

Year End

Claims Journal and Trend Report





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A low-angle, upward-looking photograph of a grand classical building. Several large, fluted columns with ornate Corinthian capitals are visible, supporting a ceiling with a deep coffered pattern. The image is tinted with a dark, teal-blue color, creating a professional and serious atmosphere. The text is overlaid on the upper left portion of the image.

Claims Journal

**Financial Services and
Management Liability**

Regulatory Oversight of Cyber Incidents Continues to Expand

There were significant strides taken by various regulatory agencies concerning the response and oversight of cyber events in 2023. These agencies have recognized that not only are cyber events becoming more prevalent and severe, they also pose a significant risk to investors, stockholders and consumers. Under the auspices of protecting the public at large, several agencies have placed the cybersecurity of the entities they oversee directly in their crosshairs.

In July, the Securities and Exchange Commission (SEC) adopted their final rule concerning cybersecurity incidents and governance. Their approach was twofold. Firstly, in the wake of a cyber event, the registrant would be obligated to determine if the event was material. In other words, it would lead to events that would have a material effect on the company, such as reputational harm, potential litigation or regulatory actions. If so, the company would be required to file a notice with the SEC no more than four days after the materiality determination was made. The SEC would be looking for disclosure of not only the nature and extent of the event but also the likely projected impact on the company.

Secondly, the SEC rule requires companies to disclose the board of directors' oversight of cyber risk for the company. They must disclose they have a process in place to monitor, assess and manage cybersecurity threats. The disclosures must be sufficient for a reasonable investor to comprehend them.

In October, the Federal Trade Commission (FTC) amended its cybersecurity rules for nonbank financial institutions (FI). The original rule, known as the Safeguards Rule, which initially inceptioned in 2003, covers entities such as mortgage brokers, car dealers and payday lenders, and was designed to provide guidelines regarding data security. Requirements such as data encryption and multifactor authentication to minimize the exposure to a breach were the goals of the FTC Safeguards Rule.

The new amendment affects any data breach of the aforementioned entities involving 500 or more individuals. The FTC requires notification as soon as possible, but in no event more than 30 days following discovery.

Regulatory **muscle** is **not** only being **flexed** at the **federal** level.

In November, the New York State Department of Financial Services (NYDFS) advised they have also revamped their requirements concerning cybersecurity events. Their more stringent rules apply to what they term a "Class A" company, denoted by a revenue stream over \$20M in each of the last two fiscal years.

They require that the superintendent is notified of any cybersecurity event as promptly as possible, but in no event later than 72 hours after discovery. Additionally, companies must report payment of any ransom within 24 hours, and then within 30 days provide a comprehensive statement to the department explaining why the payment was necessary, any alternative means considered prior to relenting payment and steps taken to ensure that they were compliant with relevant laws.

Like the SEC rules, the NYDFS regulations also focus on governance. They require that the Class A institutions utilize a chief information security officer to report to the board any cyber issues. They are also looking to ensure the board has significant oversight of the company's cyber risk management, inclusive of the development and implementation of a comprehensive cybersecurity program.

Companies subject to regulatory authority can no longer wait until they suffer a cyberattack to respond. It is clear that authorities are looking to ensure not only that the entities have a viable plan in place to respond but also that the management and oversight of their operations are contemplative of cybersecurity.

Directors & Officers

Evolving Risks for Companies and their Directors and Officers

At the close of 2023, geopolitical concerns in the current corporate climate are at the forefront of directors' and officers' minds. These concerns have translated into corporate and securities lawsuits. Claims have included allegations of failure to manage climate risk to alleged breach of duties by investing in underperforming funds that actively pursued environmental, social, and governance (ESG) strategies. Between the deteriorating relations and trade tensions of the United States and China, multiple securities class action lawsuits were filed that centered around the trade issues between the two nations.

In July 2023, a plaintiff shareholder filed a securities class action lawsuit in the Northern District of California against the data storage company Seagate Technology Holdings PLC. The company was hit with a \$300M penalty for the violation of Export Administration Regulations pertaining to the Chinese technology company Huawei Technologies Co. Ltd. (*UA Local 38 Defined Contribution Pension Plan, et al. v. Seagate Technology Holdings, et al., Case No. 3:2023cv03431*). The suit alleges that the company failed to disclose it was in violation of the United States export rules, which resulted in the penalty and loss of shareholder value. The prospect for securities litigation arising out of trade sanctions and export control-related issues is not necessarily new. However, in the current tense geopolitical environment, all of these concerns are heightened. The outcome of the 2024 elections in both the US and Taiwan will have major implications for these geopolitical issues and the potential lawsuits that follow.

The artificial intelligence (AI) phenomenon has developed at an unprecedented rate, and future AI-related litigation is surely on the horizon. A third of organizations are using it regularly in at least one business function. Litigation against AI companies has already focused on privacy risks and copyright law violations, and additional litigation could include securities claims, intellectual property claims, breach of fiduciary duty claims, misrepresentation claims, and shareholder and derivative lawsuits.

Humana, one of the nation's largest health insurance providers, is **alleged** to be using an **AI model** with a **90% error rate** to override doctors' medical judgement and **wrongfully deny** care to **elderly patients** on the company's Medicare Advantage plans.

It is alleged that the use of this AI model constitutes a fraudulent scheme. The suit seeks class action status for an unknown number of other beneficiaries nationwide who may be in similar situations *Barrows et al v. Humana, Inc., Case No. 23-cv-00654 (W.D. Ky 2023)*.

SEC Chair Gary Gensler stated that the agency will begin to crack down on AI-related corporate behaviors that are similar to the practice of "greenwashing." Greenwashing refers to company actions and statements that allegedly overstate the company's actual efforts to make their operations or products more sustainable from a climate change or environmental perspective. Gensler stated that companies should not "greenwash" nor should they "AI-wash." In this context, companies should be careful not to overstate or mislead investors as to their true AI capabilities or the extent to which the company has incorporated AI into their operations or products.

An additional concern is the margin that could arise between what companies are promising with respect to their AI-related tools and the reality of what those tools will be able to deliver, especially in the financial services industries. The potential AI-related tools that financial service companies might adopt could lead to financial instability. Although AI is a new technology, the same disclosure principles still apply. A misrepresentation about AI is no different from a liability standpoint than any other misrepresentation about a company's operations or financial condition.

Employment Practices Liability

Noteworthy EPL Legislation and Claims in H2

The second half of 2023 saw noteworthy legislation coming out of New York and California, as well as key decisions from the Supreme Court, the US Circuit Court of Appeals for the 11th Circuit and Georgia's District Court.

