry.

Emerging Technologies

Several emerging technologies are shaping the evolution of aviation, including Electric and Hybrid Aircraft, Urban Air Mobility (UAM)/Electric Vertical Takeoff and Landing (eVTOL) aircraft, Autonomous Flight, Advanced Materials, Sustainable Aviation Fuels (SAF), and Advanced Air Traffic Management Systems. These emerging technologies can potentially transform the Aviation industry, offering opportunities for increased efficiency, sustainability, and safety in air transportation.

The adoption of new aviation technologies introduces additional risk factors and complexities that insurers must assess. Understanding the unique risks associated with these technologies, such as battery safety, software reliability, and operational autonomy, requires insurers to develop specialized underwriting expertise and adapt their coverage offerings to address the evolving risks associated.

Addressing the insurance implications of emerging technologies in aviation requires collaboration and innovation across industry stakeholders, including insurers, regulators, manufacturers, operators, and brokers.

The future of commercial drone use continues to grow and evolve. Recently, U.S. regulators granted the first licenses for unmanned commercial aircraft to fly beyond the sight of a pilot. This brings continued risks such as bird strikes, loss of battery power, and pilot error.

Insurers and brokers must stay abreast of regulatory developments and ensure compliance with ever-changing standards and requirements. Due to the opportunities for increased efficiency, sustainability, and safety in air transportation, these emerging technologies are here to stay.

Geopolitical Tensions and the Hull War Market

Significant uncertainty remains regarding claim development and instability related to the ongoing conflicts in Ukraine, Israel, and other areas of the world. While concerns over the future impact of these conflicts on the Hull War market remain, an influx of capacity from the All-Risk market has helped stabilize rating increases. Instead of the significant rating increases seen in 2023, Hull War insurance carriers in 2024 are adjusting policy coverage, including limitations on policy territories, the addition of a Hull War general aggregate limit, and the exclusion of confiscation as a covered peril.

Russia, Ukraine, Belarus, and Crimea, including overflight, continue to be excluded from policy coverage territories. Gaza has now been added to the excluded territory list, and we are seeing some Hull War markets push to exclude Taiwan due to potential conflict with China.

In the London market, the general aggregate is usually capped at 3x to 4x the maximum Hull limit for any one aircraft, and confiscation is now generally excluded, or if included, will commonly have a 25% self-insured retention in which the client pays the first 25% of any confiscation hull loss. In the U.S. market, Hull War general aggregates are less common and typically much higher than what is being pushed by the overseas markets. We anticipate this trend will continue into the remainder of 2024 as insurers meet with their respective reinsurers and negotiate their reinsurance treaty renewals.

There appears to be an inclination in the market to ignore claim payouts that are imminent and insurers continue to place more business on the books with a blinders-on approach to claims that have occurred already but have yet to settle.

Natural Disasters

Natural disasters and extreme weather events such as hurricanes, earthquakes, and wildfires are prevalent and can cause extensive damage to airport infrastructure, aircraft, and ground support equipment. Underwriters are now seeking to clarify the aggregation of values in any one weather-prone area in order to appropriately assess their maximum possible loss from natural catastrophes.

The drastically increasing rate of natural disasters poses significant challenges and risks for the Aviation insurance industry, requiring insurers to carefully assess and manage their exposure through underwriting, pricing, risk management, and claims-handling practices.

Ongoing Post-Pandemic Considerations

Staffing

During COVID-19, many aviation employees were laid off, leaving a staffing shortage. Aviation travel has now exceeded pre-pandemic levels; however, staffing is slow to catch up.

The Aviation industry is currently facing a significant challenge due to shortages in aircraft mechanics. This shortage poses a critical concern for both aircraft operators and maintenance facilities, as the demand for skilled technicians continues to outpace the available workforce.

The shortage of mechanics and lingering supply chain issues have caused the expense associated with aircraft physical damage claims to rise by an estimated 20%+, further contributing to the increase in claim costs and deterioration of insurer profitability.

Investment in Infrastructure

Infrastructure investment is experiencing a notable uptrend, driven by a growing demand for air travel and the imperative to modernize aging facilities to accommodate emerging aviation technologies. Substantial investments are being directed toward enhancing terminal facilities, runway and taxiway expansions, and advanced technology integration. Moreover, a heightened focus on sustainability and passenger experience is prompting investments in eco-friendly infrastructure and passenger amenities. This surge in investment underscores the Aviation industry's commitment to ensuring efficient operations, improving safety standards, and delivering an enhanced travel experience for passengers worldwide.

Aircraft Values

As we cited in our 2023 Fall Market Update, aircraft values are currently experiencing stabilization after the initial volatility caused by the COVID-19 pandemic. Although aircraft values have stabilized, clients should remain vigilant in reviewing values and account for inflation, continually increasing repair costs, and extended repair timelines. Newer aircraft are increasingly constructed using carbon composite materials, which, although durable, can cause even minor damage to an aircraft's hull and require more significant repair and cost consideration.

As new aircraft types begin to be delivered, we expect used aircraft values to temper slightly throughout 2024.

Claims Activity

Over the past few years, claim costs in the Aviation industry have been experiencing steady increases due to the cost of repairs, legal expenses, changes in regulations, supply chain issues, increased verdict amounts, and global economic conditions.

In the first quarter of the year, there have been notable losses and settlements, the impact of which have yet to be realized in the market, including:

- On January 5, 2024, Alaska Airlines flight 1282 departed from Portland, Oregon, heading to Ontario, California, carrying 171 passengers and six crew members. Shortly after takeoff, the door plug at row 26A blew out of the fuselage, causing a gaping hole and the cabin to experience an uncontrolled depressurization. The aircraft, a Boeing 737 Max 9, was able to return to Portland and land safely. During its investigation, the FAA grounded the Max 9 fleet worldwide for three weeks, causing travel disruptions for passengers and significant lost revenue for the airlines. It was determined that the door plug bolts were not installed at Boeing's plant after removing the plug to repair damaged rivets during the assembly process. The aircraft flew approximately 154 flights before the door plug failed. There were no fatalities, but many of the passengers have already filed emotional distress lawsuits against Alaska Airlines, Boeing, and Spirit AeroSystems, the manufacturer of the door plug. Airlines are expected to make lost revenue claims against Boeing resulting from the Max 9 grounding, presumably under Boeing's Grounding Liability Insurance policy. It was recently reported that Boeing paid Alaska Airlines $160 million in compensation after the door plug incident. While the impact on the insurance market is not immediately known, it is expected to be significant.
- Recently, a settlement was reached between a passenger's family and a helicopter operator and Airbus Helicopters. The passenger suffered significant injuries, including burns over 90% of his body, after an Airbus AS350 B3 crashed in the Grand Canyon during a flight- seeing tour. It is reported that most of the passengers survived the crash but did not survive the post-crash fire. The case settled for $100 million. Airbus has since offered free crash-resistant fuel tank kits to its customers with AS350 model aircraft. There is concern that the large verdict could be the start of a trend for significant injury/death settlements.
- On February 9, 2024, an Airbus EC130 B4 carrying four passengers and two pilots crashed in Halloran Springs, California, killing all on board. The weather conditions (snow and rain) and the remote desert area (lack of lights for the pilots to navigate by) are being investigated as possible causes of the crash. The passengers were a wealthy Nigerian businessman, his wife, son, and a former chair of the Nigerian stock exchange. The decedents' economic damages will likely be substantial.
- On February 28, 2024, a Sikorsky S-92A crashed west of Sotra Island, Norway, killing one and injuring five of the occupants. The aircraft was used for long-range transport and heavily relied on by offshore oil and gas companies. At this time, the cause of the crash is unknown. The offshore oil and gas companies that rely on this aircraft are intently waiting for the conclusion of the investigation for implications, if any, for their fleets.

As advocates for our clients, it is our goal to see that the adjusting and settlement process associated with a loss goes as smoothly as possible. When a loss occurs, our claims team actively engages with adjustors, insurers, and legal representatives to help facilitate the claims process and ensure our clients receive the level of service and policy coverage they deserve. We strive to work with our clients to understand what matters to them and use that to help effectively manage claim costs with adjusters while maintaining the integrity and quality of the claim process.

Focus on Safety

As claim costs escalate, the Aviation insurance sector places a corresponding increase in emphasis on safety initiatives and practices. Premium incentives are offered to encourage policyholders to adopt and maintain high safety standards.

For example, as briefly mentioned earlier in our report, in a likely response to a $100-million helicopter accident settlement, Airbus Helicopters is offering free crash-resistant fuel systems (CRFS) for U.S. customers. U.S. registered AS350 B3, AS350B3e, and EC130 B4 helicopters are eligible for free CRFS retrofits. The installation should require around 150 to 200 labor hours and can be performed during scheduled maintenance to minimize downtime. Customers are directed to contact their regional customer support manager to place an order.

Several insurers are standing behind Airbus' view on safety. They are showing their support to policyholders on a case-by-case basis by offering premium incentives while the aircraft is down during fuel tank swamps. Insurers are also reviewing rates to provide discounts once the retrofit is complete.

To further bolster aircraft operation safety, underwriters continue to focus on evaluating factors such as aircraft type, pilot experience, training programs, maintenance records, and safety management systems (SMS) implementation.

State of the Market

The commercial Aviation insurance market continues to stabilize, with insurance companies competing for increased market share and premium in most business segments. In addition, market capacity and appetite continue to strengthen. As a result, most insurers are offering favorable rates and terms to keep premium on their books while keeping a close eye on claim uncertainty, rising operational costs, and other factors impacting a challenging global landscape. However, we anticipate that underwriters will continue approaching all risks from a technical perspective, cautiously deploying capacity while evaluating overall profitability.

General Aviation

Underwriter willingness to look at differentiating factors of individual accounts, such as favorable loss history, training programs, and safety management systems, has increased, driven by a focus on top-line revenue growth. In particular, we see the impact of this underwriting approach in segments that were stretched thin in prior years, such as Alaskan operators with low loss ratios and robust safety programs that can now capitalize on increased capacity and higher Liability limits compared to previous years.

We are seeing more capacity, both domestically and from London, willing to take larger lines on U.S. business and offer higher limit options. London market participation on U.S. risks has increased substantially in the last six months, and we anticipate that trend will continue through the remainder of this year.

Airline

The Airline market stabilized in early 2023 and began to soften at the very end of 2023. Although there have been few airline renewals to date in 2024, we expect to continue to see capacity force further softening of the Airline market as the year progresses.

Aerospace

The Products market remains a space to watch due to the Boeing 737-9 loss and continued news articles on whistleblower allegations related to the 787 and 777 jets. In 2024, we are seeing flat to 5% to 10% rating increases while underwriters evaluate their exposure to large Products & Grounding Liability claim payments.

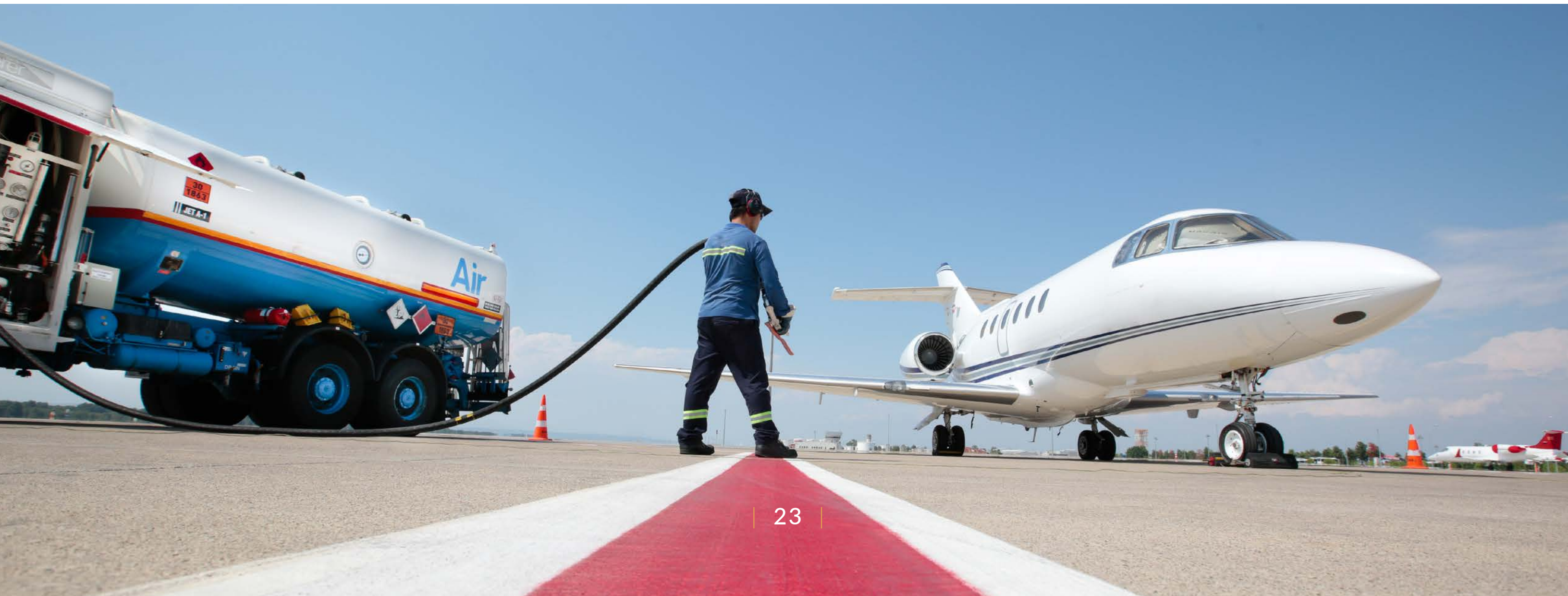
Non-Commercial

Non-commercial aviation risks, particularly those associated with piston aircraft, legacy aircraft models, and aging pilots, continue to experience limited market competition, resulting in relatively stable to moderately increasing rates. This business segment may exhibit greater variability in rates based on individual risk profiles.

Looking Ahead

Overall, the Aviation insurance market continues its positive trajectory for policyholders. As capacity grows, we expect the international and domestic markets to continue to fight to retain line share and participate on new risks. Planning and partnering with an innovative broker will be critical for capitalizing on competition, capacity, and coverage in a dynamic market.

Given the uncertainties and fluidity of the global environment, we are cautiously optimistic about the Aviation insurance market's ongoing positive trajectory.



Construction

The insurance market hardening from prior years has eased up for certain classes of construction risks that have favorable exposures and loss experience. New market capacity continues to exist, resulting in certain risks experiencing positive year-over-year renewal terms. However, the hard market and continued impact from double-digit rate increases and prior reduced capacity have caused many clients to evaluate alternative risk solutions, including captives, to avoid the volatility that the traditional insurance market presents.

Inflation and slow supply chain recovery are behind higher material costs and skilled labor, adding to project costs, including insurance, and impact on the bidding process. Furthermore, the phenomena of social inflation, nuclear verdicts, and litigation financing have contributed to rising liability losses. These factors have caused substantial changes in important construction insurance markets, with varying effects on the Builder's Risk, Casualty, and Surety sectors.

Inflation, nuclear verdicts, natural disasters, rising insurance costs, and a slower supply chain continue to impact the Construction industry.

Builder's Risk

Builder's Risk markets in the first quarter of 2024 continue to be highly selective in deploying capacity, especially in catastrophe-prone areas. With the need to build capacity in large quota-share arrangements, underwriters are knee-deep in submissions due to having to approach many markets to fill placements. It's critical to employ a robust submission process with all relevant project details so carriers can review and model the risk and hopefully come back with support if the project fits their appetite.

Knowing the market is key to determining which carriers can lead programs and those that prefer to deploy capacity on a follow-form basis. Due to a project's many moving parts, with insurance typically finalized toward the end of the process, having defined plans (as well as backup plans) is paramount, given the deviations that can occur.

With the South Capitol Bridgebuilders v. Lexington LEG-3 ruling in fall 2023, the market has become far more hesitant to deploy the LEG-3 sublimit as freely as it has in the past. Some markets are even drawing a line in the sand and not providing coverage altogether or on specific project scopes. Even with this tightening, coverage can still be achieved if adequate project details and methodology are provided for domestic and overseas underwriting review.

Several large fire losses in Las Vegas, Nevada; Charlotte, North Carolina; and San Francisco, California, to name a few, plagued the already extremely tight wood-frame market even further. With fire and water damage losses as the drivers within this construction class, a heightened review of security measures (electronic monitoring, watchmen, etc.) is now the norm. Direct carriers and MGAs/MGUs with capacity for this exposure have become super selective – even more of a reason to have a detailed plan on how to fill out the required capacity on a project.

As the named-wind season approaches (June - November), time will tell how the insurance market fares. With projects requiring extensions during this time of the year, we are working with our clients to get as far ahead as possible with all relevant extension details to get the best pricing and coverage consistency.