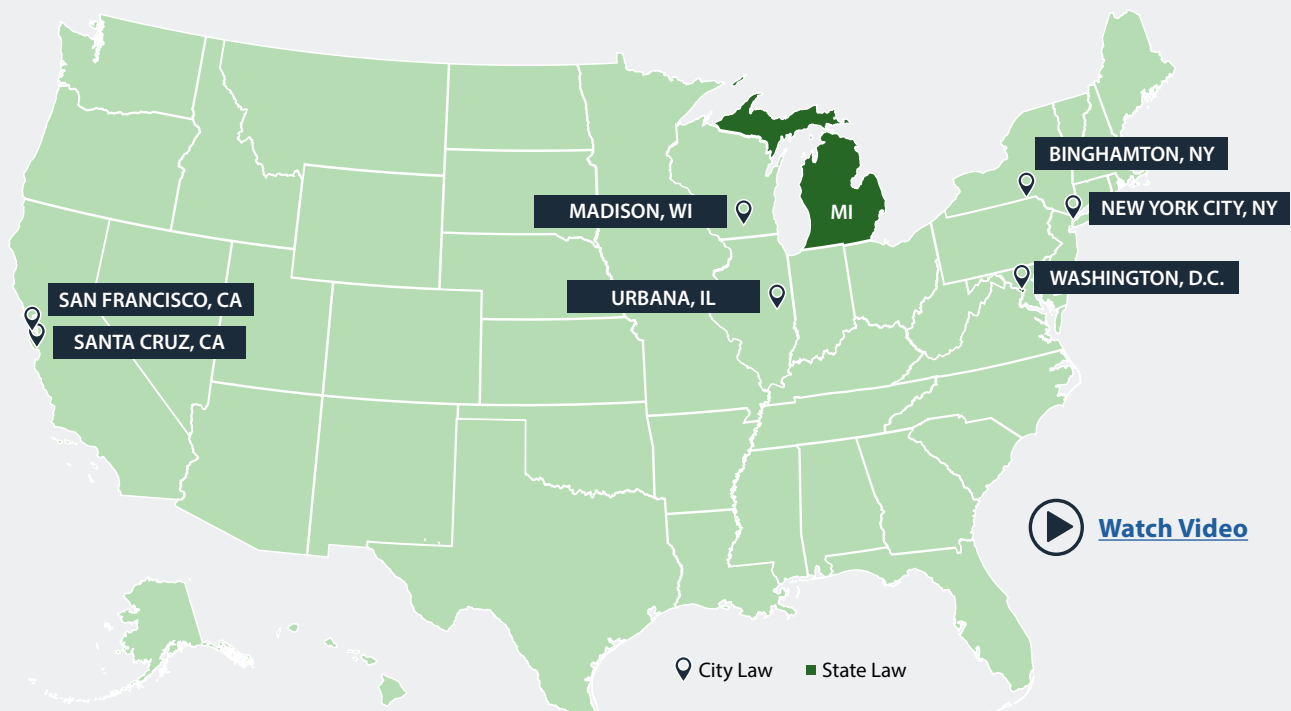
State Actions

New York wrapped up 2023 with two significant pieces of legislation that employers should be aware of. First, New York City joins the ever-expanded list of cities with express bans on discrimination based on height and weight. On May 26, 2023, New York City Mayor Eric Adams added height and weight to New York City's list of protected categories under the New York City Human Rights Law (NYCHRL).¹ Effective November 23, 2023, the law prohibits discrimination on the basis of height and weight in housing, employment and public accommodations.

The law prohibits employers from discriminating against employees and applicants based on their height and weight, unless expressly permitted by federal, state, or local regulation, or where the NYC Commission on Human Rights (NYCHRL) allows such considerations because height and weight are reasonably necessary for the normal function of a particular job, or where height and weight may prevent a person from performing the essential functions of a job and no alternative accommodations are available.

The protected categories under the NYCHRL now include, age, national origin, immigration or citizenship status, race and color, sexual orientation, gender and gender identity, marital and partnership status, sexual and reproductive health decisions, pregnancy and lactation accommodations, domestic violence, stalking or sex offenses victim, religion and/or creed, active military member and veteran status, arrest or conviction record, testing positive for marijuana in a preemployment drug test, credit history, unemployment status and salary history, caregiver status and height and weight.²

States and Cities That Have Outlawed Weight Discrimination



Additionally, New York now [prohibits](#) settlement agreements in any claim involving sexual harassment or any other form of unlawful discrimination and retaliation prohibited by law from containing any condition that requires the complainant to pay the defendant liquidated damages in the event that the plaintiff violates any nondisclosure agreement included in such settlement.³ SB S4516, which amends Section 5-336 of the General Obligations Law, became effective November 17, 2023, and applies to settlements executed after that date. The law states as follows:

Notwithstanding any other law to the contrary, no release of any claim, the factual foundation for which involves unlawful discrimination, including discriminatory harassment, or retaliation, shall be enforceable, if as part of the agreement resolving such claim:

- The complainant is required to pay liquidated damages for violation of a nondisclosure clause or non-disparagement clause;
- The complainant is required to forfeit all or part of the consideration for the agreement, for violation of a nondisclosure clause or non-disparagement clause; or
- It contains or requires any affirmative statement, assertion, or disclaimer by the complainant that the complainant was not in fact subject to unlawful discrimination, including discriminatory harassment, or retaliation.

California, notoriously known for being employee-friendly, promises to continue its trend of enacting liberal legislation, beginning with its law on an employee's right to reproductive loss leave. Effective January 1, 2024, California employers with more than five employees, as well as public employers, will be required to provide eligible employees with job-protected leave of absence following a reproductive loss.⁴ SB No. 848 makes it an unlawful employment practice for an employer to refuse to grant a request by an eligible employee to take up to five days of reproductive loss leave following a reproductive loss event. The bill also makes it an unlawful employment practice for an employer to retaliate against an individual because of the individual's exercise of the right to reproductive loss leave or the individual's giving of information or testimony as to reproductive loss.

The bill defines "reproductive loss event" as "the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth or unsuccessful assisted reproduction." The bill defines an "unsuccessful assisted reproduction" as an unsuccessful round of intrauterine insemination or an assisted reproductive technology procedure,

including an artificial insemination or an embryo transfer, and includes gamete and embryo donation. The reproductive loss event applies to a person, the person's current spouse or domestic partner, or another individual if the person would have been a parent of a child born as a result of the pregnancy. The leave must be taken within three months of the loss event within a 12-month period.

Federal Court Decisions

The federal courts were similarly busy, with the US Supreme Court clarifying the "undue hardship" standard for Title VII religious discrimination claims, and the 11th Circuit weighing in on an employer's duty to accommodate under the Americans with Disabilities Act (ADA).

In *Groff v. Dejoy, Postmaster General*, the Supreme Court revisited the holding in *Hardison v. Trans World Airlines*, 375 F. Supp. 877 (W.D. Mo. 1974), holding that the "showing 'more than a *de minimis* cost' as that phrase is used in common parlance, does not suffice to establish 'undue hardship' under Title VII." The Court noted that the *Groff* case presented the Court with the first opportunity in nearly 50 years to explain the contours of *Hardison*.

Groff is an Evangelical Christian who believes for religious reasons that Sunday should be devoted to worship and rest, and not secular labor. He was hired by the United States Postal Service (USPS) in 2012 in a position that did not require Sunday work. In 2012, the USPS entered into an agreement with Amazon to begin facilitating Sunday deliveries, and in 2016, the USPS signed a memo of understanding with the relevant union that set out how parcel delivery would be handled. Because of the agreement, Groff was eventually required to work on Sundays. He was unwilling to do so, and so the USPS temporarily made other arrangements. He received "progressive discipline" for failing to work on Sundays and resigned in January 2019.

Groff then sued under Title VII, asserting that the USPS could have accommodated his Sunday Sabbath practice "without undue hardship on the conduct of the business." The District Court granted summary judgment to USPS. The 3rd Circuit affirmed, believing it was "bound by [the] ruling in *Hardison*, which construed it to mean that "requiring an employer 'to bear more than a *de minimis* cost' to provide a religious accommodation is an undue hardship." The US Supreme Court vacated the Court of Appeals judgment and clarified the "*de minimis*" standard in *Hardison*, holding that Title VII requires an employer that denies a religious accommodation to show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.

Similarly, the 11th Circuit jumped at the chance to weigh in on key elements of the ADA in its November 7, 2023, decision in *Geter v. Schneider*.⁵ The 11th Circuit held that even though an employer could temporarily allow employees to work remotely or on a part-time basis during a pandemic does not mean that the employer must continue to offer those accommodations after the event leading to those temporary accommodations has ended, even if they can.⁶

Plaintiff Cierra Geter worked for Defendant Schneider National Carriers, Inc. as a full-time, night shift area planning manager (APM). Schneider is a transportation and logistics company that operates twenty-four hours a day, seven days a week. After working for Schneider for several years, Geter was diagnosed with PTSD and panic disorder following an incident that occurred prior to her employment with Schneider, which caused her to take a temporary leave from Schneider. When her leave ended, she returned to work with accommodations. Schneider allowed her to work part-time and partly from her home for several months, even though the company did not employ any other part-time APMs. Geter requested that Schneider continue to accommodate her several more times, and each time Schneider obliged. However, after three months, Geter requested another accommodation — a continuation of her part-time schedule and that she work from home two of those days. After considering various other accommodations, including reassigning her to another position and hiring a temporary employee to fill her position, Schneider denied this request and terminated Geter's employment. Schneider alleged that full-time and in-person work were essential functions of the APM position. After her termination, Geter's doctor sent a letter to Schneider asserting that Geter could not work a Monday-through-Friday schedule and could not work in a fast-paced, high-pressure environment.

Geter sued, asserting failure to accommodate, disability discrimination and retaliation in violation of the ADA, and race discrimination in violation of Title VII of the Civil Rights Act and 42 U.S.C. § 1981. Schneider moved for summary judgment on the basis that Geter was not a "qualified individual" under the ADA because full-time work and in-person work were essential functions of her job that she could not perform, and that Schneider did not treat any similarly situated employee more favorably. Schneider also argued that it should be granted summary judgment on the ADA retaliation claim because Geter failed to show a causal relationship between her request for an accommodation and her termination.

A magistrate judge issued a report and recommendation on Schneider's motion and recommended that the motion be granted. The District Court affirmed the magistrate's report and recommendation and dismissed the case, finding that Geter was not a qualified individual under the ADA.

On appeal, after considering the job description, Schneider's determination that a full-time schedule was an essential aspect of the night shift APM position, the consequences of Geter's part-time schedule, the experiences of other Schneider employees in similar positions, and the limited number of employees available to cover Geter's missed shifts, the 11th Circuit held that full-time and in-person work were essential functions of Geter's job that she could not perform. Therefore, she was not a qualified individual as required by the ADA.

Most **notably**, Geter also argued that certain **in-person operations** that were temporarily performed **remotely** during the **COVID-19** pandemic **prove** that being in the office was **not necessary**.

In response, the 11th Circuit held that the "bare feasibility" of Schneider's temporary accommodations of remote work during the COVID-19 pandemic, which occurred after Geter's termination, "does not demonstrate that the function was not essential." Therefore, even though Schneider could have granted certain accommodations offered due to extenuating circumstances did not mean that it had to continue doing so.

Sources

- ¹ [Mayor Adams Signs Legislation To Prohibit Height Or Weight Discrimination In Employment, Housing, An | City of New York \(nyc.gov\)](#)
- ² [The Law - CCHR \(nyc.gov\)](#)
- ³ [NY State Senate Bill 2023-S4516 \(nysenate.gov\)](#)
- ⁴ [Bill Text - SB-848 Employment: leave for reproductive loss. \(ca.gov\)](#)
- ⁵ *Cierra Geter v. Schneider Nat'l Carriers*, No. 22-11285 (11th Cir. 2023)
- ⁶ [US Court of Appeals for the 11th District, 202211285.pdf \(uscourts.gov\)](#)
- ⁷ *United Minerals & Properties Inc. v. Phoenix Insurance Co.*, No. 4:23-cv-00050 N.D.GA. 2023)

Financial Institutions

Continued and Emerging Risks for Financial Institutions (FI)

After the tumult of the spring banking crisis, FIs continued to face pressure from all sides: regulators, shareholders and customers.

Eight securities lawsuits have been filed arising out of the banking crisis, including lawsuits against banks that did *not* fail: PacWest Bancorp (PWB) on September 11, 2023, and KeyCorp/KeyBank on August 4, 2023.

The PWB suit alleges that from the period of February 28, 2022, to May 3, 2023, PacWest made materially false and misleading statements, as well as failed to disclose material adverse facts. These included the failure to disclose to investors that: “(i) PacWest had understated the impact of interest rate hikes on PWB, a smaller bank with excessive concentration in specific industries; (ii) accordingly, the Company had overstated the stability and/or sustainability of its deposit base; (iii) as a result, PacWest was exceptionally vulnerable to excessive deposit flows and/or a liquidity crisis; and (iv) as a result, Defendants’ public statements were materially false and/or misleading at all relevant times.” The complaint alleges that the defendants violated Sections 10(b) and 20(a) of the 1934 Act. *Tan v. PacWest Bancorp, et al.*, Case No. 23-cv-1685 (C.D. Ca; Sept. 11 2023).

The KeyCorp/KeyBank suit alleges that KeyCorp downplayed concerns regarding its liquidity while touting the effectiveness of its long-term liquidity strategy. The complaint states that as a result, its share price declined after the bank executives stated reductions in the company’s earnings guidance, as the bank found itself required to pay higher interest rates to attract deposits.

As stated in the complaint, defendants made false and/or misleading statements and/or failed to disclose that: (i) Key downplayed concerns with its liquidity while overstating the effectiveness of its long-term liquidity strategy; (ii) Key overstated its projected net interest income (NII) for the second quarter and full year of 2023, as well as related positive NII drivers, while downplaying negative NII drivers; (iii) as a result, Key was likely to negatively revise its previously

issued NII guidance; (iv) all the foregoing, once revealed, was likely to negatively impact Key’s business, financial results and reputation; and (v) as a result, Defendants’ public statements were materially false and/or misleading at all relevant times. *Gurevitch v. KeyCorp et al.*, Case No. 1:23-cv-01520 (N.D. Ohio Aug. 4, 2023).

These suits demonstrate that even without further bank failures, banks are still under intense scrutiny and litigation risk. This is especially true around executive and board governance. Based on insurer feedback and evaluation of recently filed suits, banks and credit unions should be paying particular attention to the following issues:

- Interest rate risk
- Levels and amounts of uninsured deposits
- Percentage of broker deposits
- Sector concentration
- Exposure to commercial real estate
- Third-party risk

Evolution of ESG

ESG as a liability risk has developed into a very different issue than originally perceived, reflecting the political polarization characterizing other social issues.

ESG Backlash

At least 18 states have enacted some form of anti-ESG legislation; most ban use of ESG criteria when managing public retirement systems or public funds. Attorneys general of 13 states issued a warning to Fortune 100 companies, threatening “serious legal consequences” over race-based employment preferences and diversity policies. These states include Alabama, Arkansas, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Montana, Nebraska, South Carolina, Tennessee and West Virginia.

Tennessee recently filed what it is calling a first-of-its-kind consumer protection action against BlackRock, Inc. *Tennessee et al. v. BlackRock, Inc.* (Williamson County, Tennessee, Dec. 18, 2023). The state’s complaint alleges that BlackRock made false or misleading representations to current and potential Tennessee

consumers about the extent to which ESG considerations affect BlackRock's investment strategies. The Tennessee attorney general, Jonathan Skrmetti, said in a statement that "We allege that BlackRock's inconsistent statements about its investment strategies deprived consumers of the ability to make an informed choice. Some public statements show a company that focuses exclusively on return on investment; others show a company that gives special consideration to environmental factors."

The lawsuit alleges that BlackRock manages over \$9T in investments. The suit alleges that as part of its investment strategy, BlackRock joined ESG coalitions such as the Net Zero Asset Managers initiative and Climate Action 100+. The suit alleges that many of its shareholder votes are intended to align companies with the aforementioned coalitions' "net zero" goals by 2050. The suit alleges that BlackRock's disclosures do not mention such promises, but rather BlackRock told consumers elsewhere that the only consideration driving its investment decisions is return on investment.

Tennessee states that "BlackRock has articulated two inconsistent positions: one focusing solely on money and the other focusing on environmental impact. Tennessee consumers deserve to know which of BlackRock's statements are a true account of the company's decision-making." This action seeks injunctive relief, civil penalties and recoupment of the state's costs.

ESG Support

At the same time, states and federal regulators are pushing for more climate disclosures. California's Climate Accountability Package was recently passed by the California legislature and signed into law by Gov. Gavin Newsom. It requires certain disclosures for any business entity doing business in California with annual revenues of \$500M or more. Per California SB 253, the Climate Corporate Data Accountability Act, greenhouse gas emissions data disclosures are required by all business entities (public or private) doing business in California and with annual total revenues in excess of \$1B. SB 261, Greenhouse gases: climate-related financial risk, requires companies to prepare reports disclosing their climate-related financial risk and applies to companies doing business in California with annual revenues of \$500M.

On July 31, 2023, the EU Commission adopted its first set of mandatory ESG reporting standards, which could have a significant impact both within and outside the EU.

Finally, the SEC has not yet released the final version of the climate change disclosure guidelines, which the agency first proposed in October 2022. The final rules are anticipated early 2024, however.

Emerging Technologies

The push-pull between FIs and the march of advancing technologies continues. FIs must be careful not to get ahead of regulators or their clients as they seek the advantages offered by quickly evolving technologies.

Cyber Preparedness

In addition to the new federal and state regulations (as detailed above), FIs must be proactive in their cyber preparedness to prevent customer action. We have seen a marked increase in cyber and social engineering claims, as cybercriminals seek to manipulate new technologies to breach FIs, their vendors and their customers.