Workers' Compensation

Workers' Compensation stands out as a profitable line for insurers as the market continues to pass flat rates to slight rate reductions on to clients, depending on individual loss history. This coverage line is frequently the costliest for contractors and, fortunately, has been the most stable over the last decade. The ability of contractors to control claims frequency and implement more effective return-to-work programs has helped mitigate rate increases coming from medical cost inflation.

Reports indicate that the Workers' Compensation market cycle is changing, and we are monitoring this closely. These market predictions are being driven by an increase in claims severity that could lead to increased reinsurance costs. The severity increase is mainly driven by medical inflation, with carriers focusing more closely on individual safety cultures and risk.

The General Liability market has stabilized, and accounts with favorable risk profiles and loss experience are seeing competitive rates and terms. More challenging risks with adverse loss experience are continuing to experience slight rate increases, greater underwriting scrutiny, and reduced capacity.

Auto Liability

Nuclear verdicts are having a drastic impact on Commercial Auto Liability insurance. An ALM-published study revealed that median nuclear verdicts against corporate defendants in the U.S. nearly doubled in just two years – from $21.5 million in 2020 to $41.5 million in 2022. Furthermore, a September 2022 study by the Institute for Legal Reform found that nuclear verdicts were most frequently found in product liability (23.6%), auto accident (22.8%), and medical liability (20.6%) cases.[1]

As a result, most clients are continuing to experience high-single-digit to double-digit increases. Clients with larger fleets or fewer controls in place are being driven to higher deductibles to secure sufficient primary limits for excess attachment points and to obtain renewal terms. Underwriters are stringently analyzing an insured's safety procedures and paying particular attention to those with a large and heavy fleet, with many carriers mandating some form of telematics.

Excess Liability

The lead Umbrella/Excess market continues to be controlled mainly by insurers that write the primary casualty lines. The capacity for unsupported lead Umbrellas remains slim; however, some markets do participate. New entrants into the Excess market, most notably MGAs, have provided additional capacity, and competition for higher limits and favorable risks is resulting in stable rates and, in some instances, slight reductions.

Professional & Pollution Liability

Throughout 2023, we saw Professional Liability capacity tighten, with most carriers restricting limits to $10 million. We expect this to continue into 2024 due to an increase in loss costs, which, in turn, will press pricing upward in the Professional Liability space. We expect new capacity to enter the market and ease a portion of the rate increase, creating a moderate pricing environment overall. Rates for Professional Liability insurance are flat to a 10% increase.

The Pollution Liability market remains strong, with low single-digit rate increases for companies with clean losses. The market has seen a few new entrants in 2023, with some offering up to $50 million in capacity. We anticipate the continuation of minimal rate increases, mainly brought on by new carriers entering the market throughout 2024.

Cyber Liability

Cyber Liability insurance continues to soften so far in 2024 as we see rate of increases slowing across the board. The market change is partly due to improved loss ratios and reduced frequency and severity of Cyber claims. The consensus behind the market changes points to greater client cybersecurity measures, hacking groups being distracted by the geopolitical conflicts in Eastern Europe, and increased capacity in the Cyber market. Competition among Cyber insurers will continue to flourish; however, the potential for a catastrophic Cyber event remains a critical topic of discussion.

In 2023, insurers increased line sizes, expanded their appetite, and removed some restrictive terms required during the past few years. However, underwriting remains rigorous, focused on controls and loss history, particularly concerning biometric information collection, operational technology, supply chain risk, and the conflict in Eastern Europe.

In today's environment, a cyberattack is not a question of "if" but "when." Ransomware, in particular, continues to evolve with the increase in cyber security measures. In fact, in 2023, ransomware activity increased by 95% compared to the prior year. The average cost of a data breach in 2024 reached $4.35 million, surpassing the 2023 average by 2.6%. We expect to see a similar trend through the remainder of the year.

Contractors Equipment

The market for Contractors Equipment is largely driven by loss history. In 2023, we saw rate pressure due to losses from theft, vandalism, and weather-related events. Contractors with large losses experienced double-digit rate and deductible increases. In 2024, we expect Contractors Equipment renewals to remain relatively stable for those with a clean loss history. Anticipate a flat rate for favorable loss development and up to 10% increases for unfavorable loss development.

Surety

Commercial pricing for Surety remains flat, while capacity remains strong due to profitability in the segment. According to AM Best, demand for bonds, especially Performance Bonds, continues to increase. Government spending on infrastructure projects is in part responsible for the Surety demand and should continue as more public projects are underway for 2024. The Inflation Reduction Act (IRA) injects about $550 billion in new investments for bridges, airports, waterways, and public transit across the country. This includes grid modernization initiatives under the Broadband Equity, Access, and Deployment (BEAD) Program, which are also expected to drive demand for Surety bonds. That said, due to inflation, the investment in these sectors is expected to be less impactful than originally thought.

While insurers are looking to deploy more capital in this line and expand their portfolio, it's important to note that 2023 saw an increase in Surety claims. Expect to see stricter underwriting as the market looks to keep rate adequacy. Further to this point, it is worth noting that several Surety companies pierced the veil of their reinsurance treaties due to the severity of losses. Because of this, treaty renewals saw less favorable terms in 2024 as compared to previous years. Surety carriers are taking on higher exposures on the bonds they write due to higher reinsurance attachment points. In addition, the cost of the treaty renewals saw significant upticks in cost. While this has yet to be passed along to the consumer, it is creating capacity restrictions for challenged credits.

Additionally, interest rates, inflation, and skilled labor limitations are delaying start-ups in certain industry classes and driving up project costs. Many contractors have their largest backlogs from single job and aggregate perspectives strictly due to these issues. As balance sheets have not outpaced these issues, we are seeing balance sheets getting stretched from an underwriting perspective. It is important that general contractors are cognizant of these factors when prequalifying subcontractors and careful when exposures are being aggregated by using the same subcontractor on multiple projects.

[1] https://instituteforlegalreform.com/research/nuclear-verdicts-trends-causes-and-solutions/

Cyber

The Cyber insurance market in 2024 continues on the same path as in 2023, with stabilized rates as businesses adopt more robust cybersecurity measures. Risks accepting higher retention levels or deductibles are also benefiting from premium savings in their programs.

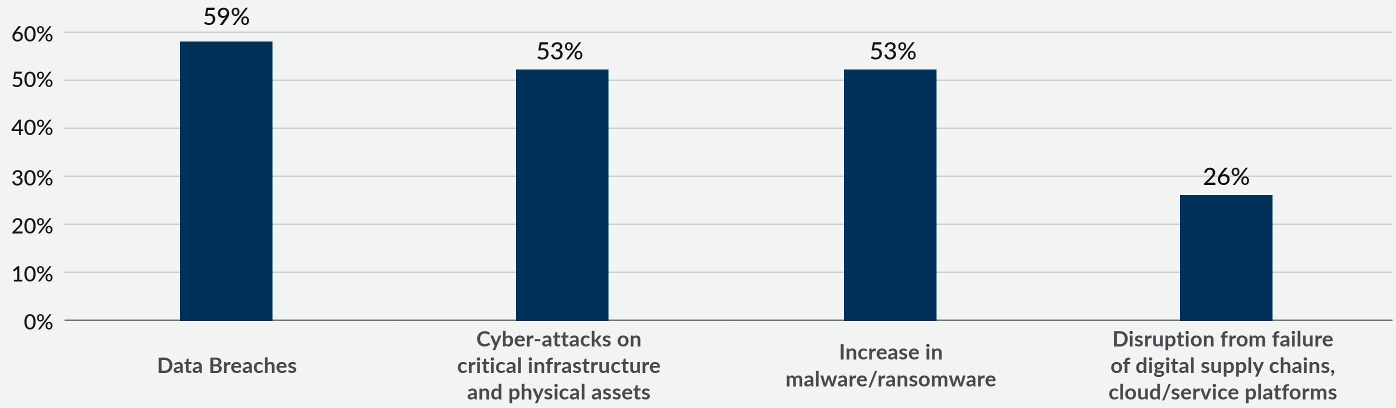
Custodians of large volumes of records (personal health information, personal financial information, and other non-public personal information) are not seeing the same lower rates as others, with underwriters having to price for aggregation of large losses in these classes of business. Premium changes also impact growing businesses, as revenue growth is still part of baseline underwriting models.

Although a more relaxed underwriting environment exists for specific industries, continued emphasis on employing stringent cyber controls is strongly recommended. In addition to your own cybersecurity measures, strong discipline regarding vendor risk governance is critical. Your business should remain cyber-vigilant, with a road map that adds new cyber security measures to strengthen your ability to prevent, detect, respond, and recover from a cyberattack.

Front and Center: Data Breaches, Cyberattacks on Critical Infrastructure, and Ransomware

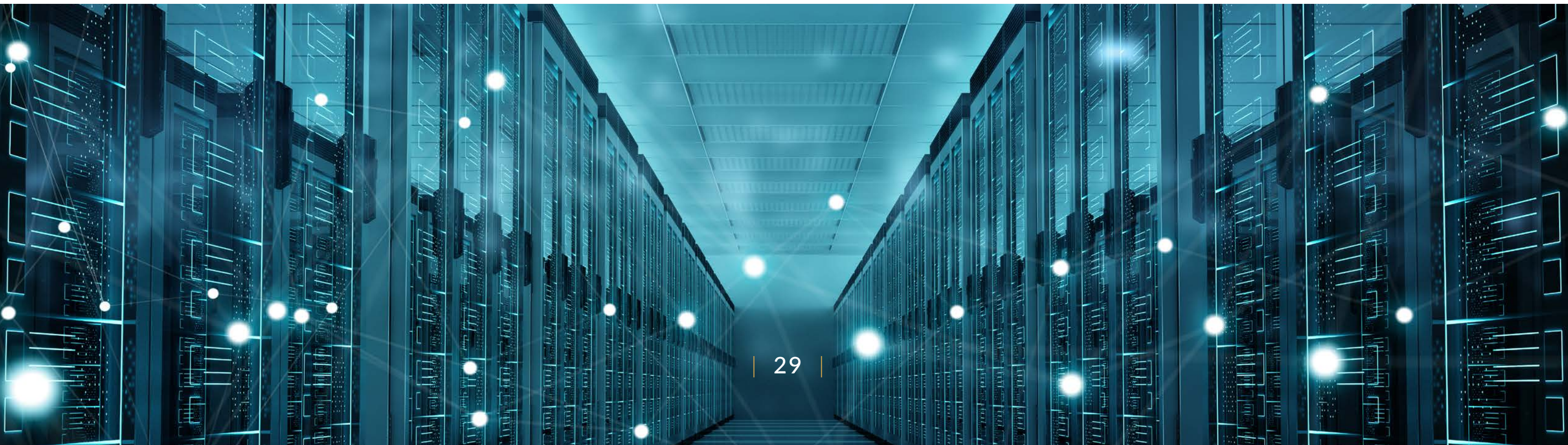
Cyber incidents are the top concern among a wide range of industries across the globe, according to the 2024 Allianz Risk Barometer. Data breaches, infrastructure-related cyberattacks, and malware/ransomware exposures concern businesses the most.

Which cyber exposures concern your company most?



Source: Allianz Risk Barometer 2024. Total number of respondents: 1,112.
Respondents could select more than one risk. Top 4 answers.

The costs involved following a cyber event add up to significant losses – from business interruption to ransomware payouts, regulatory fines, notification expenses, credit monitoring, forensics, data recovery, legal fees, and reputational damage. Additionally, the cyber landscape is more complex, with hackers using increasingly more sophisticated tactics, including using artificial intelligence (AI) to facilitate ransomware attacks and deepfake technology for phishing emails.



AT&T Data Breach

In March, AT&T reported that personal data from about 73 million current and former account holders was leaked on the dark web. The personal data is from 2019 or earlier and includes customers' full name, email address, mailing address, phone number, Social Security number, date of birth, AT&T account number, and passcode. AT&T has notified the account holders, has changed passcodes, and is offering credit monitoring services to those impacted.

> According to a recent statement from the telecom giant, the leaked data set "appears to be from 2019 or earlier, impacting approximately 7.6 million current AT&T account holders and approximately 65.4 million former account holders."

So far, AT&T claims there are no signs of a system breach but cybersecurity experts are concerned about the telecom giant's processes and its transparency. In the meantime, a class-action suit against AT&T was filed for negligence and breach of contract.

Cyber Incident Reporting for Critical Infrastructure Entities

In March, the U.S. Cybersecurity and Infrastructure Security Agency (CISA) released draft rules for cyber incident reporting by critical infrastructure entities. The proposed rule was issued under the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA), with requirements for reporting "substantial" attacks within 72 hours and ransom payments within 24 hours.

CISA's proposed rules state that critical infrastructure entities may use third parties to submit CIRCIA reports. Insurance companies, incident response firms, attorneys, and service providers are examples of such entities. When making ransom payments for covered entities, these third parties must also notify them of their CIRCIA reporting duties.

According to the proposed rules, reports must also include the following information: incident date and time, incident location, type of observed activity, detailed narrative of the event, number of people or systems affected, organization name, point of contact information, severity of the event, critical infrastructure sector, and anyone else the entity has informed. CIRCIA also permits CISA to subpoena businesses for more information regarding cyber events or ransom payments that were not included in the original reports, as well as to provide some liability protection for entities that report to CISA.

The proposed rule applies to the following critical infrastructure that exceeds a specific size or meets sector-specific criteria: chemical; commercial facilities; communications; critical manufacturing; dams; defense industrial base; emergency services; energy; financial services; food and agriculture; government facilities; healthcare and public health; information technology; nuclear reactors, materials, and waste; transportation systems; and water and wastewater systems.[1]

SEC's Cybersecurity Disclosures Rules for Public Companies

In July 2023, the SEC also issued a final rule requiring publicly traded companies to increase and standardize disclosures on "cybersecurity risk management, strategy, governance, and incidents." These rules were clarified by the SEC in December 2023.

The final rule addresses concerns regarding investor access to timely and consistent cybersecurity information due to the widespread use of digital technologies, AI, the shift to hybrid work environments, the rise in the use of crypto assets, and the increase in illicit profits from ransomware and stolen data, all contributing factors to increased cybersecurity risk and associated costs for registrants and investors.[2]

The new ruling consists of two parts: Public companies must disclose the incident within four business days upon the determination that a cybersecurity breach is material. They also must include more details about the company's cybersecurity risk and efforts to manage and mitigate risk in corporate annual filings.

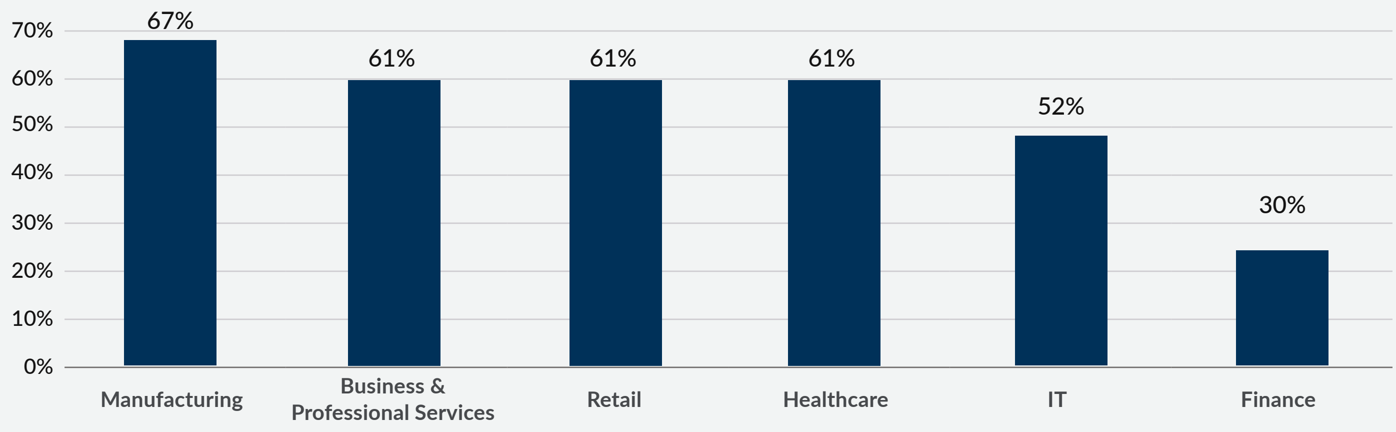
Ransomware activity is projected to cost victims $265 billion per year, according to the Allianz Risk Barometer.

Ransomware Activity

The most recent high-profile ransomware attack occurred earlier this year with UnitedHealth Group's subsidiary Change Healthcare, the largest clearinghouse for insurance billings and payments in the U.S. According to Wired magazine, UnitedHealth Group purportedly paid at least $22 million to recover access to data and systems encrypted by the Blackcat ransomware gang. The attack underscores the vulnerability of the entire healthcare sector and the interdependencies that exist from single source providers of critical goods and services.

In addition to the healthcare sector, the top industries hit by ransomware losses include manufacturing, business and professional services, retail, IT, and finance, according to data analytics from Munich Re.