Fidelity National Financial (FNF), a Fortune 500 company that offers loan servicing and other mortgaging services, recently was named as a defendant in a California class action for its failure to implement and maintain reasonable and adequate security procedures and practices to safeguard the personally identifiable information (PII) of its customers. Its subsidiary had been victim of a data breach in August 2022, and FNF suffered a subsequent data breach in November 2023. FNF disclosed in a November 2021 filing with the SEC that it had "recently become aware of a cybersecurity incident."

The purported class action quickly followed in December, alleging that FNF had "prior notice of their inadequate data security procedures and practices" but failed to implement and maintain adequate security procedures and practices. *Tillis v. Fidelity National Financial Inc. et al.*, Case No. 5:23-cv-02537 (C.D. Cal. Dec. 12, 2023).

As stated in the complaint:

Despite the highly sensitive nature of the personal information Defendants obtained, created, and stored, and the prevalence of data breaches at financial institutions like Defendants or related businesses, Defendants inexplicably failed to implement and maintain reasonable and adequate security procedures and practices to safeguard the PII of Plaintiff and the Class. The data breach itself and information Defendants have disclosed about the breach to date, including its length, the need to remediate Defendants' cybersecurity and the sensitive nature of the impacted data, collectively demonstrate Defendants failed to implement reasonable measures to prevent the data breach and the exposure of highly sensitive customer information.

This case is an immediate demonstration of the emerging risk to FIs: customer class actions that may follow after institutions follow the new SEC cyber reporting rules.

Peer-to-Peer Payment Platforms

A California federal judge ruled that Bank of America must face part of a proposed class action from customers who say the bank has unlawfully refused to reimburse them and others for fraud perpetrated over Zelle, the bank-owned instant payment platform.

This case is part of a broader wave of consumers who have brought class actions in recent years that accuse banks of unlawfully refusing to cover fraud losses tied to transactions on Zelle.

Other Notable Legal Developments from H2

In a warning case to general counsel and risk managers everywhere, a credit union must face a class action regarding improper overdraft fees after the credit union failed to register and approve its arbitration agreement before the American Arbitration Association. *Merritt Island Woodwerx LLC et al. v. Space Coast Credit Union*, Case No. 6:23-cv-01066, (M.D. Fla. Dec. 15, 2023). Here, the plaintiffs filed a purported class action complaint against Space Coast Credit Union in Florida federal court, alleging breach of contract for charging impermissible overdraft fees. The court found that Space Coast failed to perform its contractual obligations under AAA Consumer Rule 12 by neglecting to submit the arbitration agreement for pre-dispute review and pay the associated fee. As such, the court could not issue a stay or compel arbitration.

The Consumer Financial Protection Bureau (CFPB) and the Office of the Comptroller of the Currency (OCC) have ordered U.S. Bank to pay almost \$36M for allegedly freezing tens of thousands of customer accounts and blocking customers from receiving unemployment benefits during COVID-19. U.S. Bank agreed to pay separate \$15M penalties to both the OCC and CFPB and \$5.7M to customers.

According to the CFPB, the bank froze accounts without providing eligible cardholders an adequate means to verify their identity, unfreeze their accounts and regain access to their unemployment benefits in a timely manner. In thousands of cases, U.S. Bank failed to provide credits because it improperly required customers to provide additional written confirmation about suspected unauthorized transfers.

The CFPB stated that U.S. Bank violated the Consumer Financial Protection Act and the Electronic Fund Transfer Act. A separate announcement from the OCC alleges the bank engaged in unfair practices under the FTC Act. *U.S. Bank National Association*, Case No. 2023-CFPB-0019, (CFPB 2023); *U.S. Bank National Association Cincinnati, Ohio*, Case No. AA-ENF-2023-64 (OCC 2023).

On August 23, 2023, the SEC enacted [new rules for private fund advisors](#) under the US Investment Advisers Act of 1940. The final rulemaking requires that all SEC-registered private fund advisors to:

- Provide investors with quarterly statements detailing fees, expenses, compensation, and performance.
- Distribute annual audits for each managed private fund, using standards similar to the Custody Rule.
- Obtain and distribute fairness opinions for advisor-led secondary transactions, including summaries of relationships with opinion providers.

Additionally, the rules impose restrictions on activities by all private fund advisors, which include:

- Disclosing regulatory fees charged to the fund and not reducing adviser clawbacks based on certain taxes.
- Equitably allocating fees related to portfolio investments and providing advance written notice.
- Prohibiting fees associated with investigations unless disclosed and consented to by fund investors.
- Forbidding borrowing from private fund clients without investor consent.

Lastly, the rules require that all SEC-registered investment advisors, including those that do not advise private funds, document their annual compliance policy reviews in writing.

Insurance Coverage – Important Decisions and Legislation

The realm of insurance coverage saw a lot of significant activity throughout the second half of 2023.

A Georgia District Court issued a key decision in a coverage dispute regarding which facts should be considered in determining an insurer's duty to defend. The court held that the determination of a duty to defend an application of a policy exclusion should depend on the true facts of the case rather than the plaintiff's alleged facts in the complaint. This decision appears to be a deviation from the traditional way courts have determined whether a duty to defend exists: by scrutinizing the allegations in the complaint and the policy language. This is contrasted by the analysis and review to determine a duty to indemnify: examining the actual facts establishing the insured's liability.

In *United Minerals & Properties Inc. v. Phoenix Insurance Co.*, Phoenix Insurance Co. issued a duty to defend policy to United Minerals and Properties, Inc. d/b/a CIMBAR Performance Minerals.⁷ The underlying lawsuit alleges that a CIMBAR talc product used in two medical procedures in 2014 and 2020 contained asbestos, which caused the underlying plaintiff to be diagnosed with malignant pleural mesothelioma. CIMBAR contends that its talc product does not contain asbestos, which was confirmed after its talc was tested by an independent laboratory and found not to contain asbestos. Therefore, the plaintiff's diagnosis could not have been caused by CIMBAR's talc products.

In both 2014 and 2020, Phoenix insured CIMBAR, and the policy agreements included that Phoenix would defend CIMBAR in suits seeking damages for bodily injury. However, Phoenix refused to defend CIMBAR, citing the asbestos exclusion. The 2014 asbestos exclusion provided in relevant part as follows:

This insurance does not apply to "bodily injury" ... arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the injury or damage is caused or contributed to by the hazardous properties of asbestos... (Emphasis added)

The 2020 asbestos exclusion provided in relevant part as follows:

"Bodily injury" ... arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "bodily injury" is caused or contributed to by the hazardous properties of asbestos. (Emphasis added)

CIMBAR sued Phoenix seeking declaratory relief and compensatory and consequential damages for breach of contract. Phoenix filed a motion to dismiss, arguing that the asbestos exclusions unambiguously exclude the duty to defend whenever a plaintiff alleges that an injury is caused by asbestos. The District Court disagreed and denied Phoenix's motion to dismiss.

In support of its argument that the policy unambiguously excludes any claims alleging the presence of asbestos, Phoenix points the court to language present in both of the relevant policies where the exclusion states that the insurance does not apply to bodily injury "arising out of the actual or *alleged* presence ... of asbestos..." The court determined that this clause could not be read in isolation and focused on the second part of the clause: "provided that the injury *is* caused or contributed to by the hazardous properties of asbestos." The court determined that the presence of the word "is" in the clause implies that asbestos must be present for the exclusion to apply.

The court held that Phoenix must defend CIMBAR in the underlying suit if the talc products do not in fact contain asbestos, regardless of the fact that the underlying plaintiff alleged the presence of asbestos. Because CIMBAR has alleged and confirmed that its talc products do not contain asbestos, it alleged a claim upon which relief can be granted.

The state of Nevada stirred things up with the passage of Assembly Bill 398, which prohibited insurers from issuing liability policies containing a provision where defense costs coverage was within the limit of liability. As most management and professional liability insurance policies provide coverage for defense within the limits, this development put insurers, brokers and clients on edge as it would constitute a fundamental change to the underwriting and pricing for such

coverage, with the markets questioning whether or not they would be able to continue underwriting Nevada risks. Key stakeholders and industry groups, including efforts by the state insurance commissioner, appealed to the government to reconsider. The provision was later amended to clarify that it would not apply to management and professional liabilities, except for professional liability associated with providers of healthcare services.

In August 2023, a three-judge panel in the US Court of Appeals for the 1st Circuit upheld a lower court ruling granting summary judgment on behalf of an excess insurer that they were within their rights to deny a claim for late notice when the insured failed to report a claim in the same manner as required by the terms and conditions of the primary policy. The litigation was submitted to the excess insurers two-and-a-half years after the first notice of the claim was made to the primary insurer. The litigation took place in Massachusetts, where an insurance company does not have to show prejudice for late notice of a claim under a claims-made policy. Case No. 1:21-cv-11530-ADB (D. Mass. 2023).

In September 2023, a three-judge panel of the Delaware Supreme Court affirmed a lower court's ruling denying an insurance company's motion to dismiss in coverage litigation based on a denial citing a management liability policy's professional services exclusion. The insured underwrote mortgages, and in certain situations when the borrower defaulted, the insured could recover their loss from the government if the loan had been properly underwritten.

The policyholder was the target of qui tam litigation arising out of alleged violations of the False Claims Act. The insurance company denied coverage based on the professional services exclusion, arguing the broad lead-in language of that exclusion allowed them to exclude the claim as it was "based upon, arising out of, in any way relating to" their mortgage underwriting, a covered professional service as per the policy's provisions. The court held that even with the broad lead-in language, as the professional services were afforded to customers and not the government, the exclusion was not applicable. *Ace Am. Ins. Co. v. Guaranteed Rate, Inc.*, Case No. 357 (Del. 2023).

Basic **policy definitions** and **terms** played a **role** in another coverage dispute that fell in **favor** of an insurer.

In October 2023, the New York Supreme Court Commercial Division granted an insurance company's motion for summary judgment, finding that a "tolling agreement" was within the definition of claim and, as such, was subject to reporting requirements under a lawyers professional liability policy.

A law firm had entered into a tolling agreement with their client but did not report the matter to their insurance policy until years later when a lawsuit was filed. After initially accepting the matter under a reservation of rights, the insurance company filed a declaratory judgment action seeking a "no coverage determination" from the court. The court agreed with the insurance company, finding that the tolling agreement previously entered into was a claim and should have been reported when made. In addition, the policy also had a "no prior knowledge" provision in which the insured warranted they were not aware of any breach of a professional duty and/or were aware of a wrongful act that could give rise to a claim against them. Because the insured had entered into the agreement prior to date in the policy, it was reasonable to foresee a claim being made against them and, as such, was in violation of this provision as well. *Allied World Assurance Co. (U.S.) v. Golenbock Eiseman Assor Bell & Peskoe, LLP*, 2023, N.Y. Slip Op. 33840 (N.Y. Sup. Ct. 2023).

Returning to Delaware for a final significant 2023 coverage decision, the Delaware Supreme Court had to consider whether or not a fraudulent transfer action brought by a bankruptcy trustee was considered a derivative claim and, as such, would meet the definition of "securities claim" under the insurance policy. The Delaware Superior Court had previously ruled the trustee's action was a derivative claim and found the trustee to be a security holder who was bringing the litigation on behalf of the company.

On December 15, 2023, the Delaware Supreme Court disagreed and reversed the ruling, holding that the trustee's fraudulent transfer claims were direct and not derivative, as understood by securities and corporate law, and therefore were not "securities claims" within the meaning of the policies. The Supreme Court concluded the underlying claims were direct because "the creditors suffered the harm by the fraudulent transfer, and the remedy benefits the creditors, not the business entity." The court added that "a business entity's insolvency does not convert direct claims like fraudulent transfer claims into derivative claims." *Verizon Commc'ns Inc. v. Nat'l Union Fire Ins. Co. of Pittsburgh, C.A.* Case No. N18C-08-086 EMD CCLD (Del. Super. Ct. 2023).

As are the cases for most of these decisions, the particular facts at issue weigh significantly in the courts' decisions.

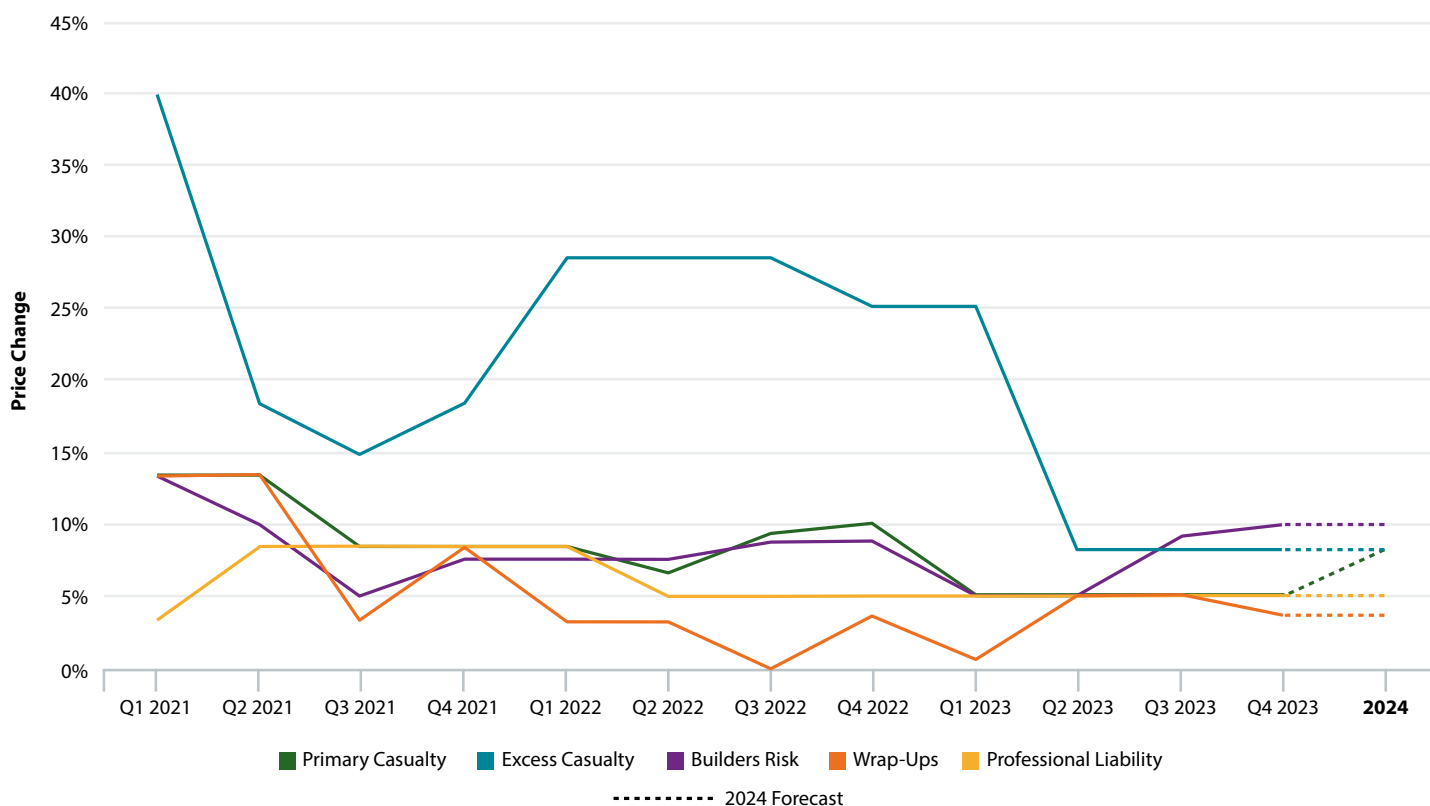
A blue-tinted photograph of a server room. In the foreground, a large server rack is partially open, revealing internal components. Behind it, several other server racks are visible, each filled with numerous circuit boards and components. The room is dimly lit, with the primary light source being the blue glow from the server equipment. The perspective is slightly angled, showing the depth of the server aisle.