Top 6 Industries affected by Ransomware (Munich Re Claims Statistics 2020 - 2023)



Source: Munich Re

Phishing Scams

In February, the Federal Motor Carrier Safety Administration (FMCSA) issued an advisory regarding phishing attempts aimed at commercial motor carriers. Criminals are posing as FMCSA auditors via phony emails to execute a "fake safety audit" scam.

According to the FMCSA, the emails are addressed to registered companies, including motor carriers, and make misleading claims about the necessity for a safety audit. The fake email includes a link that purports to take the motor carrier to a valid URL on the Safer website, similar to FMCSA's MCS-150 form updates. However, the linked page includes areas that request sensitive information such as the carrier's PIN, employer identification number (EIN), and Social Security number. The FMCSA warned that giving these details gives the perpetrator illegal access to the FMCSA account. With such access, bad actors could use information to impersonate carriers and conduct fraudulent freight transactions.

Emerging Trends

Artificial Intelligence

AI is a force multiplier for criminals, enabling them to create cleaner, more believable phishing emails and distribute them to users who will consider the email valid. This technology makes detecting phishing attempts more difficult for businesses and their employees.

Bad actors are also utilizing AI programs to scan the internet for information on people and businesses, such as audio or video posts on social media or the web, as well as material that can be used to make convincing phone calls to victims. Scammers use AI to produce a lifelike clone with as little as three seconds of voice input. They can even spoof phone numbers to appear to be from a known caller and use a variety of tactics to create a sense of urgency, such as the need for immediate payment to a critical vendor.

Generative AI is used to create new content, including audio, code, images, text, simulations, and videos from a vast content database based on human prompts. Since its explosion on the scene, generative AI has already resulted in several copyright infringement lawsuits.

At present, Cyber policies remain silent about generative AI exposures, but this could change. Additionally, insurers are looking at adapting policies to consider generative AI risk, and underwriters are asking questions about how clients use and control the technology.

> According to S&P Global, "The technology's ability to write computer code, automate processes, and imitate humans could allow cybercriminals to mount an increasing number and variety of attacks, potentially inflating claims for Cyber insurers."

Biometric Information Privacy Act (BIPA)

Since its implementation in 2008, the Illinois Biometric Information Privacy Act (BIPA) has prompted a surge of privacy-related litigation across the U.S. BIPA governs the use of biometric data such as fingerprints, eye scans, voiceprints, and face geometry scans. Under Section 15 of the BIPA, companies that interact with or process biometric data must get an individual's consent before collecting, obtaining, or revealing their biometric information. It also requires companies to create, publicly disclose, and follow a written data retention and deletion policy.

BIPA also provides a private right of action for those whose biometric data was collected without their informed consent. It includes a statutory damages provision that allows a prevailing party to receive $1,000 for each negligent BIPA violation and $5,000 for each willful or reckless BIPA violation (or actual damages if these amounts are exceeded).

In one of the largest privacy lawsuits, in 2022, a jury found that BNSF Railway violated BIPA 45,600 times (once per class member), resulting in a $228 million judgment. In reaching this verdict, the jury found that every time someone clocked in using the biometric method, it was a violation, which had a multiplying effect on damages. In late 2023, BNSF agreed to settle the case for $75 million to avoid a second trial, replacing the initial court penalty. While this settlement adjustment is a good sign, it is still a hefty price to pay for BIPA non-compliance.

In another high-profile case, Cothron v. White Castle System, Inc., a former employee claimed the fast-food restaurant required her to scan her fingerprint multiple times daily to access corporate systems without obtaining the legally required consent. The plaintiff alleged that each scan since BIPA's inception in 2008 constituted a distinct breach. White Castle claimed that, if there was a violation, it occurred only once in 2008 when it took her fingerprints without her authorization. White Castle also maintained that each subsequent scan was not a new "collection" of her fingerprints.

By a 4-3 vote, the court agreed with the plaintiff that each scan was a separate violation. White Castle calculated that the damages awardable to the 9,000-person class would be a whopping $17 billion. The court said it was up to the legislature to handle these potentially crippling consequences for businesses. It also stated, however, that courts have considerable discretion to avoid imposing damages that would "result in the financial destruction of a business."[3]

The remedy to mitigate a company's BIPA exposure is to have all employees sign and consent to using biometric data as a condition of employment.

Pen Registry Lawsuits

Plaintiffs are finding new ways of bringing litigation regarding privacy laws. They have begun to file lawsuits alleging that businesses are using "pen register" and "trap and trace" software to illegally track website users, exposing firms to $5,000 per violation penalties under the California Invasion of Privacy Act ("CIPA").[4]

Under the pen registry theory, plaintiffs claim that using certain software (website cookies, web beacons, pixels, script, or software code) that tracks a user's location, search terms, browsing history, or purchase history is similar to using a pen register. Pen registers were physical devices used by law enforcement to trace signals from phones or computers to their destination, resulting in something akin to an outgoing call record. State legislation eventually came into force, barring the use of pen registers without a court warrant.

A class action lawsuit filed in July 2023 accused a data broker of violating CIPA with the software development kits it provides to app developers. The plaintiff claimed that the defendant designed its software development kits to track a user's "geolocation, search terms, click choices, purchase decisions, and/or payment methods" and then gathered and sold this information to third parties. The court determined that the defendant's alleged usage of the software that "identifies consumers, gathers data, and correlates that data through unique fingerprinting" constitutes a "process" that records routing information under the CIPA pen register requirement and refused the request to dismiss.[4]

After this decision, more than 50 new cases were filed in California state and federal courts under the CIPA pen register provision.

War Exclusion

With AIG's recent adoption of the London Market Association's (LMA) approved war exclusion in Cyber policies, the playing field seems to be leveling off, and the controversy around the exclusion is tapering. More domestic carriers will most likely follow AIG's lead, and we will reach a point where updated war exclusions in Cyber policies will be commonplace.

To review, the LMA requires all syndicate war exclusions to address:

- Losses arising from war
- Exclusion of significant state-backed cyberattacks (major detrimental impact on the victim nation's ability to function or defend itself)
- Clarification of intent for collateral damage (computer systems located outside of the victim nation)
- Robust basis for parties to agree on how nation-state attacks will be attributed
- Clear definitions of all key terms

We continue to carefully review these updated war exclusions in our clients' policies and review various scenarios where the exclusion may be invoked. We believe that it's important to consult with your general counsel or expert outside counsel for a legal review of any new war exclusion so they can raise questions and propose amendments for the carrier's consideration. We have had success in softening some of the more troublesome language in these exclusions and encourage clients to work with their McGriff brokers in seeking best terms possible.

Looking Ahead

Understand emerging trends and risks and how they may impact your business and your cyber practices, be prepared to answer underwriting questions, and employ good compliance discipline. We recommend you and your broker review your Cyber insurance program each year in light of emerging trends, and that you maintain a comprehensive Incident Response Plan that has been stress tested, updated, and stored offsite for secure access after an incident.

[1] National Review

[2] https://www.jdsupra.com/legalnews/old-law-new-tricks-pen-register-and-2796177/

[3] https://www.cisa.gov/topics/cyber-threats-and-advisories/information-sharing/cyber-incident-reporting-critical-infrastructure-act-2022-circia

[4] https://dart.deloitte.com/USDART/home/publications/deloitte/heads-up/2023/sec-rule-cyber-disclosures

Dealer Services

Vehicle theft remains a top concern for Auto Dealers as car thieves become more aggressive in their tactics. An emerging issue in the industry concerns the safety of electric vehicles and need for Auto Dealers to comply with OSHA regulations. Commercial Automobile insurance rates continue to rise as nuclear verdicts remain steadfast.

Property

The Commercial Property insurance market has experienced year-over-year rate increases and will continue to rise for risks with high catastrophe exposures. Although Property premium hikes for 2024 are not as high as in 2023, increases for catastrophe-prone areas are between 15% and 30%.

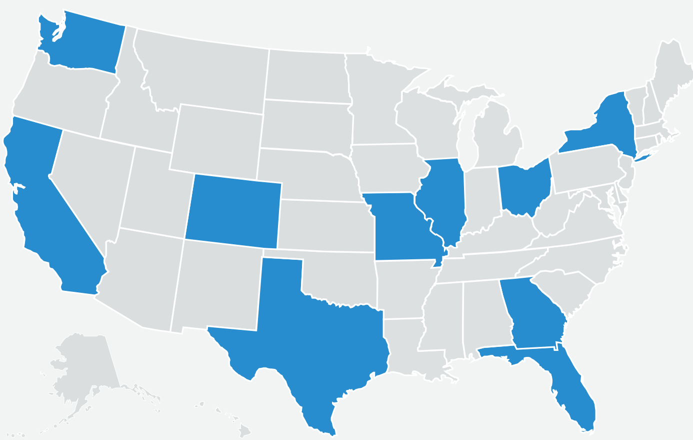
Inventory

Manufacturers are driving up inventory levels for all dealerships, with insurance rates relatively flat and continuing to soften. However, car theft and fraud losses for auto dealers continue to spike, and the insurance market is adjusting for this accordingly with higher deductibles and sublimits for theft and false pretense exposures. Policy sublimits for these exposures average between $150,000 and $250,000.

According to a report from the National Insurance Crime Bureau (NICB), nearly 500,000 vehicles were reported stolen nationwide in the first half of 2023, an increase of more than 2% compared to the first half of 2022. About 40% of car thefts are from auto dealerships.

Top 10 Vehicle Thefts by State

California was the state with the most overall thefts reported during the first half of 2023 with 99,769 vehicles reported stolen.



Source: National Insurance Crime Bureau

State		# of Thefts	% Change 2022-2023
1	California	99,769	-2%
2	Texas	55,365	9%
3	Florida	22,393	-1%
4	Washington	21,182	-12%
5	Illinois	20,820	38%
6	Colorado	17,909	-19%
7	New York	16,100	20%
8	Ohio	15,681	15%
9	Georgia	14,101	9%
10	Missouri	13,374	3%

In addition, thieves have become more brazen and aggressive in their attempts to profit from auto dealerships, whether stealing whole cars or stripping them of valuable parts. As a result, dealers continue to make significant investments to help mitigate car theft, including hiring companies to monitor their lots 24/7.

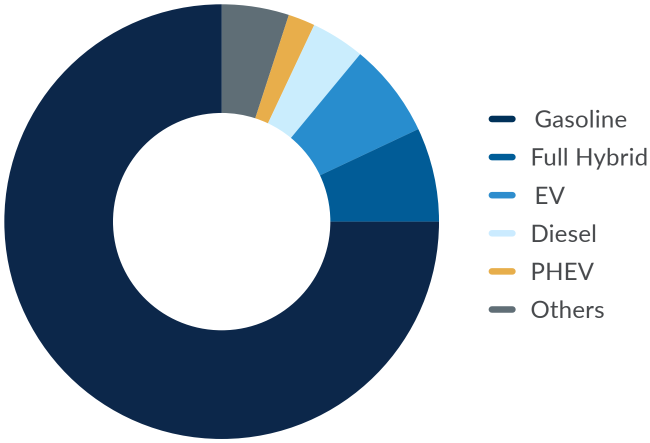
According to a recent Experian report, nearly 70% of businesses reported that fraud losses have increased in recent years. The most common fraud schemes that auto dealerships experience include:

- **Third-party fraud:** Individuals steal a person's identity to purchase a vehicle.
- **First-party fraud:** A person knowingly misrepresents his or her identity or provides false information, often with the intention of not paying for the vehicle.
- **Synthetic identity fraud:** Bad actors create bogus identities and credit profiles over time before using them to finance a vehicle they do not intend to pay for.

Electrical Vehicle (EV) Safety

Although the rate of growth of the EV market is slower than auto dealers anticipated, EV sales in 2023 crossed the one-million-unit mark for the first time and increased about 52% compared with 2022, according to S&P Global. The EV market share in the U.S. reached 7.50% of total U.S. light-vehicle sales.[1] Market researcher Cox Automotive expects sales to reach 1.5 million EVs this year.

U.S. Light Vehicle Market Share by Fuel Type, 2023



As of Dec. 31, 2023
Source: S&P Global Mobility

While auto dealerships serve consumer demand for EV options (ICE, hybrid, plug-in hybrid, battery electric solutions), they must also meet regulatory and OSHA electric safety requirements. Dealerships with at least one EV or at least one onsite charger and with employees working on or around vehicles or chargers must comply with existing OSHA regulations.

There are five core regulations all fleets must adhere to: training, personal protective equipment (PPE), a written energy control program, facilities preparation, and general documentation.

- **Training:** Includes basic training for all employees on the fundamentals of identifying EV risks and mitigating hazards. It also includes safety and skills training, with OEM information and service guides. As the EV industry matures, certification standards are expected to become mandatory.
- **PPE:** Employers must provide gloves and glasses, manage daily glove inspections and require lab testing for gloves and glasses every six months, and train employees on proper PPE use.

- **Written Energy Control Program:** Employers must provide employees with procedures to protect technicians from the unexpected release of energy. This includes understanding the minimum distances unqualified or unprotected qualified employees must maintain to protect themselves from electrical hazards like electric shocks and arc flashes.
- **Facilities Preparation:** Employers must provide a tool and a safety kit, create and distribute an emergency plan, inspect and upgrade equipment, and set up relevant audits and assessments to verify workplaces continue to meet safety standards.
- **Documentation:** Proper recordkeeping and documentation are critical for demonstrating compliance with OSHA regulations, tracking safety performance, and facilitating corrective actions in the event of an incident or non-compliance.

Commercial Automobile Liability

Commercial Automobile insurance is still challenging, with standard rate increases ranging from 7.5% to 12%. Accidents and resulting lawsuits boosted by the plaintiff bar are driving factors behind rate hikes.

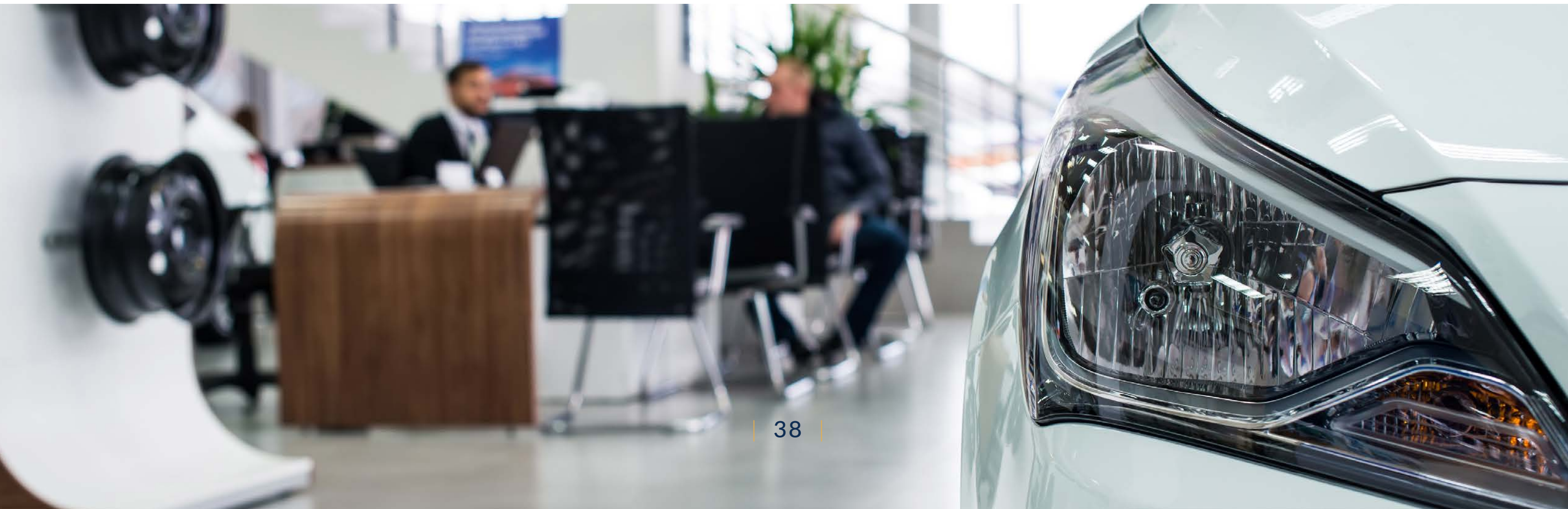
Cyber Liability

The insurance market responded accordingly to the adoption of robust cybersecurity measures by businesses, including auto dealerships. Rates have leveled off for the most part, with any rate increases corresponding to a business's increased revenue.

Looking Ahead

Following a sales resurgence in 2023, the auto industry is experiencing a slowdown in sales this year as buyers grapple with rising loan rates and high pricing for new cars and light trucks. Market researcher Edmunds expects the auto industry to sell 15.7 million vehicles this year, representing a modest increase from the 15.5 million sold last year, when sales jumped 12%. As you look to manage costs, consider revisiting your insurance program to see what changes can be made, including increasing deductibles if it makes sense. McGriff can review your program to ensure your business remains well protected while potentially reducing costs.