Trend Report

Property and Casualty

Construction and Infrastructure

Primary Casualty, Excess Casualty, Builders Risk, Surety, Subcontractor Default Insurance, Construction Professional, Wrap-ups (OCIP and CCIP)



Construction and Infrastructure – H2 2023 Summary

Interest rates and the overall inflation challenges impacted the economic bankability of many capital projects in 2023. The latter half of 2023 witnessed a number of projects get delayed or simply shelved altogether. Core systemic issues that impacted the construction industry in the first half of 2023 remained unabated through the end of the year. These issues include but are not limited to:

- Supply chain instability
- Labor market shortage
- Climate change and unprecedented weather events
- Environmental, social and governance; sustainability; and green material requirements (including mass timber)
- Cyber security
- Nuclear verdicts and social inflation
- Navigating risk allocation under evolving project delivery methods

Navigating these risks remains a challenge for not only contractors and owners of capital projects but also for the insurers that provide them with risk-transfer capacity. After several years of material hardening for pricing, terms and conditions for the construction insurance and surety market, the latter half of 2023 showcased that rate increases were moderating for several core insurance products serving the construction sector.

While insurance rate changes across many states were moderating, several states remain problematic across several product lines. Florida, Texas and Colorado join states like New York and California for their continued challenging liability and property risk climates. Placing coverage in Florida proved to be some of the most difficult placements in the industry for all projects, not just the ones directly or adjacent to the shorelines. Texas and Colorado continue to have issues with geotechnical conditions, and underwriters review every report in great detail before releasing any quotes. 2023 also bore witness to a myriad of clients being forced to place separate corporate casualty programs for their exposure in high-risk liability states.

In Canada we saw unprecedented wildfires, with major events occurring in British Columbia, Alberta, the Northwest Territories and Quebec. Smoke from these fires even blanketed major parts of the US and led to a host of ensuing commercial and health issues.

One of the biggest questions facing project owners, contractors and lenders in 2023 was how much limits should someone purchase for their project risk? Nuclear verdicts were the biggest newsmaker this past year with two large claims, a crane accident in Texas for over \$800M and a property damage claim in Georgia for close to \$150M, dominating discussions. These verdicts continue to highlight a growing concern that insurers are undervaluing their risk and exposure for liability claims. Many of these construction industry stakeholders are still purchasing the same level of liability coverage they did ten and fifteen years ago. Not only are we in a more litigious environment as evidenced by these nuclear verdicts, but medical inflation and legal costs have continued to rise at an alarming rate.

Professional liability insurance also remained constrained, particularly for the Canadian market where we experienced rates on line of 70% to 80% for project-specific professional liability insurance for civil infrastructure projects. As a result of these high rates, we began to see clients look for creative ways to retain more risk, whether through captive vehicles or on their balance sheet.

As 2023 comes to a close, as many as 20 insurance carriers have returned or entered the market for US project-specific liability insurance, whether for general liability (GL) only wrap-ups, two-line or project-specific GL. The entrants include additional managing general agents (MGAs) and excess and surplus (E&S) insurers, but also domestic retail insurers.

Liability (Primary Casualty and Excess)

- The casualty marketplace in 2023 has unfolded as expected, with some stabilization to general liability rates, coupled with workers' compensation rate decreases in most states. However, we are still seeing volatility in excess liability rates for clients exposed to states prone to nuclear verdicts. With the federal rate increases, insurance companies have likely seen some offset to their combined ratios from increasing yields on their bond portfolios, but the impacts of this will likely not be seen in the near term due to the longer-term nature of casualty business. It's also important to note that we continue to see new capacity enter (or re-enter) the market within different market hubs, like London and Bermuda, which is helping to mitigate the gaps in capacity that have existed since 2020.

- Casualty product lines rate changes have varied considerably, with liability rates moderating from prior years to flat to 10%, auto rates generally increasing at 5% and workers' compensation seeing mostly flat renewals. Excess liability increases have moderated, but we continue to experience high volatility for clients exposed to states prone to nuclear verdicts.
- Wrap-up capacity for two-line programs through retail markets continues to remain abundant except for projects in states with high cost of risk (e.g., New York). Capacity for GL-only programs in the US and Canada remains abundant, specifically through wholesale channels.

Builders Risk

- The builders risk market is grappling with emerging risks from new construction methods, loss-cost inflation and extreme weather that continues to drive rate increases from 5% to 30%. Increased severity from catastrophic losses in historically non-cat (catastrophe) prone regions is driving conservative capacity deployment, leading to more risk sharing. When coupled with project cost inflation, this conservative capacity deployment is emphasizing the need for strategic program structuring and improved project-site controls to achieve optimal risk transfer.

Surety

- Surety pricing remained flat through the latter half of 2023 without any significant changes in underwriting capacity.

Subcontractor Default Insurance

- Financially insolvent subcontractors are on the rise, leading to an increase in claims, which was driven by severe cost escalation over the past 24 months. Electrical subcontractors were particularly susceptible to cost escalation and longer contract commitments, with limited price escalation relief provided by project Owners.

Professional Liability

- Project-specific construction professional liability for architects and engineers (A&E) remains one of the most difficult lines of insurance to place for the construction sector. Master program capacity remains available; however, underwriters continue to have a disciplined focus on evaluating design-build and other alternative delivery method exposures for both contractors and A&E firms. Clients experienced flat to 10% pricing increases.

Construction and Infrastructure – 2024 Outlook

We approach 2024 with a positive but cautious outlook. While steady interest rate hikes by the Federal Reserve and the Bank of Canada cooled construction activity at large, we anticipate surging activity as stimulus funds begin being deployed to projects earmarked under the CHIPS and Science Act, Inflation Reduction Act, and Infrastructure Investment and Jobs Act. Similarly in Canada, we see favorable activity in the sector for large-scale transit infrastructure projects, along with increased activity in the renewables market as a result.

According to the Dodge Construction Network Outlook 2024, we should see the following changes to the US construction market in 2024:

Construction Sector	Anticipated Growth Percentage (+ or -)
Multifamily Residential	+14%
Single-Family Residential	+9%
Commercial Construction	-2%
Manufacturing	+16%
Institutional Construction	+3%
Nonbuilding Construction	+17%

While the outlook at large looks positive, looming challenges remain for contractors and project owners engaged in capital projects. One of the biggest challenges for 2024 will be the continued stress on the labor market and how contractors and owners can plan over the long term for a continued labor shortage. The labor market for the construction sector has been stressed for over a decade, and that will not be fixed overnight. This stress will only be magnified as more large projects come online and pull available labor from surrounding areas. Expect continued challenges with scheduling and project completion.

Here is a summary of the macro industry trends we anticipate on the horizon in 2024:

- Growing financial weakness in the construction supply chain (sublimit defaults are at levels not seen since 2008; need for operational risk controls and risk finance solutions like SDI and surety)
- Talent shortages (holistic human capital strategy needed: talent identification, development and training, immigration strategies, engagement tracking, five-star health and

benefits solutions, executive compensation consulting, and corporate structures that attract talent such as employee stock ownership plans)

- Sustainability risk finance solutions (wood-frame solutions, modular construction solutions, insurer familiarity with new sustainable materials)
- On-shoring risk finance solutions (process asset guarantees, technology performance solutions, water prevention/mitigation [big for data centers], etc.)
- Nuclear verdicts

Insurance carriers and their rates will continue to look positive, and we expect to see continued significant competition from carriers wanting to bring on quality projects. As mentioned previously, more E&S and domestic markets are now offering project risk options than ever before, but they are still maintaining their underwriting protocols. They are only looking to write business that is well controlled and are best-in-class projects.

Social inflation and nuclear verdicts are expected to continue to challenge buyers to increase capacity. Buyers that purchased \$50M in liability coverage ten years ago will need to reevaluate similar risks and consider \$75M or even \$100M in total capacity. For mega projects (over \$500M), \$200M is no longer a reasonable limit. We are seeing construction stakeholders increase their liability limits to \$300M or \$400M for these mega projects.

Even with social inflation, we still expect rates to remain stable in most markets. Umbrella capacity will also remain stable but challenging. Market rates and umbrella capacity experienced significant changes over the past two years, and buyers should be prepared to continue to devote a significant amount of time and resources to managing their excess liability programs.

We also anticipate liability rate challenges being in place for difficult states, including Florida, Colorado and Texas. We may even see some continued hardening, depending on risk profiles. Loss rates from 2016 – 2020 continue to rise, and underwriters are looking at that risk to continue to evaluate construction projects. At a minimum, buyers should continue to see stricter underwriting evaluations and long lead times for underwriting evaluations in these states.