[1] https://www.spglobal.com/mobility/en/research-analysis/us-ev-sales-grew-nearly-52-in-2023.html



Energy

The insurance market for the Energy sector has seen stabilization in certain industry sectors and product lines while others continue to be challenging due to high-hazard exposures and loss frequency and severity.

Power and Midstream

Property

The Property market continued to stabilize in 2023 and ultimately saw average rate increases for the year in the 7% to 12% range for most insurers. Outside of natural catastrophes (NAT CAT), the loss experience in 2023 was also favorable for Power and Midstream. As we approach Q3, the positive underwriting results of 2023 are certainly being felt in 2024. Flat renewals and even some slight rate reductions are achievable for top risks this year, although the average will likely fall in the low to mid-single digits for rate increases across the board.

Business Interruption and NAT CAT (including SOFT CAT) are still focal points for markets, and insureds should expect these exposures to be rated differently, carrying upward of 10-15% rate increases. The SOFT CAT (and Severe Convective Storms) issue is further discussed in the “Renewables” section; however, traditional Energy risks are also seeing changes in coverage. Program aggregates for SOFT CAT exposures are much more common, and we do not see this trend changing in the near future due to the ongoing loss activity.

The U.S. market has seen a growth in capacity from both existing players and new entrants. The separation of Chubb and Starr Tech was one specific move that has opened up a prominent insurer, Chubb, to begin writing more business directly. The London market has seen similar capacity growth with the added benefit of increased investment in some existing power specialist teams. With some recent movement of other power specialist individuals, we hope for an even healthier and more dynamic market for our Energy clients in the near future.

The underwriting approach to ESG has finally reached a point of stability. This does not mean more capacity is available or on the horizon for standalone coal clients or those with heavy coal exposure. However, there is more certainty around the available capacity, and insureds that can communicate clear and achievable ESG strategies/goals should have fewer obstacles to accessing said capacity in this market.

Liability

The change in wildfire capacity from EIM ($25M max for 14 western states, CA excluded, $50M for all other states) has drastically altered the renewal landscape in 2024. McGriff Energy has separately released presentations on strategies/considerations for the current wildfire capacity crunch. Wildfire capacity available to insureds for Q3 and Q4 will depend on wildfire activity in the coming months and whether markets (especially in Bermuda/London) have any remaining capacity available from their budgeted allotment. While the capacity issue remains in flux, there are several key things insureds can do to manage the wildfire situation:

- **Alignment of Internal Stakeholders:** Discussions with legal, regulatory, operations, finance, and risk management to determine the viability of self-insurance vs. traditional risk transfer vs. reinsurance or other alternative risk-financing strategies. Consider the impact of self-insurance on how debt markets and investors will view your company.
- **Third-Party Modeling:** Better understand your risk and allow for real-time monitoring and modeling of potential loss scenarios.
- **Establish a Budget:** How much can be realistically spent?
- **Confidentiality & CEII Data:** With insurers requesting more and more information to underwrite wildfire risks, understand what your organization is allowed/willing to share.
- **Activism:** With growing interest in the potential for a socialized solution, communicate your challenges with internal stakeholders, lawmakers, regulators, and peers.

Outside of wildfire, AEGIS and EIM both continue to see severity outpacing their recent rate increases. Exclusive of wildfire surcharges/allocation, AEGIS is seeking 10%-12% rate increases while EIM is looking for 20%+ as it has messaged a multi-year correction aimed at pricing, attachment, and potential capacity. With the growing market concern surrounding PFAS, AEGIS is now requiring a $5M sublimit; EIM is excluding PFAS entirely. Even with the limited coverage, insureds can still expect questions surrounding this exposure.

Excess Liability capacity in Bermuda and London should be viewed through two lenses in 2024: with and without wildfire. If no wildfire coverage is purchased or exposure is very minimal, capacity is healthy and rate increases have continued to soften to the mid- to high-single digits. It is a very different story for clients with wildfire exposure. Capacity is much more restricted for wildfire, and opportunistic pricing makes it challenging to estimate year-over-year increases. If insureds ask Bermuda and London markets to drop their attachment points below $100M (to fill the gap created by EIM), expect pricing to be on a rate-on-line approach, ignoring expiring pricing and rate relativity in the tower. There will still be significant rate pressure for wildfire coverage at expiring attachments (no drop-down), but this will depend more on underwriting factors such as operational territory and exposure type.

Cyber Liability

The Cyber market for the Energy industry has mostly remained unchanged. AEGIS continues to reduce capacity from $80 million to $50 million and increase rates. For accounts with $50 million or less of coverage, expect the per-million rate increase to be anywhere from 5% to 7% for 2024. For accounts experiencing limit reductions, rates are increasing between 20-25%, depending on loss history, current pricing, and loss controls. Actuaries continue to advise underwriting teams that risks are inadequately priced and need adjustments.

Lloyd's remains a key Cyber market for energy and utility companies. Due to the diversity of Lloyd's book in serving a broader commercial market, rates are stable with flat to single-digit renewal decreases, barring any loss activity or diminished cybersecurity controls. U.S. insurers are playing a larger role than in than in the past. Most of the capacity is coming in the form of high excess, though some will drop down lower given size of the company and breadth of coverage.

As highlighted in the Fall Market Update, Power/Energy insureds should be mindful of Lloyd's mandated war exclusions, which went into effect in March. McGriff has a proprietary manuscript war exclusion specific to the Energy industry to avoid many of the pitfalls found in the stock versions from the LMA.

It's important to note that recent claims trends include a rise in successful ransomware attacks on utilities and increased costs regarding incident response and regulatory compliance. Cyber attackers target all types of companies in the Energy space with no discernable trends in size or sector.

Renewables

NAT CAT limits and deductibles continue to dictate most renewal efforts – from both the underwriting and financing perspective. Loss activity has continued for traditional NAT CAT perils and Severe Convective Storms (SCS). Independent NAT CAT analysis remains a focal point for all utility-scale renewable renewals. No model is perfect, but culminating all available data points across multiple modeling platforms, including market/broker/independent commentary, assists all parties in selecting proper limits for projects.

Texas saw significant loss activity in Q1 2024 from hail and stands out as one of the most difficult locations to place coverage due to a sizeable difference between the coverage financiers require and that which is commercially available. While stow capabilities for solar projects have proven to lessen the impact of hail damage – the most significant peril facing solar – the market has seen a trend of events where the stow protocols/capabilities were incorrectly utilized, leading to high-severity claims. Insureds that have invested in (or will invest in) technologies with stow capabilities should be prepared to demonstrate how they are monitoring, testing, and adhering to the stow protocols they have in place.

The good news is that capacity for renewables is continuing to grow and non-NAT CAT/SCS rates are stable to moderately increasing.

McGriff Energy is preparing to release a manuscript Renewable Endorsement that addresses several of the industry pain points regarding defects, series losses, financier-insured status, and claim resolution.

Tax Insurance

Tax insurance is significant in facilitating transactions in the Renewable Energy space. It continues to provide credit risk protection and certainty related to qualifying for, quantifying, and recapturing renewable energy tax credits for tax equity investors, lenders, and buyers, each relying on the validity of such tax credits as a significant source of ROI.

Participants in the Renewable Energy space continue to push for expanded coverage beyond what Tax insurance traditionally provides, given some of the newer and less familiar aspects of the Inflation Reduction Act (i.e., new tax credits associated with technologies, such as carbon capture and storage (CCS), hydrogen, and nuclear; novel tax credit bonus qualification criteria, such as prevailing wage and apprenticeship (PWA), energy community, and domestic content adders; and nuanced structures, such as t-flips/hybrid tax equity arrangements). Fortunately, the Tax insurance markets have responded and continue to respond very favorably to the needs of market participants, working with insureds and their advisors to develop creative solutions and policy mechanics to address their unique needs. For example, we are currently working with the Tax insurance markets to insure a project's qualification for the "domestic content bonus adder" even without access to the underlying manufacturer data, an issue that the insurers initially viewed as an obstacle that would be difficult to overcome from an underwriting perspective.

New insurer participants, domestic and abroad, continue to enter the U.S. Tax insurance space, which has created a favorable market for insureds due to increased insurer demand for premium and an overall lack of material claims. It should be noted, however, that the IRS has started to more aggressively audit and challenge certain aspects of renewable energy tax credit matters (i.e., qualified basis step-ups and cost segregations), and given the size of the contemplated renewable energy transactions and incentives going forward, it is almost certain increased IRS scrutiny will continue to grow. The IRS received significant funding as part of the Inflation Reduction Act to upgrade its systems, technical capabilities, and workforce. Furthermore, the IRS has explicitly stated that large transactions/corporations and complex partnership structures will be areas of increased IRS audit scrutiny and focus going forward. What this means for policy terms and pricing is hard to say, but it will likely increase the demand for Tax insurance in the future.

Upstream

Reinsurance and Capacity Overview

Unlike 2023, the 2024 reinsurance renewals have yielded more stable results. Most reinsurers offered flat to minimum increases in their renewals. However, the capacity challenge remains for reinsurance purchasers on risk and catastrophe renewals. As mentioned in prior reports, several upstream risk losses in the market have impacted expected profitability for 2023, eroding a large percentage of non-catastrophe-related premium in 2023. Additionally, 2024 has started with a couple of large-risk losses, which we will continue to watch to communicate the impact on 2024 profitability.

Named Windstorm (NWS) Capacity and Rating

Despite initial noises from the market looking for rate increases, the early months of 2024 have yielded mostly flat renewal offerings. Capacity has shifted slightly in 2024, but with the recent uptick in mergers and acquisition activity and bankruptcies, fewer programs in the marketplace are looking to place coverage. Therefore, the supply/demand ratio has shifted into more favorable positions for purchasers, yielding these flat results. This is good news for purchasers, but McGriff cautions there needs to be a balance. If underwriters cannot demonstrate to management that capacity is being utilized, shrinkage over time could result.

Upstream Property and Well Control

For accounts that do not require over $35 million in capacity for Well Control, renewal rates have remained consistent through 2024, ranging from flat to a 10% increase for risks (non-windstorm exposed). However, underwriters continue to examine Well Control rates and limits due to a number of claims over the last couple of years and into 2024.

Underwriters' continued focus on property valuations is lessening as a concern, as many insureds have assessed valuations and provided detailed narratives to the market regarding property adjustments. However, insureds who have not adequately addressed this issue over the last couple of years could continue to see pressure from the underwriting community.

Upstream Casualty

Upstream Casualty continues to be challenging, especially for accounts with exposures near or on the water, in specific basins, with large auto fleets, and in jurisdictions where underwriters perceive a continued hostile litigation environment. Markets continue pushing for more restrictive terms and conditions, exclusions, increased deductibles/ self-insured retentions, and even warranties containing prescriptive risk management processes. We are also seeing a trend on accounts with auto fleets over 250 in which markets offer only $5 million in lead Excess capacity. Additionally, certain underwriters are considering nonrenewing clients with Auto premium outweighing the rest of the primary Casualty program.

J.H. Blades Update

On a positive note, J.H. Blades recently announced its new facility is up and running as of February 1, 2024. Coverage includes an in-house Package facility led by Amlin Syndicate and others, providing Control of Well up to $35 million (100%) combined single limit for any one occurrence and a $50 million (100%) limit involving a loss of more than one well. Coverage includes care, custody, and control for an additional $5 million (100%) and Oil Lease Property not exceeding $7.5 million "for insured's interest on any one occurrence." Amlin also leads the Liability facility and can quote General Liability and primary at $10 million, with a separate $15 million Excess $10 million layer being finalized (JH Blades currently has 37.5% in the facility with the remainder placed on an open-market basis). This facility should provide some easing to the increased premiums and coverage reductions seen in 2023 with the loss of the Markel facility.

Flood

Most areas of the country are prone to flooding, underscoring the importance of Flood insurance for all businesses. Retail, office, and multi-unit residential properties were projected to lose more than $13.5 billion in 2022 from flood damage, according to FEMA's National Flood Insurance Program (NFIP). Moreover, 25% of businesses never reopen after flood disasters.

Flood Insurance

The Flood insurance market has evolved from a one-size-fits-all solution to an industry that provides clients with many options, including FEMA's National Flood Insurance Program (NFIP), the expansion of the private Flood insurance market, and new parametric flood products from various companies.

The National Flood Insurance Program

The NFIP, the federal government's program, provides businesses with coverage of up to $500,000/building and $500,000/contents. On the residential side, the NFIP offers up to $250,000 for the structure and $100,000 for contents. Rates are consistent when placing coverage through the NFIP and are based on several property factors.

In 2021, the NFIP adopted Risk Rating 2.0, an updated methodology to calculate Flood premiums. Premiums are based on a property's risk factors, including foundation type, lowest floor height, base flood level, and replacement cost. In addition, risk-based pricing uses current actuarial techniques.

Private Flood Insurance Markets

Private Flood insurers utilize their own rating tools to assess risk and appetite and to rate accordingly. While the private Flood insurance markets offer the minimum NFIP coverage, they also provide higher limits and additional coverages unavailable through the federal program. Clients can purchase coverage solely through the private market, or they can choose to buy their primary coverage through the NFIP and secure Excess limits through the private market.

The private Flood insurance markets also offer shorter waiting periods to obtain coverage than through the NFIP. You can also insure multiple properties on a single policy through the private market, whereas the NFIP requires separate policies for each property.

In addition, various companies offer parametric Flood insurance products, which use sensors on the property to determine when a flood event has occurred and provide quick settlements and faster payouts. Insurance companies use data analytics and machine learning to underwrite parametric insurance in order to understand the likelihood of a loss event.

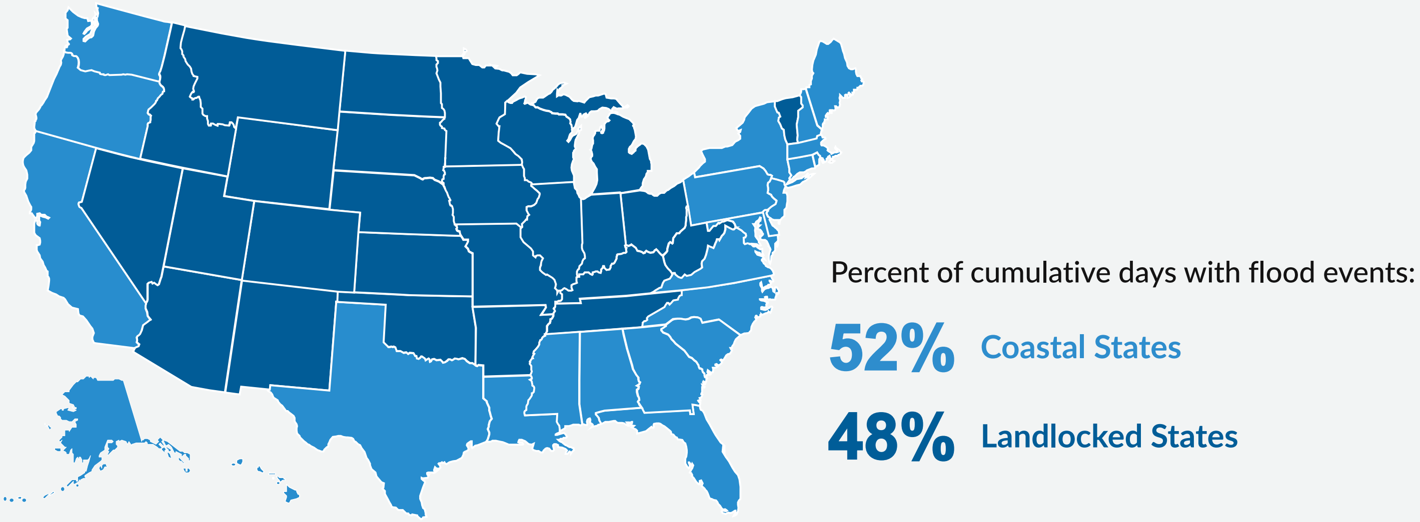
Why Flood Insurance is Critical

Flooding is pervasive throughout our country and occurs all year round. One inch of flood water can cause more than $25,000 in damage. In mid-April, for example, a strong line of storms with torrential rain and tornadoes blasted over several states, including the Florida Panhandle, southern Georgia, the Ohio Valley, and New England. Heavy rain in New Orleans turned streets into rivers.

While coastal towns along the East and Gulf Coasts are most at risk from storm surges, towns upstream along the rivers will often see flooding. In fact, we are witnessing severe flooding in areas of the country that we have not previously experienced. In California, for example, a devastating atmospheric river storm occurred earlier this year, with estimated damages projected to reach $11 billion in damages and economic losses to homes and businesses in Los Angeles, according to AccuWeather.

Flooding Extends Well Beyond Coastal States During Hurricane Season

Events in landlocked states occurred nearly as often as along coasts.



Source: Data Accessed November 2022 from the National Oceanic and Atmospheric Administration Storm Events Database, https://www.ncdc.noaa.gov/stormevents/

Hurricane season, which runs from June 1 to November 30, typically causes the largest and costliest disasters that the U.S. faces each year. Rainfall intensity is rarely more extreme than after a hurricane's landfall. The upcoming season is set to be supercharged by warm oceans and the La Niña weather event, with more violent storms predicted.

However, many individuals and businesses, unfortunately, remain uninsured. According to a FEMA report provided to the insurance industry, consumers have a low perception of flood risk (with more awareness of price), which is the primary reason that property owners do not have flood insurance. Also, many consumers are still unaware that standard Property policies do not cover flood damage. This includes all-risk Commercial Property policies, which often exclude flood coverage. The policies were not designed with adequate rate to cover the high flood exposure.

Looking Ahead

Flood insurance is a critical component in protecting your investments. Work with a trusted broker who understands the industry. A Flood insurance specialist at McGriff can provide recommendations and help you obtain the coverage you need to remain well protected.

Marine

Very recent events are anticipated to have an impact on the Marine market. The tragic collision of the *Dali* containership with the Francis Scott Key Bridge in Baltimore in March 2024 is projected to be one of the largest marine casualties in history. Liability coverage for the ship is through International Group P&I Club member Britannia. The loss, widely projected to exceed $1.75 billion, with some estimates at high as $3 billion, will trigger the International Group reinsurance program, supported throughout the London and other international markets, the largest reinsurance program in the world.

The impact of the loss is still unknown at this time. At a minimum, the loss is likely to slow the recent trend of moderating P&I rate increases and, in some cases, reductions. All twelve members of the International Group of P&I Clubs will participate in excess of Britannia's $10 million retention and share in the $100 million pooling layer until the reinsurance attachment point of $100 million. It is expected that this loss will impact the February 20, 2025, P&I Club renewals. It should be noted that in recent financial results reported by carriers involved with the reinsurance program, the ***Dali*** loss has been characterized as likely falling within budget.

Insurers and analysts are actively assessing the likely losses across several product lines, including Property, Cargo, Marine, Liability, Trade Credit, and Contingent Business Interruption. Given the degree to which this loss will be spread throughout the market, in these early stages it is difficult to anticipate the impact at the individual insurer level. Preliminary analysis would indicate that companies are positioned to absorb the loss within their overall portfolio without threatening the ability to continue.

Another development within Marine insurance are the conflicts in the Middle East and Ukraine. They are continuing to impact trade routes and carriers are responding by restricting coverage. We generally see restrictions in the Black Sea, and during the last couple of months have seen restrictions and additional costs for areas in the Red Sea and Gulf of Aden.

Some cargo, such as lithium-ion batteries, is creating new risks that must be fully understood and mitigated, as are new propulsion technologies resulting from combined environmental protection ambitions. Insurers are increasingly managing new types of risk, such as cyber, and dealing with the accumulation of risk as cargo of increasing value is being stored in single port facilities or is being carried on vessels that continue to grow in capacity.

Hull & Machinery

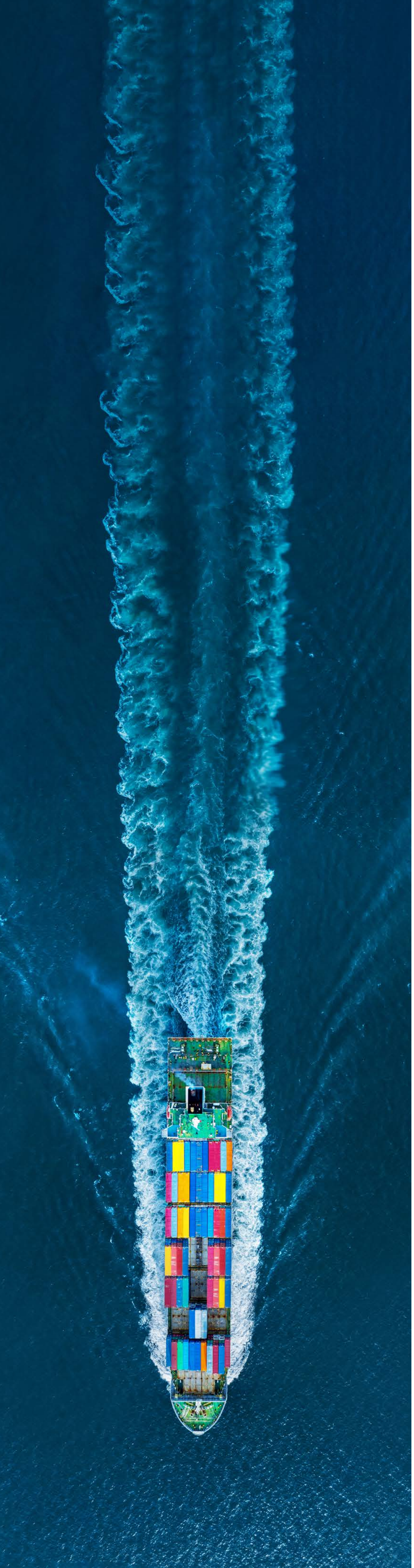
The Hull & Machinery insurance market has moderated with low to single-digit increases, helped by additional competition, which has facilitated the slow pace of rate increases this year. Rate adequacy has created more opportunity for competition, increased values have generated more premium volume, and fewer losses are helping to keep premiums down. Shipping losses dropped to a record low in 2022, according to Allianz Global Corporate & Specialty SE Safety and Shipping Review 2023. There were only 38 total losses of large ships reported globally, down from 59 in 2021, which is the lowest number in the 12-year history of the report. Although the number of total losses continues to decline, the number of general casualties remains constant, with machinery damage forming the majority of claims and fire a growing concern. There were over 200 fires reported in 2022, a 17% year-over-year increase, making it the third largest category of loss.

Marine Liabilities

The primary Marine Liability (terminal operators, ship repairers, landing owners) space, especially without a P&I exposure, continues to be a favorable class of business for U.S. underwriters. Single-digit price increases at renewal can often be negotiated and reductions can be achieved for those insureds willing to make a change in markets.

Mutual P&I

Prior to the Dali loss discussed above, the mutual P&I market had been providing relatively stable results. Several of the Clubs published renewal guidance in advance of the February 2024 renewals in the 7.5% to 12% increase range that was achieved. There were also a few Clubs that announced a premium return for the 2023–2024 year on the basis of results. We would anticipate the Clubs to provide additional guidance in the coming months, but early expectations are that most P&I Clubs will look to seek rate increases at renewal slightly above those sought for the 2024 policy year.



Fixed P&I

Rates in the Fixed P&I market, comprising commercial insurers, MGAs, and mutuals, have somewhat stabilized for the primary layers (first $1 million), with 5% to 7.5% increases. However, we still see tremendous pressure on the Excess Liability space due to litigation and resulting nuclear verdicts.

As new types of vessels and operations begin rollout, we continue to see increased demand for specialized coverage for shipowners. This is due to the growing complexity of the shipping industry and the increasing number of risks that shipowners face. The Fixed P&I market remains a viable alternative for operators that do not require the high limits offered by the P&I Clubs.

Excess Liability

There is continued pressure on lower Excess layers ($1 million to $10 million or $20 million), where many loss payments are made. As you move into catastrophic layers, there is a rate push for the capacity being used. We also see markets deploying less capacity, resulting in smaller line sizes for most markets. Whereas previously markets would write $5 million of the total $20 million layer, they now want to write only $2.5 million of the total. Underwriters are increasingly focusing on the non-marine exposures, especially Auto Liability, that in the past were included for little or no additional cost.

Marine Cargo

The Marine Cargo market is in relatively good shape. Over the last few years, rate adequacy has attracted new entrants willing to deploy capacity. However, while rate is improving, the needle hasn't moved yet in improving coverage terms. As we went through the hard market cycle, not only did prices rise, but there was also a reduction in the depth and breadth of Cargo coverage provided. Insurers continue to maintain discipline on terms and conditions. We expect that, as rates moderate, we will see terms and conditions eventually moderate down the road.

Another factor driving the Cargo market is its potential use as an alternative solution for the difficult Property and catastrophe markets. The Cargo market is seeing increased submissions for Stock Throughput and Stock-Only Buyouts, which are viable alternatives for insureds looking to offset larger increases in their Property program.

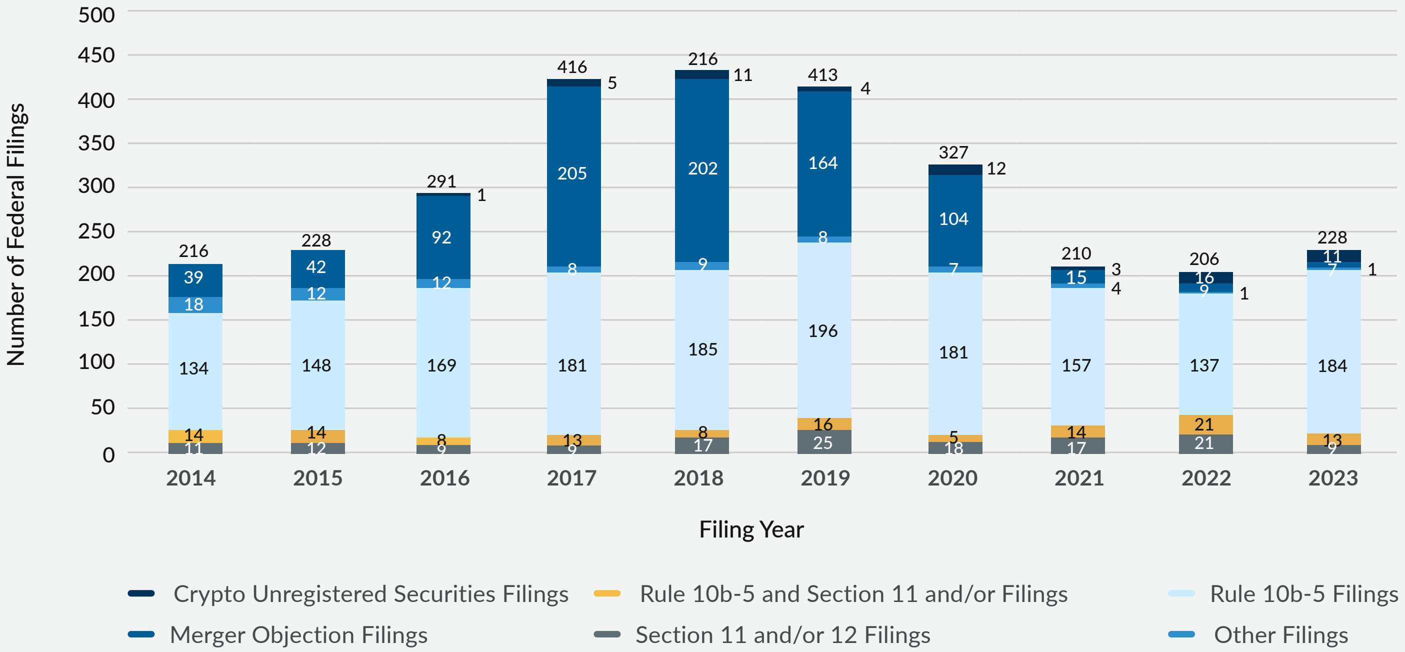
Looking Ahead

McGriff continues to dig deep to understand our clients' risks so that we can present their operations in the most favorable light. We look at historical loss information and work with clients to improve their risk profile and illustrate to our markets the controls and risk management they are implementing. Together, we also work to rightsize our clients' insurance program, including exploring terms and conditions.

Public Company Directors and Officers Liability

The Directors & Officers (D&O) insurance market has continued to improve for buyers as average premium costs move lower. The buyer's market is primarily due to a favorable supply of new carrier entrants in 2021 and 2022 that have affordable capital to invest in new clients. Cross-account bidding continues to be cautious but is often successful for buyers canvassing the broader market. However, before we discuss the favorable market conditions, it's worth reviewing year-end 2023 results for all D&O claims.

Federal Filings by Type (January 2014 - December 2023)



Source: NERA

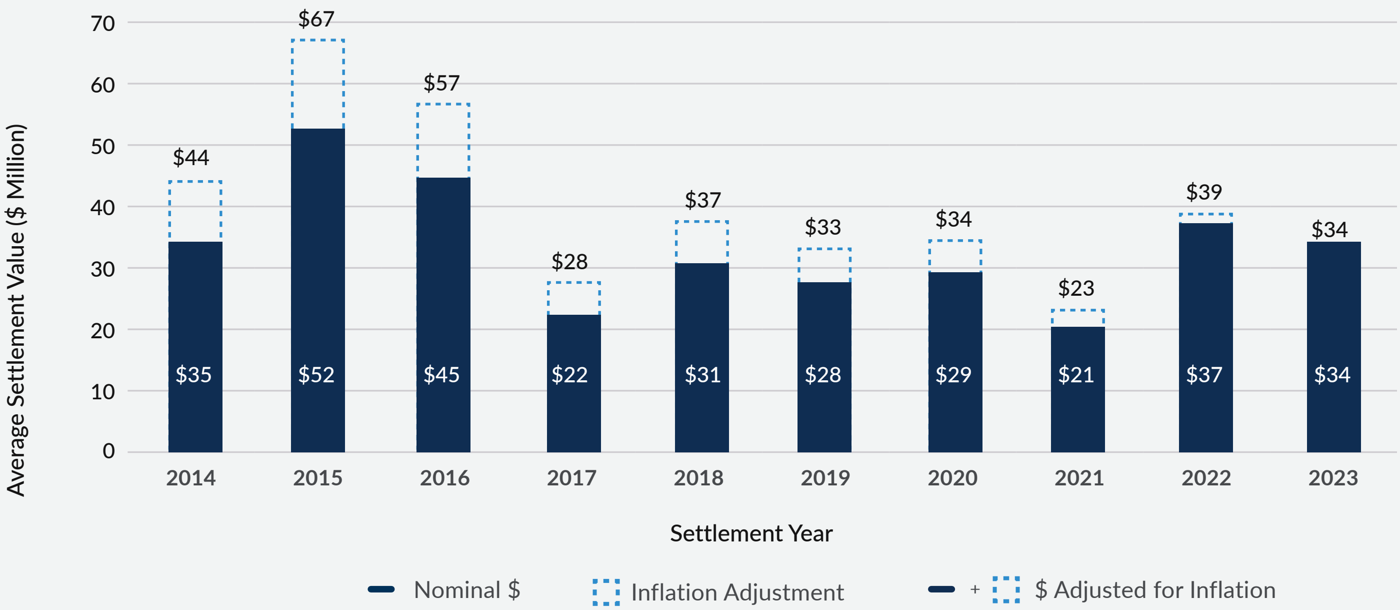
The number of securities class action lawsuit filings increased in 2023. **According to a NERA report, 228 federal court securities class action lawsuits were filed in 2023, representing a 10% increase over 2022.** This was the first increase in four years.

The NERA Report concluded that securities class action filings were largely driven against industrial companies in the electronic technology and services sector, with 22% of all filings. The percentage of filings against the health technology and services sector was 19%, with the financial sector at 18%.

Total global settlement value in 2023 was largely consistent with 2022, albeit down slightly to $3.9 billion. More interesting were the average settlement values. Excluding large settlements over $1 billion, the average settlement was $34 million in 2023, down from $39 million (inflation-adjusted) in 2022.

Average Settlement Value

Excludes Settlements of $1 Billion or Higher, Merger Objections, Crypto Unregistered Securities, and Settlements for $0 to the Class (January 2014 - December 2023)



Source: NERA

2024 Trends

Initial Public Offerings

The first issue likely to tweak long-term loss trends is the affinity of companies to raise capital through an initial public offering (IPO). Many companies have announced plans to go public in the last few months. Companies like Reddit ($5 billion), Shein ($45 billion), Panera Bread ($7.5 billion), Skims ($4 billion), and Maplebear, Inc. dba Instacart ($8 billion) have recently gone public or announced plans to do so.

Raising capital and introducing public company exposures are significant headwinds for D&O insurer profitability, considering 31% of all federal class action allegations in 2023 were due to missed earnings guidance. This headwind is often impossible to underwrite and generally develops into a claim months after the actual IPO. As companies continue to raise capital through public offerings, the embedded risk will likely develop long after the offering date.

Electric Vehicles

Another developing trend is the pushback from investors around clean energy, particularly related to electric vehicles (EVs). Most recently, Hertz Global announced the sale of 20,000 EVs in its fleet. Whether due to fickle consumer interest in driving such cars or the related irritation around charging station infrastructure, the company recently took a $245 million charge. The same could be said for similar headwinds at Fisker, Rivian, and Lordstown Motors, which all shared the EV malaise. The future of the EV concept in the U.S. economy seems favorable, but the path to get there is rife with risks and potential claims against directors and officers.