Alternative risk solutions will continue to be a hot topic in 2024. With the challenges we have faced over the last few years, more buyers are realizing they can better control their destiny by managing more risk and taking advantage of alternative risk solutions, including large deductibles and captives.

Using data and technology, buyers are having an easier time evaluating risk and seeing the options to consider. Press your broker to provide alternatives to see how alternative programs might be a better fit for your company.

New York will continue to be a challenge with rates, but also an avenue for mega projects that employ alternative dispute resolution (ADR). Over the last 18 months, four projects totaling over \$8.4B in construction volume has been placed into ADR-controlled programs. ADR is a legislative carveout from traditional workers' compensation, allowing owners to direct medical care for workers. This is a major change from years past where ADR was sporadically utilized. In today's New York construction market, the unions are coming to the table with this offering and asking the owners to implement.

Liability (Primary Casualty, Excess and Wrap-Ups)

Outside of nuclear verdicts, we see continued stability in most casualty markets, whether for corporate programs or project specific, as rate escalation has moderated from what we have seen over the past few years. Those with heavy investments in risk controls are seeing benefits in their results. Given current trends, we anticipate flat to 10% increases on the horizon with some accounts seeing rates at 15% increases in states with heightened liability climates.

Builders Risk

While we see the reemergence of London capacity as a major benefit for builders risk coverage in the North American market, the overall lack of cat risk capacity continues to adversely impact placements. Given the continued growth in mega projects across North America and the unpredictability of forecasting these losses, we anticipate layered programs will be the norm for large placements, whereas in the past they were less common. We also will see a pause on carriers offering traditional London Engineering Group LEG 3 coverage given recent case law precedent. We anticipate that we'll see numerous bespoke wordings in the market which will only continue to create confusion around coverage certainty. Property rates are anticipated to rise 5% to 15%, with cat rates rising unpredictably depending on asset class.

Subcontractor Default Insurance

The SDI market will maintain support from a variety of carriers boasting ample capacity. Competitive rates are expected to persist for both new business and renewals. However, with a noticeable increase in claims activity, the potential for price adjustments exists. Risk transfer rates holding stable at 0% to 5%.

Surety

We expect capacity to remain readily available, with little disruption in carrier concentration. Inflationary and operational pressures will necessitate a continued focus on bidding discipline and contract term negotiation. A continued increase in claim and insolvency trends may put slight upward pressure on rates.

Construction Professional Liability

We anticipate a level of stabilization in the project-specific A&E market with the influx of limited new capacity and a reemergence of the London market in this segment. Close watch will continue to be paid to terms and conditions and loss experience to ensure sustainability of the stabilizing market. In addition, close attention will be paid to the impact progressive design-build may have on the terms and conditions for design-build infrastructure projects. Large firm A&E will continue to see hard market conditions. Contractors professional and owners protective will continue in a stable rate environment due to continued influx of new capacity into the market. Overall, insureds are expected to see rates increase at 0% to 10%.

We also anticipate that the following trends will continue to be of increasing importance into 2024 and beyond:

- **Technology:** We've continued to see the emergence of retail and wholesale insurers and MGAs looking to redefine their underwriting approach while providing rate and/or deductible credit for a client's optimized use of project management or built-environment technology. We fully anticipate this trend to continue.
- **Data and Analytics:** Insureds who have honed their data architecture through the successful deployment of risk management information systems and other data capture strategies will continue to see progress in total cost of risk optimization given the increasing expectation of robust data as part of the underwriting process.
- **Risk Financing:** With the cost of risk continuing to escalate, we continue to see the use of self-financing vehicles play a more prominent role not only in corporate renewal programs but also for adoption and application for project-specific insurance needs.

In an interesting development on mitigating ever-increasing costs of casualty exposure in one of the most expensive markets in the world, the combined solidarity of the unions and controlled medical is making a titanic shift in New York loss costs and driving labor law exposure down significantly. This ADR carveout is only available for union labor and only for projects that are collectively bargained.

While there are some limitations, owners that **utilize ADR** are expecting **significant savings** from minimums of **30% to over 50%.**

Note that there are eleven other states, including California and Illinois, that have similar state ADR carveouts, and it is expected that this ADR approach will grow in other states.

We are also seeing the data revolution finally take hold in the construction insurance sector. By investing in better data architecture, construction industry stakeholders are poised to make more informed risk management decisions. Sound data architecture enables policyholders to make better decisions not only about risk pricing but also to decide economically whether or not certain asset classes or project delivery methods merit the risk premiums associated with them.

Technology and its impact on mitigation or to prevent risks in the construction sector will continue to proliferate. Several insurers are now factoring in a project's technology stack while underwriting a project. Certain insurance carriers are giving up-front discounts for the use of certain prescribed technologies, and we anticipate this trend growing in 2024.

Together, the adoption of new technologies and sound data architecture strategies will enable industry stakeholders – owners, contractors, brokers, insurers and lenders – to tap into this massive repository of data. In turn, this enables insurers to measure their clients' ability to manage the top risks that insurers consider on the policies they issue, giving credits to those insureds that can demonstrate that their critical risks are mitigated.

Here are the other risk and insurance trends we anticipate becoming more prominent in 2024:



- Constrained construction professional liability capacity
- Insurer credits for the adoption of risk-mitigating technologies
- Brokerage and underwriting talent migration
- Energy transition market demand and need for improved risk finance inventory (technology performance insurance, carbon credit insurance)



Primary Casualty (WC, GL, Auto)

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 10%	<p>General liability policies experienced rate hikes in the vicinity of 5%. Workers' compensation predominantly saw steady renewals, with occasional rate reductions for policies incorporating loss-sensitive structures. Meanwhile, auto liability rates continued to moderate, aiming for increases in the range of 5% to 6%. Further increases of 5% to 10% or more are anticipated based on loss experience and contingent upon the frequency and severity of claims.</p>	 0% to 15%+	<p>Premium growth is forecast to increase 8.9% in 2024, primarily due to hard market conditions and exposure growth. Expect loss pressures and a hard market to continue due to inflation, supply chain and geopolitical risk. Underwriting profits continue, although margins are expected to shrink through 2024.</p>
 Limits		<p>Strategies for deploying limits remained consistent during the quarter, with markets utilizing lead umbrellas strategically to secure sought-after business.</p>		<p>Yearly, the limits on primary lines are expected to stay unchanged. Over the last 48 – 60 months, many markets have adopted strategies involving lower limit positions. Primary general liability limits exceeding \$3M for each occurrence are exclusively available for sizable retention programs or fully fronted programs where the retentions are equivalent to the limits. Most general liability programs are structured with primary layers of \$1M for each occurrence and \$2M aggregate, or \$2M for each occurrence and \$4M aggregate.</p>
 Retentions		<p>Retention goals remained unchanged for most programs. Carriers might provide slight rate reductions for larger retentions, particularly for workers' compensation programs.</p>		<p>Companies with a negative loss history might consider raising their retentions to control insurance expenses, but significant savings should not be anticipated unless retentions of \$150,000 or more are put in place.</p>
 Coverage		<p>There were no significant alterations to coverage in Q4. New York contractors are still grappling with claims related to New York labor law. Renewals are increasingly incorporating exclusions for wildfires and overall catastrophic perils. It is advisable to review and anticipate the inclusion of communicable disease exclusions.</p>		<p>We are actively observing coverage as markets absorb the substantial losses experienced in the property lines. Current indications suggest that no significant changes will occur, but it's essential to recognize that coverage is dynamic, and even minor adjustments can have a significant impact.</p>
 Carrier		<p>The latter half of 2023 remained steady, witnessing abundant market involvement across all primary lines, with the only challenging placement being monoline auto liability. There were no significant additions to capacity.</p>		<p>The policyholder surplus has fallen below the record high of \$1.053B. Despite heightened catastrophic activity, nuclear verdicts and fully allocated expenses, the insurance market remained robust in the fourth quarter of 2023. Some markets are entering the primary space with the introduction of technology-influenced pricing — a concept previously discussed but never implemented. The pricing effects of technology utilization are yet to be verified.</p>
 Claims		<p>The construction sector's shift toward a younger and less experienced workforce is not only leading to increased general liability and workers' compensation incidents but also highlights the urgent requirement for thorough training and mentorship initiatives. The adoption of robust onboarding procedures and continuous education efforts could potentially alleviate some of these risks. As the industry contends with escalating payroll costs resulting from inflation, exploring innovative financial strategies or partnerships may be worthwhile to counterbalance these additional expenses, thereby ensuring both the safety and economic sustainability of projects.</p>		<p>Companies that focus on implementing robust safety measures, effective loss prevention techniques, data-informed decision-making and the latest in construction technology are likely to see a significant decrease in both the number and severity of insurance claims. This proactive approach to risk management not only reduces the overall cost of risk but also places these companies in a strong position to negotiate more advantageous pricing for their insurance programs.</p>