Artificial Intelligence

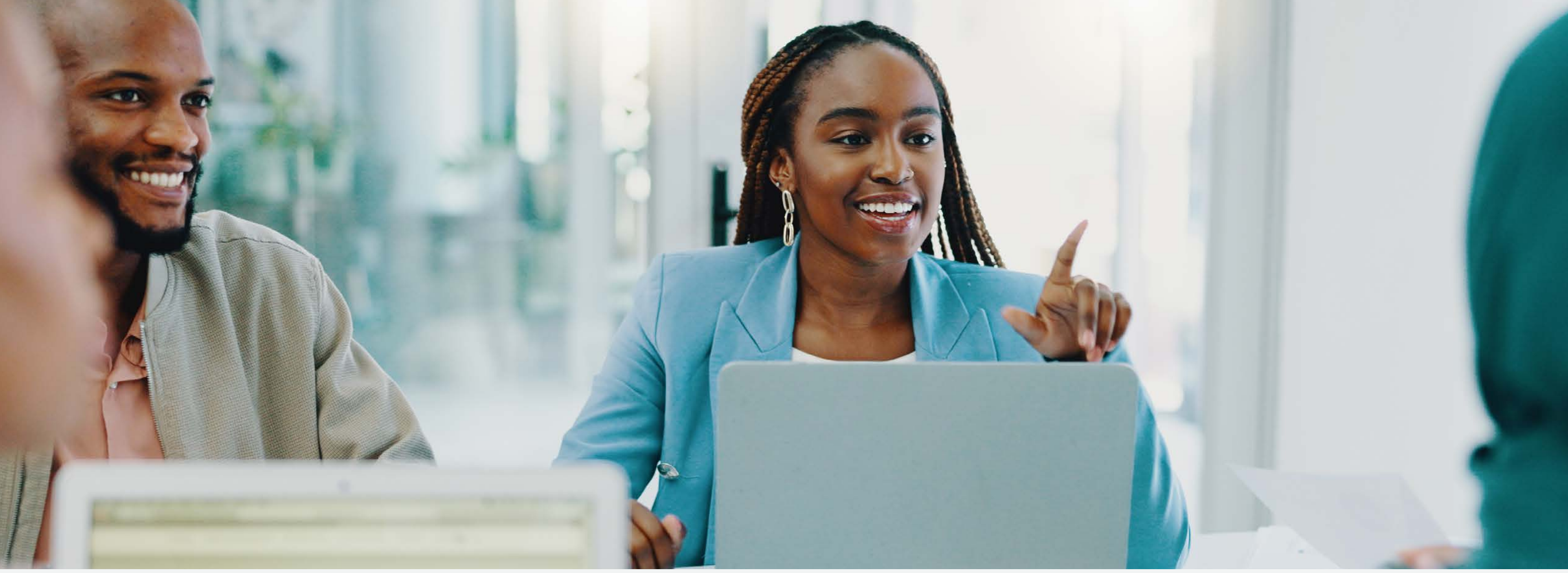
The latest risk to rear its head and that will probably remain for the near future is the adoption and use of artificial intelligence (AI) in the workplace. The risk to public company disclosure regarding the level of investment and use of AI in business practices is just developing. Recently, Innodata reported the first AI-related securities lawsuit. While a fresh lawsuit, the allegations are for "AI Washing," where plaintiffs sued over misrepresenting viable AI technology. Most experts expect beefed-up AI-related SEC enforcement to deal with this exposure in the future.

When we navigated the underwriting headwinds of 2022 and 2023, the cautionary flags were up for layoffs; environmental, social, governance (ESG) obligations; and recession prospects. While those risks are still relevant, they seem to have largely diminished in analyst and underwriting interviews.

Looking Ahead

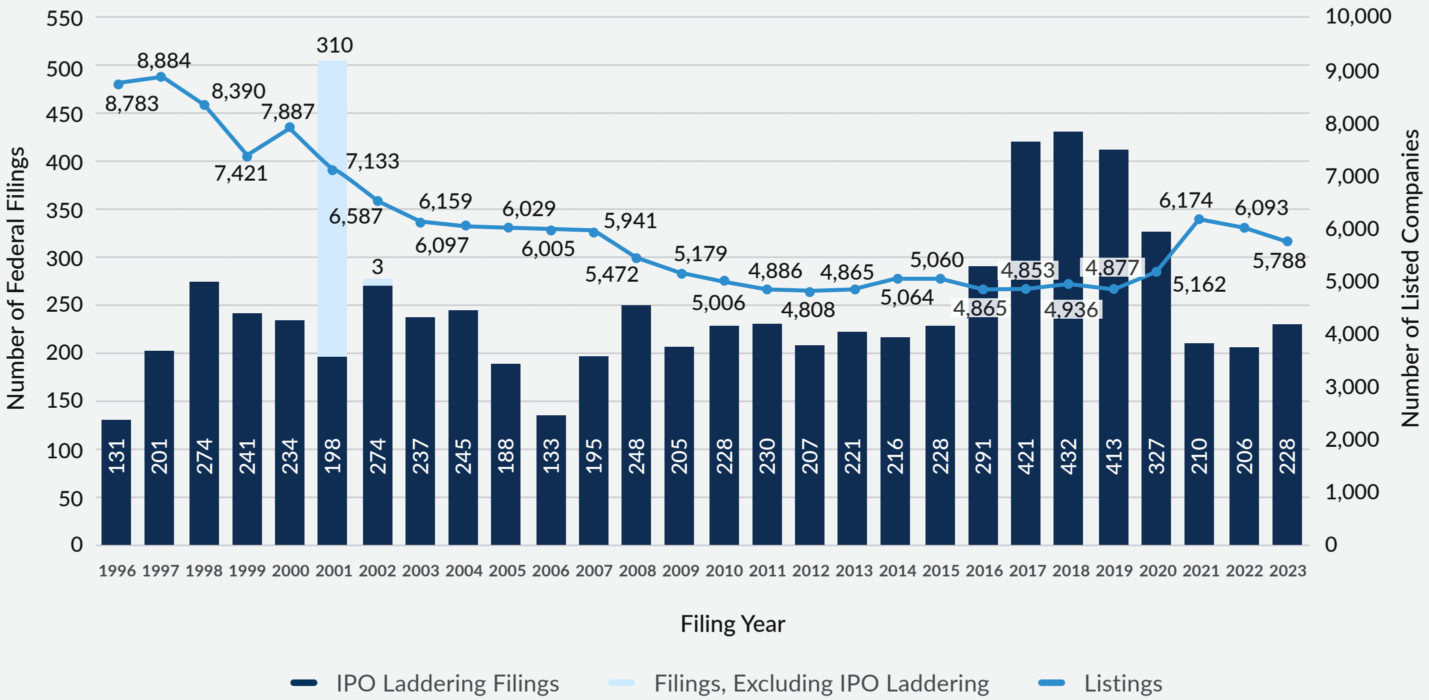
Moving forward, we expect to see further erosion in D&O insurance premiums across the market. Many underwriters are beginning to trade coverage terms, lower retentions, and fewer exclusions for less premium return at renewal. This "coverage currency" will likely continue for most of the year until there are fewer items to barter. Most underwriters will confess that a year-over-year renewal with flat premium is the target outcome. How insurers get there, such as trading policy terms, will be the test as accounts approach renewal.

Similarly, we are beginning to see premium savings reinvested in excess limits for policies that might have been non-renewed during the harder market over the past few years. As noted in the NERA report, the average settlement in 2023 was $34 million. When we dig a bit deeper, we learn there were 10 class action settlements at $90 million or more. Public firms are aware of the severity of this class of business and are studying various models to provide direction and clarity on how and when to procure adequate insurance limits. We can expect clients to buy higher limits where affordable.



Federal Filings and Number of Companies Listed in the U.S.

(January 2014 - December 2023)



Note: Listed companies include those listed on the NYSE and Nasdaq. Listings data obtained from World Federation of Exchanges (WFE). The 2023 listings data are as of October 2023.

Lastly, D&O capacity is robust. New entrants from 2021 and 2022 have dry powder and significant growth goals. While the number of providers in the market has remained relatively stable, we expect reinsurance renewals to provide larger limit offerings for the best risks. With less expensive reinsurance, we are likely to see the biggest insurers muscle in on accounts with which they have a history and present a favorable risk profile.

Public Entity

Public Entities in 2024 are experiencing improved market conditions for Property insurance, with additional capacity available and rate deceleration. Additionally, we continue to see large liability claims in the Education sector and employment-related risks remain a challenge for various Public Entity segments.

The Francis Scott Bridge collapse in Baltimore, Maryland, is projected to have long-term ripple effects to one of the busiest ports in the country.

Property

Reinsurance renewal rates for January and April were relatively flat, with slight increases after a mild hurricane season in 2023. However, we did experience $100 billion in losses due to wildfires and severe convective storms. Additional capacity from carriers seeking to enter the market helped to keep Property rates at bay. According to AM Best, a combination of strong rate increases and a generally benign year of severe catastrophic weather events contributed to a recovery in the global reinsurance market's results.

Although the Property market appears to be leveling, whether stabilization will continue depends on insurer investment returns and profitability, the upcoming hurricane season, and the economic impact of the presidential election.

Experts are forecasting an above-average hurricane season due to warm weather patterns in the Atlantic and a seasonable switch to La Niña from El Niño. Colorado State University researchers forecasted a busy season of 23 named storms, including 11 hurricanes – five of them potentially reaching Category 3 or higher. According to the National Hurricane Center, an average Atlantic hurricane season has 14 named storms, seven hurricanes, and three major hurricanes (Category 3 or above). AccuWeather researchers are also warning of a potential "blockbuster hurricane season."

Property Valuations

Correct insurance-to-value continues to be an underwriting concern, with carriers asking for 5% to 7% valuation increases over the last few years to deal with high inflation and increased building costs. Underwriters are also requiring that aging infrastructure be brought up to code. It's critical that a public entity's property valuations be addressed in an enterprise risk management (ERM) program.

Francis Scott Key Bridge Collapse

Baltimore's Key Bridge collapsed immediately after being struck by container vessel Dali, destroying a major metropolitan route and cutting off automobile and vessel travel. The impact of the Key Bridge collapse on the nation's ninth-largest port and a major transportation highway will have far-reaching consequences for the region and the nation's supply chain. The collapse serves as a reminder of the fragility of our infrastructure, emphasizing the importance of transportation networks and ports to our economy, national security, and resilience, as well as the necessity to prevent similar events in the future. This event emphasizes the critical need for contingency planning and adaptive measures for mitigating the effects of unexpected events.

School Shootings

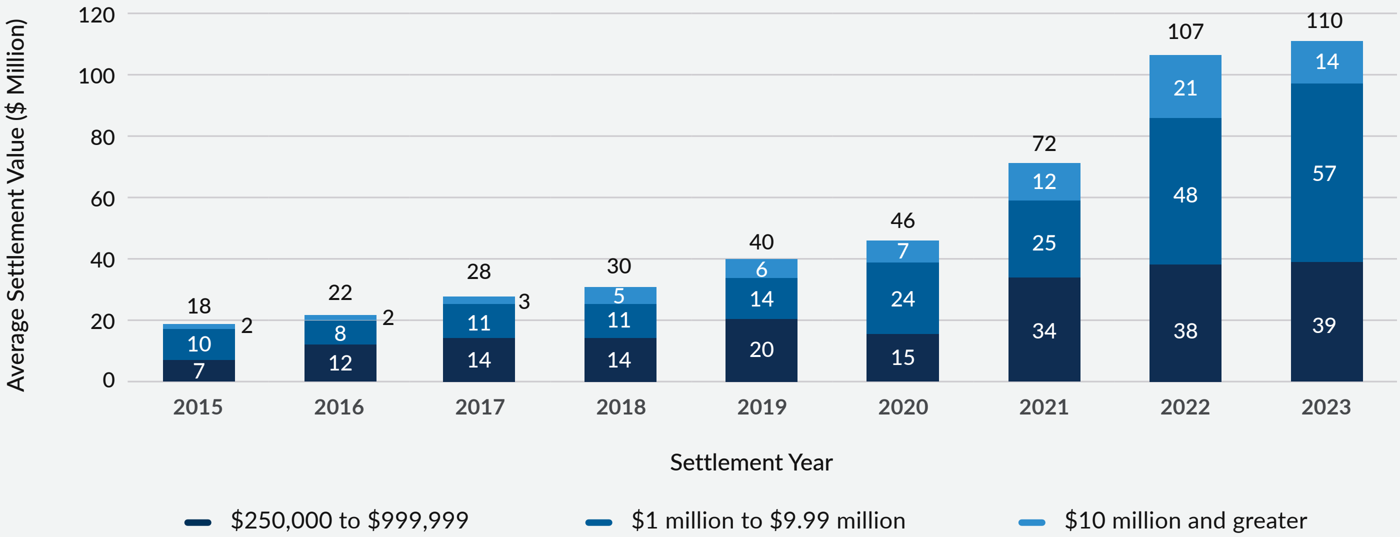
Increasingly more school districts are purchasing additional Active Assailant limits to cover the extra expenses involved in the aftermath of a shooting. This coverage will pay for the costs of biohazard cleanup, renting a temporary facility, and managing the school's reputational damage. Some carriers will expand the Property form to cover these extra expenses.

Liability

As we cited in our 2023 Fall Market Update, higher education institutions and K-12 schools continue to experience losses related to sexual abuse and molestation claims, accounting for about 25% of claims, according to the "Large Loss Report 2024" from United Educators (UE). Discrimination; breach of contractor for Educator's Legal Liability coverage; and slips, trips, and falls, accidents causing injury or physical damage, and automobile claims are contributing to losses.

Damage Awards and Settlement Trends

An analysis of the Large Loss Reports from 2015-23 shows troubling trends for K-12 schools and higher education institutions.



Source: United Educators

Of the publicly reported settlements or awards of at least $1 million, 22 involved sexual misconduct, eight involved accidents and crimes resulting in death, eight involved discrimination, and eight were COVID-19-related cases.

In a sexual misconduct lawsuit, the Moreno Valley Unified School District in California was ordered to pay $121.5 million to two former pupils who were sexually attacked by a middle school teacher approximately 30 years ago. The students experienced sexual assault from middle school until their sophomore year of high school and reported the abuse to the sheriff's department when they were 17. In 2006, the teacher was convicted of multiple counts of child molestation and sentenced to 52 years. The students sued the district for negligence after a law was passed in 2020 that allowed survivors of child sexual assault to seek civil actions. They claimed the teacher had previously been charged with child molestation and that district administrators knew — or should have known — he posed a threat to kids. In October 2023, a jury found the school district 90% at fault, with the remaining 10% the teacher's fault. The overall verdict was $135 million. According to a district official, the verdict was "unprecedented," and the district" is weighing its options moving forward."[1]

Another recent injury case involves a lawsuit filed by a former teacher in Virginia who was shot by a six-year-old in January 2023. The school board argued that the $40 million lawsuit should fall under Workers' Compensation. However, a Virginia appellate court declined to intervene in the lawsuit, allowing the case to proceed in civil court, with a January 2025 trial start date.[1]

Law Enforcement Liability

Law Enforcement Liability insurance remains a difficult line, and rates depend on an entity's losses. Few markets provide this coverage, and limits have contracted. Insurers are looking at a jurisdiction's ERM program, HR, and training policies and practices. Each risk is undergoing increased underwriting scrutiny and a thorough evaluation of the law enforcement agency's profile.

Automobile Liability & Physical Damage

The Commercial Automobile Liability insurance market is challenging, especially for entities with fleets. We are seeing up to 10% increases in rates. Physical Damage rates also continue to rise due to the cost of parts, labor, and maintenance. The labor shortage has resulted in repairs taking longer, with out-of-service vehicles requiring loss-of-use coverage to step in.

Directors & Officers (D&O) Liability

D&O insurance, for the most part, is flat, with some increases due to pending class-action lawsuits, including for employment practices.

Employment Practices Liability

The employment practices landscape is a challenge for all organizations, including Public Entities. The Equal Employment Opportunity Commission (EEOC) is stepping up its proactive stance against allegations of discrimination. The agency announced a record-breaking fiscal 2023, obtaining more than $665 million for employment discrimination victims. That's nearly a 30% increase compared to 2022.

According to the EEOC, out of the more than $665 million, about $440.5 million was obtained through mediation for 15,143 victims of employment discrimination in the private sector and state and local government sectors. Additionally, more than $202 million was received for 5,943 federal employees and applicants, representing a more than 53% increase from 2022.

The number of new lawsuits initiated by the EEOC grew by more than 50% compared to 2022, with 143 new actions filed, comprising 86 on behalf of individuals, 32 non-systemic litigation involving numerous victims, and 25 systemic suits involving several victims or discriminatory policies.

St. Louis Public Schools, for example, must pay $6 million in damages to a former high school counselor who claimed that the school district and principal discriminated against him based on his gender and age. The former counselor claimed that the principal favored younger women and routinely demeaned him, according to the lawsuit. He was replaced by a female counselor who was younger and less experienced.[1]

In another example, the University of Iowa will pay $4.2 million to resolve a racial discrimination claim brought by former football players. In November 2020, football players filed a lawsuit against the program and coaches for alleged racism on social media, following years of internal and external investigations.[1]

New Employment Laws and Protection

In 2024, the U.S. Supreme Court will rule on three cases that could significantly affect employers, including one previously decided. Entities should be aware of the concerns raised in these cases and the potential impact of Supreme Court decisions on the workplace.

- **Title VII discrimination:** The Court will determine if a police officer's forced job relocation violates Title VII of the Civil Rights Act of 1964.
- **Court deference to federal agencies:** The Court will consider overturning or modifying Chevron deference, which requires courts to follow federal agency guidelines when interpreting unclear statutes.
- **Whistleblower retaliation:** The Court upheld an opinion establishing that employees do not need to prove retaliatory intent under the whistleblower protections of the Sarbanes-Oxley Act (SOX).

Cyber Liability

Cyber Liability rates continue to level off with the strengthening of cybersecurity measures. In fact, Public Entities with strong multifactor authorization (MFA) are seeing decreasing rates.

However, Public Entities must remain vigilant against potential cyberattacks as bad actors up their game and look to threaten our infrastructure. In March 2024, for example, the U.S. government warned state governors that foreign hackers were carrying out disruptive cyberattacks against water and sewage systems throughout the country. A letter from National Security Advisor Jake Sullivan and Environmental Protection Agency Administrator Michael Regan warned that "disabling cyberattacks are striking water and wastewater systems throughout the U.S."[2]

"These attacks have the potential to disrupt the critical lifeline of clean and safe drinking water, as well as impose significant costs on affected communities," the letter said. Sullivan and Regan called on governors to "ensure that all water systems in your state comprehensively assess their current cybersecurity practices" and prepare for potential cyber incidents.

Cybersecurity must remain a top priority as municipalities continue to build new convention centers, arenas, and other facilities.

Workers' Compensation

While Workers' Compensation insurance rates have remained flat for several years, we are keeping a close eye on whether the trend will continue. For example, medical inflation in Workers' Compensation has recently been lower than general economic inflation. However, most Workers' Compensation medical expenditures are governed by charge schedules that lack automatic adjustment provisions, so additional costs may take longer to be recognized during inflationary periods. Providers are pushing for fee schedule changes with growing labor and material costs.

For example, Illinois' medical charge schedule includes an automatic inflation adjustment, so as of January 1, 2024, most Workers' Compensation medical treatment expenses increased by 8.3%. Services not covered by fee schedules, such as attendant care, long-term care, transportation, and durable medical equipment, are already experiencing significant inflation.[3]

California, New Jersey, and New York also show signs of hardening due to higher claims costs driven by litigation and medical inflation.

Looking Ahead

Continue to work with our insurance specialists at McGriff to assist with your ERM program and examine alternative risk transfer solutions to mitigate risk, manage costs, and improve your risk profile.

[1] "Large Loss Report 2024" from United Educators

[2] Reuters

[3] IRMI

Real Estate & Hospitality

While we're seeing a more stabilized Property insurance market in 2024, we continue to look for creative ways to manage our clients' programs. On the Casualty side, while we see pockets of rate reductions in specific industry subsegments, underwriters continue to focus on contractual risk transfer and risk management.

Property

The Property insurance market is in a more stable position in the first half of 2024 than last year, with an oversubscription of capacity available and healthy competition among the carriers looking to increase their line sizes in property placement. At early 2024 renewals, we experienced a more orderly and lighter environment after a challenging 2023 season.

Carrier growth goals are contributing to today's capacity oversubscription. Whereas before, carriers may have been providing 10% of capacity in a placement, they are now offering more – such as 20%. To help achieve growth goals, carriers are also decelerating the rate of premium increases, with some accounts getting flat rates or even some minor rate decreases, bearing in mind that every account is different.

While the Property market has improved, we must consider that rates are still high after 20% to 100%+ increases in 2023. Therefore, we are vigilant in looking for creative ways, including retention-level adjustments and other solutions, for our Real Estate and Hospitality clients to better manage their property programs and premiums.

Older Structures

Across all types of real estate occupancy, older buildings (pre-1980s) continue to be challenged in the Property market. Carriers request an increased amount of data on older structures, so it's critical to have as much building data (i.e., structural upgrades, roof replacements, etc.) available as possible. Carriers are more discerning in their underwriting, capacity deployment, and rates.

Habitational Market

The Habitational market remains challenging, with the least amount of Property insurance capacity available for frame risks. However, carriers comfortable in the frame Habitational space are looking to grow and will entertain providing extra capacity.

A Quiet Named-Windstorm Season

In addition to rate increases, the quiet named-windstorm season in 2023 contributed to carrier profitability in the Property market, although forecasters paint a different picture for 2024. With a very active hurricane season predicted, the tide can again turn in the Property market depending on losses.

Clients with properties in wind- and hail-prone areas will continue to see stricter terms and conditions, with some softening, including a lower wind/hail deductible in some cases.

Property Valuations

The year 2023 was characterized by a huge valuation push to right size premiums to align with actual property values. If a client's valuations reflect the accurate replacement cost for building and contents, there should not be much change year over year in 2024.

Looking Ahead

Although the Property insurance market shows signs of improved conditions, McGriff continues to explore non-traditional ways to purchase coverage. This includes assessing risk-retention levels and sublimits, evaluating what's driving the cost of your program (location, construction type) to explore stand-alone solutions, taking on more risk with alternative risk transfer options such as captives, and incorporating a parametric solution into your insurance program to fill in protection gaps.

Casualty

The Casualty insurance market for Real Estate and Hospitality accounts has continued in large part on the same trajectory since our 2023 Spring Market Update. While we are seeing pockets of rate reductions in specific industry subsegments, we continue to experience more disciplined underwriting focusing on contractual risk transfer and a company-wide focus on risk control.

General Liability

Most carriers are requesting 5% to 10% rate increases for General Liability renewals in order to maintain rate adequacy. However, loss-driven accounts could see rate increases of 20% and up. As a sign of carrier appetite, we are seeing some carriers asking for 20% to 40% increases for renewal of accounts with losses, yet remain more competitive in the market for new business.

Assault & Battery, Sexual Assault & Molestation, and Discrimination policy exclusions are becoming more prevalent across Hospitality and Habitational risks. In addition, Armed Security Guard exclusions are also being added. Together with our carriers, we look at how we can address these exclusions, either with higher risk retentions or by eliminating them with risk control and mitigation.

The main factor behind continued rate increases and changes to coverage terms is the rising frequency and severity of claims since COVID-19. Over the last two years, claim dollar amounts have increased significantly compared to before COVID-19 and are more often piercing the Umbrella/Excess Liability layer.

Historical claims analysis, loss-prevention efforts, and life safety discussions remain important to addressing underwriter concerns and are key to achieving positive outcomes for our clients. Underwriters are also more closely scrutinizing third-party contracts and corresponding risk transfer mechanisms.

There are some bright spots in General Liability, with new entrants from both the direct retail and wholesale markets, which is helping to keep rates more moderated in our book of Real Estate and Hospitality accounts. We continue to highlight the importance of underwriter and carrier management-level relationships to our clients; approaching the market to determine competitiveness of their current program versus incumbent renewals has proven to uncover micro-shifts in carrier appetite in certain subsegments of the Real Estate and Hospitality segment.

Umbrella Liability

In the Umbrella Liability market, we're seeing 15% to 25% increases, similar to what we were experiencing last year, with renewals remaining fairly consistent. We also see an appetite shift driven by some of the major insurers on the direct retail side, as the Umbrella policy increasingly comes into play due to claims severity. The claims frequency and severity we see in the primary market has also hit the Umbrella and Excess Liability market, causing some restrictions specific to the Hospitality and Habitational segments. However, there does remain an increased appetite for the non-Hospitality and non-Habitational segments, with some new markets entering and providing competitive terms.

Many carriers are also still pushing for a $2 million per occurrence attachment point.

Risk purchasing groups (RPGs) remain a viable solution for Umbrella and Excess Liability insurance. While RPGs are actively seeking new business in the Real Estate and Hospitality industries, they remain more selective about the type of risks they will accept and more restrictive in their coverage terms; pricing remains competitive.

London markets are showing more interest in the U.S. Real Estate and Hospitality space and are beginning to make inroads in the Umbrella and Excess Liability market.

Automobile Liability

The Automobile Liability insurance market remains significantly challenged across the board due to significant increases in claim severity and frequency. Most accounts are sheltered from the sharp increases in Automobile Liability pricing being experienced by those with large fleets due to most of the automobile risk in the Real Estate and Hospitality segment focusing on small fleets and/or Hired & Non-Owned exposures. Increases are still coming in at 5% to 15% for risks where carriers continue to look for rate adequacy. In addition, underwriting discipline has shown to have increased with driver handbooks, safety initiatives, and review of Hired & Non-Owned exposures relating to personal vehicle use (for business purposes), annual rental hires, and number of rental days.

Accounts with fleets (such as hotel transfer vehicles) are experiencing rate increases of 20% or more due to their Automobile Liability and Physical Damage exposures.

Workers' Compensation

The Workers' Compensation market remains an outlier, with zero to 5% increases. Most carriers are ready to reduce pricing in the face of competition. The stand-alone Workers' Compensation market continues to put pressure on the standard markets as insureds may look to decouple their Workers' Compensation coverage from other lines of business.

Looking Ahead

Pressure on the Hospitality and Habitational markets in the primary Casualty and Umbrella/Excess lines will continue. It is crucial for us to focus on early engagement with incumbent and alternative markets, direct client-to-insurer engagement and highlighting of disciplined risk management. We remain steadfast in involving our clients in market discussions early and often in the marketing process.

While claims severity and frequency will loom large as we move forward, we do not anticipate seeing the market correction that the Property insurance market experienced recently. Focus will continue to be on historical claims evaluation and insights, loss control, and risk management discipline as we see greater underwriting scrutiny moving forward.

Restaurants

Restaurant owners continue to face several challenges, including labor shortages and the higher cost of food and beverage, wages, and insurance. Regulatory changes, including to the joint employer status for franchise workers, also contribute additional pressures on the industry.

Property

Once again, the most critical insurance challenge for the Restaurant industry continues to be on the Property side, with significant rate increases and valuation scrutiny to address widespread undervaluation concerns front and center. Insurers also remain quite selective with their appetite and capacity deployment in catastrophe-exposed areas.

The 2023 wind season was better than average, improving the market slightly, relatively speaking. Recent renewals, in some cases, have resulted in slight rate decreases and significantly smaller reductions in most others. In short, the Property market is generally better than the prior two years.

General Liability and Umbrella

While General Liability and Umbrella insurance rates continue to increase, the good news is these increases are moderating. Sexual Abuse & Molestation claims remain a concern, with insurers making structural changes that exclude coverage to address this exposure. Interactions between customers and employees resulting in altercations and potentially serious injury or even death continue to escalate, which is a factor in driving up rates.

Liquor Liability

The market for Liquor Liability insurance is challenging, with most carriers requiring a restaurant's liquor percentage to be 30% or less. Severity trends are up, boosted by a litigious environment and nuclear verdicts.

Commercial Automobile

Restaurants with limited vehicular exposure are experiencing mild rate increases. However, restaurants with delivery services continue to find it difficult to obtain coverage and face considerable rate hikes. Few markets are available for the non-owned and hired delivery industry.

Employment Practices Liability

According to the Equal Employment Opportunity Commission (EEOC), 2023 was a record-breaking year in employment discrimination cases, and it collected more than $665 million for victims. A few of the cases involving the EEOC and restaurant establishments include:

- **Hooters of America:** After a pandemic-related layoff, the restaurant chain allegedly violated Title VII by not recalling or rehiring African American and/or dark-skinned servers, hostesses, and bartenders.[1]
- **Mariscos El Puerto Inc. La Catrina:** Allegations against the restaurant included subjecting female employees to a hostile work environment based on their gender and constructive discharge and/or retaliation for participating in protected activities.[1]
- **KVP, LP dba Bouchon Restaurant; KRM, Inc. dba Thomas Keller Restaurant Group:** The restaurant's defendant allegedly created a hostile work environment for male and female restaurant employees based on gender and retaliated against them for engaging in protected activities. Employees who complained about sex harassment were punished, with some constructively discharged due to the employer's refusal to correct the unlawful discrimination.[1]

Another high-profile employment practices-related case involves McDonald's. In January 2023, a landmark legal decision allowed shareholders to sue McDonald's Corp's former global chief people officer for the harm he allegedly caused to the restaurant chain by permitting a culture of sexual harassment to thrive. The ruling represented the first time the Delaware Court of Chancery acknowledged that corporate executives owe the firm a legal duty of oversight, which had previously been limited to directors.[2]

As a result of an increase in employment practices-related claims, many insurers are increasing their scrutiny of a client's employment practices, especially practices related to sexual harassment.

Employment Practices Trends to Watch

Two trends we are closely watching that could potentially expose the restaurant industry to additional employment practice risks include:

- **New compensation laws:** As of April 1, the hourly salaries of half a million "fast-food" employees in California were increased to $20. Chicago's tipped workers will receive raises beginning in July. In New York, lawmakers approved hefty wage increases for delivery drivers in 2023. These are just three of the numerous wage-related developments around the country that could affect the employment practices of restaurants in 2024.
- **Joint employer:** In October 2023, the National Labor Relations Board (NLRB) released its Final Rule, which established a new standard for assessing whether two businesses (as defined by the National Labor Relations Act) are "joint employers." Under the new criteria outlined in the Final Rule, franchisors may be considered joint employers and jointly liable for their franchisees' labor-related actions. We will see how this will impact the industry.

Looking Ahead

The property market, while improved, still poses a challenge for operations, particularly in catastrophe-prone areas. Clients need to continue to ensure property values are correct and consider replacement costs, direct and indirect expenses, property age, building codes, property accessibility, and unique features when determining insurance-to-value amounts.

The EEOC continues to pursue alleged violations of employment practices aggressively. Remain vigilant about your policies regarding discrimination, sexual harassment, retaliation, wage-and-hour, and other employment-related issues.

[1] https://www.eeoc.gov/2023-annual-performance-report

[2] https://www.reuters.com/legal/shareholders-can-sue-mcdonalds-ex-executive-landmark-ruling-2023-01-25/

Senior Care

As we distance ourselves from the height of the COVID-19 pandemic, the Senior Living industry continues to face adversity on a variety of fronts: From staffing shortages being experienced across the entire sector, to increased operating expenses driven by inflationary pressure, rising interest rates pushing the cost of capital beyond the point of discomfort, and unfavorable litigation trends fueled by social inflation and negative public perceptions manipulated by the media.

Unfortunately, the list of challenges is long. However, despite these headwinds, owners and operators continue to demonstrate remarkable resolve as the industry strives to innovate and evolve to meet ever-growing demand. As we look forward through the remainder of 2024, our team at McGriff sees tremendous opportunity for our partners and clients, and we are excited to support them and their strategic plans for the remainder of this year and beyond.

General Liability/Professional Liability

While we have seen General Liability and Professional Liability rates begin to stabilize during the past year, we still anticipate incremental rate increases throughout 2024. Insurers have yet to experience the claims frequency initially expected on the heels of COVID-19, which has allowed capacity to stabilize, competition to thrive, and pricing for good risks to remain relatively stable. That being said, we remain cautiously optimistic in our outlook going forward. We have seen an increase in severity driven by nuclear verdicts across various venues. These outcomes are seemingly no longer limited to previously identified "judicial hellholes," and are seen to be a byproduct of social inflation and litigation trends playing out across the country.

Underwriting appetite has also adjusted in correlation to the increased acuity levels within many senior living communities. As the average age of many assisted living residents nears the mid-eighties, rates for these communities have adjusted to match the exposure of an increasingly frail resident population. Similar adjustments have been made for Memory Care settings as well. This dynamic is fueled even more by the current labor crisis in Senior Care, where fewer people are doing more, and an undertrained staff is responsible for caring for such a vulnerable population, potentially driving claims frequency and severity. According to the Bureau of Labor Statistics, the Senior Care sector has lost nearly 229,000 caregivers (or more than 14% of its workforce) since February 2020, the worst job loss among all healthcare sectors.

Excess Liability

There is healthy competition in the Excess market, with many insurers that offer primary limits also providing Excess coverage on a follow-form basis. Coverage remains robust for insureds with a clean loss history who can demonstrate operational excellence and sound risk control. However, pricing can be erratic, and when staffing challenges and operating expenses are nearing all-time highs, many insureds weigh the decision to reduce overall expenses by carrying lower limits or opting for cheaper premiums in exchange for less comprehensive coverage.

As with the primary Liability insurance market, we are closely monitoring nuclear verdicts and operational trends, such as the current staffing crisis, to assess the impact they will have on the market and underwriting going forward.

Property Insurance

Toward the end of 2022 and throughout 2023, businesses had to revisit their property portfolio valuations as insurers looked for rate adequacy after carrying years of obsolete valuations coupled with a 10-year-plus stretch of significant claims costs. Thus far in 2024, following a fairly benign storm season compared to previous years, we've started to see the Property insurance market leveling year over year.

Reinsurers with January and April renewals have taken on more catastrophic risk and increased their capacity. The valuation reset (including older properties that have undergone renovations to improve their risk profile), a tamer 2023 hurricane season, and new capacity entering the market have made insurers more comfortable extending coverage, thus enabling McGriff to leverage market competition. Driving such competition on desirable coastal insureds has allowed McGriff to offer clients double-digit percentage of annual premium decreases and often lower deductibles for named storm.

While the McGriff team has deep and extensive relationships throughout the Property insurance market and is driving successful renewals year to date, we are waiting to see how volatile the upcoming hurricane season will be and its impact on rates and capacity. In the near term, our outlook has improved considerably compared to last year; however, we continue to monitor the Property market to keep our clients updated on potential changes.

Commercial Automobile

The Senior Care industry faces the same challenges as other business classes regarding the Commercial Automobile insurance market, particularly those organizations with a fleet of vehicles that transport a frail and vulnerable population. When losses occur, claims tend to be more expensive.

Distracted driving and other factors are major areas of concern and underwriting scrutiny. Insurance rates reflect the potential risk for insurers.

Safety guidelines are critical, including the procedures for determining who in the community is responsible for transporting residents, evaluating the type of lifts used and safety restraints in the vehicle, and vetting and training drivers.

Workers' Compensation

There is plenty of capacity in the Workers' Compensation market, with strong competition in the space. Insureds should continue to be aware of their impact on their premiums by controlling claims and maintaining a safe environment for their employees. McGriff works directly with clients to control costs and manage claims effectively by promoting safety throughout an organization, establishing good procedures, and developing supporting mechanisms such as return-to-work programs.

Employment Practices Liability

Employment Practices Liability is an area of continued focus for us. Driven by the labor crisis and long working hours, we have seen a spike in employment-related litigation. Rates and pricing reflect these trends. We work closely with clients to help them implement robust employment practices and avoid a litigation target.

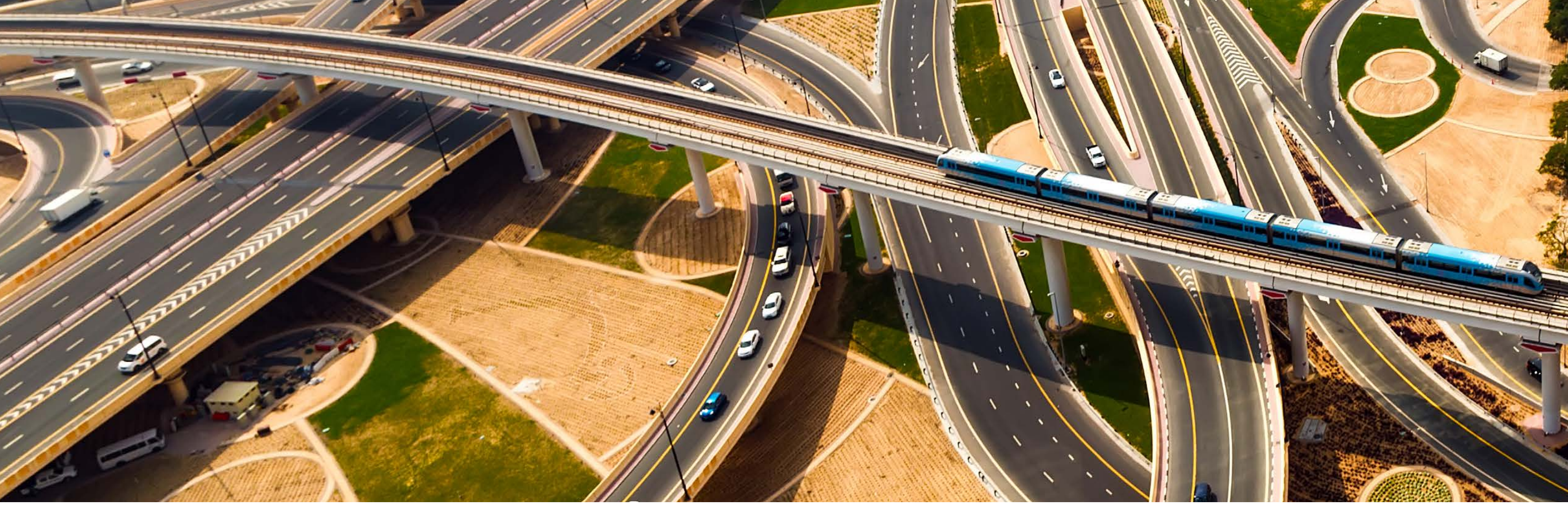
Cyber Liability

Cyber Liability has stabilized over the last two years, following a big push in 2022 for organizations to strengthen their cybersecurity. Multi-factor authorization, increased security around corporate IT infrastructure, and domain and data integrity pushed the need for cybersecurity. Senior Care organizations were required to revisit and bolster their cyber practices to make insurance markets more comfortable underwriting the cyber risk.

The confluence of financial and personal records continues to make Senior Care facilities vulnerable; therefore, it's critical to maintain strong data integrity and stay ahead of the curve.

Transportation

Several factors impact the continued challenging Transportation insurance market, including the frequency of nuclear verdicts, high inflation, driver shortages, and insurer unprofitability. Given these challenges, we see variances in rate increases and capacity depending on the market segment and fleet size. Those risks with larger fleets and sophisticated risk management programs will be better positioned but continue to struggle against commercial auto liability trends and inflation, while those with adverse loss experience may face double-digit rate increases and reduced capacity.



Primary Automobile Liability for Middle Market

The middle-market insurance segment is seeing tepid stability, with new entrants bringing in additional capacity and balancing the rate pressure sought by legacy insurers in the space. New insurers in the Transportation market seek risks leveraging a high level of safety technology and data, such as driver and outward-facing cameras, advanced driver assistance systems, automatic emergency braking, and telematics coaching programs, to expand overall fleet safety and improve future loss experience. The new insurers are focused on greater underwriting scrutiny to determine program structure and rates. Legacy insurers continued to be plagued with ailing historical adverse loss development and the subsequent need for increased premium rates. Accounts with favorable loss experience, robust driver requirements, and high utilization of telematics may see better-than-industry results, particularly through market competition.

Accounts with poor risk engineering or adverse loss experience will continue to experience elevated premium rates.

Insureds in the middle-market space continue to consider higher deductibles, programs with adjustable premiums, and other alternative risk approaches, including group captives. Collateral requirements are a significant consideration when evaluating higher deductible programs. Alternative collateral facilities, bonds, and other nontraditional collateral methods are being evaluated.

Primary Automobile Liability Market for Risk Management

The insurance marketplace is much more limited for large fleet risk management insureds. Insurers in this space articulate a year-over-year trend to be in the 8% - 12% range. Yet, for well-qualified insureds, market competition can drive better-than-industry results.

Additionally, primary insurers in this space are focused on managing their net capacity to eliminate the dependence on reinsurance. The reinsurance market continues to languish for the Transportation sector, driven by continued adverse development and acute diminishing capacity, even more severely than we see in the primary insurance market. Most insurers manage this net capacity to $2M in risk transfer. Program structures requiring greater than $2M in risk transfer capacity are at the mercy of facultative reinsurance, which adds significant fixed costs to the overall placement. Thus, primary insurers are pushing higher retentions to manage this reinsurance dependence. There are limited exceptions in the market today for insurers maintaining favorable treaty reinsurance pricing.

This industry shift in program structure typically generates reduced fixed-cost premiums, subject to changes in exposures, as insureds take on more risk. However, it also drives increased collateral requirements, which have renewed the focus on alternative collateral and mitigation mechanisms.

Insureds in the risk management space are considering higher deductibles, retentions, and alternative risk programs. Corridor deductibles, quota-share retentions, and multi-year structured programs are being considered. Alternative collateral approaches are becoming more prevalent, including qualified self-insurance, Risk Retention Groups, alternative letters of credit facilities, surety-backed letters of credit, and bonds.

Excess & Umbrella Liability

In the Excess & Umbrella Liability market, insurers are reevaluating capacity and pricing with fewer markets willing to provide $5M or more in capacity. Traditional buffer layer insurers are starting to seek double-digit rate increases after a short period of stability in the past 12 months. The largest insurer in the $10M x $10M layer continues to wrestle with an increased frequency of severe losses and is seeking greater insured participation in the layer via corridors. A well-organized plaintiff's bar and sympathetic jurors often bypass the facts of liability in many cases, driving increased claims volatility to the detriment of the industry.

Faced with this upward rate pressure, many insureds continue evaluating alternative risk products such as multi-year structured programs, risk sharing, and aggregate limit policies to help control fixed costs. These products aim to create a more equitable insurance transaction between the insurer and the insured.

Multi-year programs have the added benefit of removing the influence of the open market and the performance of the insurer's book of business on renewal pricing and instead are designed to adjust solely on the insured's loss experience. As interest in alternative risk products grows, more insurers are expanding their appetite for these offerings into the middle-market segment. We also see renewed interest in this sector from the London and Bermuda marketplace.

Workers' Compensation

Workers' Compensation is the bright spot in the Transportation insurance portfolio, with market-rate adequacy and stabilization for most insureds. Many insurers look for this line of coverage to support the performance of Auto Liability. Market competition continues to see favorable results even to the point of healthy rate decreases for well-qualified risks. Insureds are generally able to keep deductibles and retentions at their current level although some have taken higher deductibles to enjoy premium decreases while taking risk that has historically performed favorable.

Transportation & Logistics Industry at Large

Qualified driver shortages continue to be a growing problem. In 2023, there were 64,000 available positions, with an expected peak of 82,000 in 2024, according to the American Trucking Association (ATA). This gap is anticipated to intensify as the workforce ages, potentially leaving an alarming 160,000-plus unfilled positions by the decade's end. This is forcing transportation providers to increase driver compensation and benefits to attract talent.

Freight volumes continue to decline, with the Cass Freight Index showing a 3.6% decline year-over-year as of March 2024. Freight rates also continue to fall from the all-time highs seen in 2021, 2022, and early 2023, and they are now regressing to a normalized trend from pre-COVID years. Expectations are for an improved freight environment toward late 2024 and early 2025, barring a black swan event.

New Jersey's Recent Increased Minimum Liability Limits

We continue to closely monitor the New Jersey legislature's recent mandate to increase the minimum financial responsibility to $1.5 million for commercial vehicles 26,000 lbs. and above. The higher minimum financial responsibility requirement will have the largest impact on the smallest transportation providers, which work on very thin margins and make up a significant portion of the trucking segment. The increased cost of purchasing the minimum limits may be unsustainable for these operators, leaving larger fleets to fill the gap. There continues to be the possibility that other states and even the Federal Motor Carrier Safety Administration (FMCSA) may once again seriously consider raising their own minimum financial responsibility requirements in suit.

Increased Contingent Automobile Liability Activity for Freight Brokers

Another growing concern in the industry is the increased frequency and severity of Contingent Automobile Liability claims. For the last five years, freight brokers have increasingly enhanced motor carrier vetting and compliance monitoring only to be outpaced by the intensifying claims environment.

The primary risks to this sector surround vicarious liability as well as negligent hiring and entrustment.The Federal Aviation Administration Authorization Act (FAAAA) contains provisions prohibiting common-law negligence lawsuits against a freight broker based on the broker's motor carrier selection. However, numerous cases have been fought under statutory state laws where freight brokers have been found liable, asserting that the broker exercised excessive control over the motor carrier's actions. As a result, most insurers are performing deep dives into the contingent nature of exposure within the freight broker operations.

Conversely, the 7th Circuit Court of Appeals found that liability against a broker for negligent hiring and entrustment was "expressly barred by the FAAAA's preemption provision" and this supersedes any state statute due to the interstate commerce nature of the industry. With vary jurisdictions' interpretations of the FAAAA's provision, this creates conflicting precedents only to be settled by the Supreme Court.

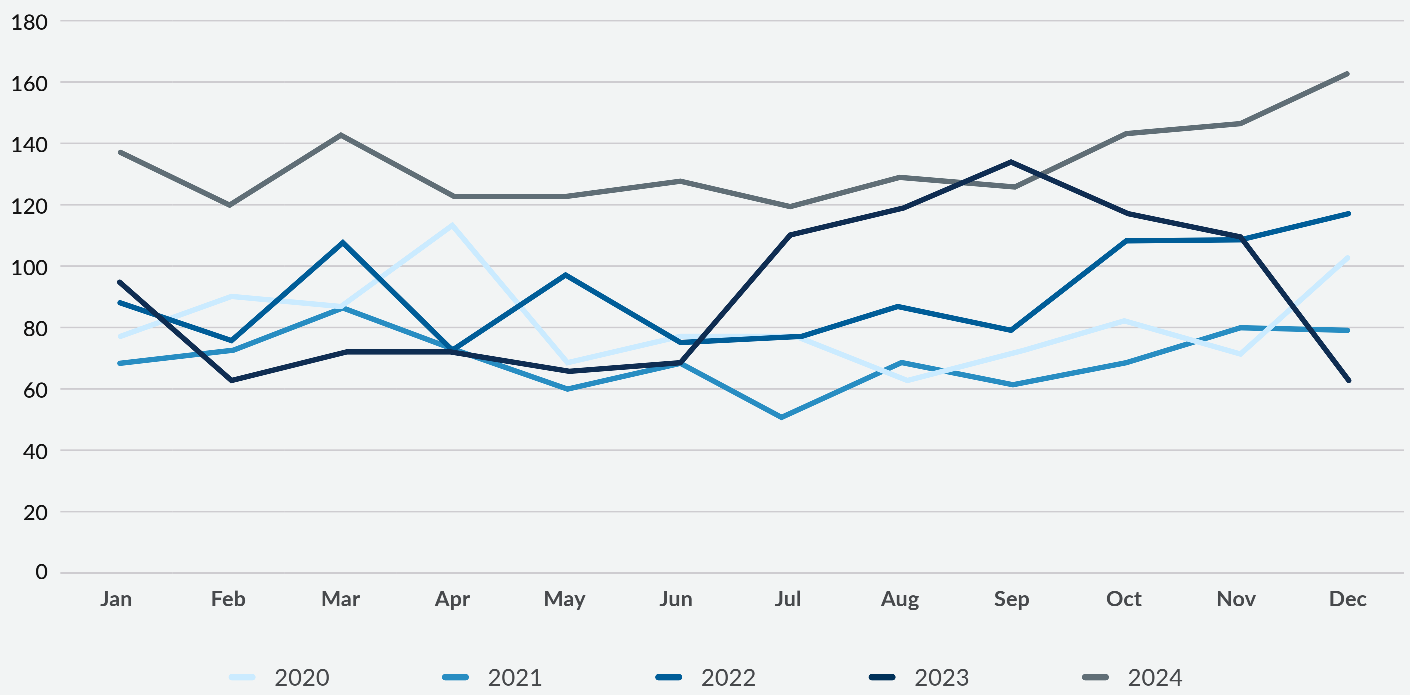
Double Brokering

In 2020 and forward, the Transportation industry expanded exponentially in the freight brokerage and third-party logistics operator sector to meet the unprecedented demand for goods and take advantage of an elevated freight rate environment. Many motor carriers began brokerage options with very few monitoring and compliance controls in place. This led to a double brokering epidemic, exposing the industry to significant financial and liability risks as these types of claims may take years to fully develop. Some insurers may even exclude coverage if a load is double brokered, leaving the freight broker or third-party logistics provider liable for losses that are not covered. This has created renewed emphasis on a freight broker's contract with motor carriers to include terms and conditions prohibiting load transfers to third parties without the freight broker's authorization. Additionally, the industry is exploring shippers' verification of motor carriers upon freight pickup.

Cargo Theft

Arguably, the single biggest threat facing the logistics and freight brokerage industry today is strategic cargo theft. Large international theft rings are purchasing DOT and MC numbers to impersonate motor carriers. These bad actors often operate legitimately within a freight broker's pool of eligible motor carriers before absconding with a high-value load or even multiple loads at a time. According to Overhaul Risk Advisory, cargo theft reached nearly $700 million in 2023. The average loss per theft last year represents a 67% increase over the average of $351,556 in 2022, and Overhaul expects that volume to increase another 35% in 2024.

Cargo Theft Monthly Trends 2020 - 2023/Predictive Analysis 2024



Source: Overhaul Risk Advisory

Freight brokers should implement a robust vetting process in motor carrier selection before a carrier is eligible to move onto a broker's platform. Many freight brokers use Registry Monitoring Insurance Services (RMIS) or Highway's Carrier Identity™ technology to actively monitor a motor carrier's identity, safety scores, and legal status with the FMCSA to ensure compliance.

Insurers are also requesting copies of contracts to evaluate risk-transfer provisions and liability acceptance as a part of the underwriting process.

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