Excess Casualty

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 15%	Excess underwriters are still pursuing rate adjustments. There has been a slight shift wherein flat renewals are achievable for best-in-class risks. Employing a marketing lead umbrella is advised, as the excess tower typically aligns with the lead strategy.	 0% to 15%	We are anticipating a modest underwriting profit from 2022 to 2024, but inflation and geopolitical risks are challenging excess capacity. The excess market remains influential in propelling renewal rate hikes. As of Q4 2023, the average year-over-year rate increase for umbrella excess was approximately 7%. Nuclear verdicts and significant losses in related lines such as property will persist in affecting excess pricing throughout 2024.
 Limits		There were no significant changes in the second half. There is growing talk that insurers are considering reducing deployed limits or maintaining a cautious approach due to an increase in social inflation.		If markets shift to book underwriting to raise rates across various product lines in response to losses in the property line, they may manipulate risk profiles in the limits area. We will closely observe this as we end Q4. Markets seeking rate increases may adjust layer limit targets.
 Retentions		Ongoing pressure to raise primary general liability and auto liability retentions persists. Excess markets are seeking higher attachment points.		To boost premium revenue, certain markets are utilizing their entire capacity in ventilated layers, expanding the deployment of layer limits at higher attachment points. This pattern is anticipated to persist.
 Coverage		Coverage remained unchanged over the quarter. Some insurers are shifting away from traditional A/B forms, which restrict follow-form coverage. It's crucial to examine renewal forms and emphasize any potential alterations.		Anticipate no alterations to coverage; nevertheless, we will closely monitor this, as reinsurance treaties have the potential to tighten terms and conditions.
 Carrier		Capacity and overall engagement remained strong. Carriers are beginning to withdraw from unsupported umbrella excess programs.		We persist in examining alternative investment opportunities for capital. The risk-adjusted rate of return on alternative investments may play a role in capacity contraction as interest rates increase.
 Claims		Builders currently face significant challenges arising from fire, water and adverse weather incidents, which continue to pose threats in both frequency and severity. Ongoing disruptions in the supply chain and workforce shortages are amplifying the risks associated with insurance claims. These challenges result in prolonged delays in project completion and increased claims for business interruption. It underscores the critical need for builders to diversify their supply sources and invest in strategies for training and retaining their workforce. Given these evolving exposures, businesses would be wise to explore contingency plans or consider insurance products specifically designed to address these complex challenges.		Loss-cost inflation, and an increased frequency of major weather events, will likely continue to plague carriers in 2024. Carriers are expected to grapple with ongoing loss-cost inflation and a rise in the frequency of significant weather events in 2024. In response, the widespread adoption of contingency planning for weather events and the integration of technology tools are emerging as standard preventive measures to address challenges in builders risk. Companies are urged to conduct thorough environmental assessments and explore sustainable building practices as essential steps to enhance project protection against these unpredictable events. Moreover, with 2023 marking a year of record-breaking claim verdicts, both owners and contractors should critically assess and potentially increase their coverage limits as circumstances warrant.

Builders Risk

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 5% to 15% (CAT 10% to 30%)	Securing insurance for properties with wood frames and those exposed to catastrophes remains a challenging task. The winter season, especially in regions not accustomed to severe winter conditions, adds additional pressure on construction property risks. The cost of extensions continues to rise, contributing to the overall difficulty in obtaining coverage. Meanwhile, pricing for non-cat conventional construction-type exposures has remained stable.	 5% to 15%+	The ongoing discourse on rates in 2024 will be heavily influenced by pricing targets for risks exposed to catastrophes. Competitive pricing trends are anticipated for fire-resistive non-cat risks, as markets vie for these projects. Nevertheless, customers can expect an uptick in premiums for catastrophic weather events in geographic regions not historically accustomed to weather-related surcharges. Extreme wind and temperature drops in the South and Midwest – coupled with wildfires in the Western US, Western Canada and Quebec – are causing carriers to change the way they price for these exposures.
 Limits		While carrier limits and capacity deployment remained consistent, it's failing to keep up with the increase in project size driven by labor and material inflation. Restrictive terms and sublimits began to creep into the market for coverages previously included at no or minimal additional charge.		Market participants will actively work to control their exposure, with a specific emphasis on managing risks associated with catastrophes. The impact on non-cat-exposed risks is foreseen primarily in carriers not raising net-in-treaty limits to align with growing construction costs, leading to an anticipated increase in quota share placements. The challenges persist in structural and wood-frame renovations, with a notable emphasis on incorporating technology-based water flow and mitigation systems to secure competitive coverage.
 Retentions		Carriers continue to push higher deductibles across the board. Not only are there increases to cat-peril and water-damage deductibles, but carriers are also implementing higher deductibles for perils that were previously equivalent to all other peril deductibles. These new deductible classes include cost of making good (or LEG 3), severe convective storm (SCS) and a few select others. In addition, carriers are pushing for increased deductibles at project extensions.		While recent years were marked by increased-to-traditional cat retentions, we anticipate the upcoming year to present retention increases for perils not traditionally seen broken out. In addition to SCS and LEG 3 deductibles, some carriers are implementing increased retentions for second and third occurrences on water damage and other perils that are deemed more controllable.
 Coverage		Coverage stayed steady throughout the quarter. The underwriting process for frame construction saw an ongoing emphasis on the importance of protective safeguards needed to secure coverage. Meanwhile, jobs involving repetitive work, such as solar and battery energy storage systems, have witnessed the widespread adoption of serial loss limitations, marking a notable development. Water mitigation technology is also becoming a defector coverage requirement for many carriers to consider deploying capacity on residential, healthcare and hospitality risks.		Recently established legal precedence around how LEG 3 wording applies to defective or faulty work has sent a ripple through the carrier marketplace. Many carriers had already migrated to a modified cost of making good wording; however, some major markets still entertain traditional LEG 3 language. We anticipate that may change moving forward. In addition, carriers are looking for ways to control losses in emerging risk areas such as renewable energy, electric vehicle manufacturing and other heavy civil infrastructure categories.
 Carrier		The landscape of builders risk market participants underwent some changes. There was an ongoing trend of incorporating technology into underwriting processes across various markets. This is an emerging practice that involves the use of technology-influenced pricing, where bundled technology offerings and coverage are strategically sold to encourage premium reductions.		The reemergence of London markets and capacity should continue. In addition, follow-market capacity will continue to be important for larger and more complex quota share placements. Very few markets are increasing capacity; however, select new entrants are filling the void.
 Claims		Builders currently face significant challenges arising from fire, water and adverse weather incidents, which continue to pose threats both in frequency and severity. Ongoing disruptions in the supply chain and workforce shortages are amplifying the risks associated with insurance claims. These challenges result in prolonged delays in project completion and increased claims for business interruption. It underscores the critical need for builders to diversify their supply sources and invest in strategies for training and retaining their workforce. Given these evolving exposures, businesses would be wise to explore contingency plans or consider insurance products specifically designed to address these complex challenges.		Elevating material costs, inflationary pressures and workforce shortages are heightening both the frequency and impact of claims within the industry. The surge in complex projects is expected to further escalate the number of intricate claims in 2024. These dynamics underscore the imperative for construction firms to enhance their procurement strategies, explore inflation hedging options and prioritize investments in workforce development and retention initiatives. The growing importance of predictive analytics and contingency planning is also evident, offering proactive measures to anticipate and manage potential risks. Additionally, it is anticipated that the frequency, severity and intensity of natural disasters will continue to have an impact in 2024.



















Surety

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0%	Pricing targets stayed consistent throughout 2023. Unlike other types of performance security, surety pricing has shown resilience, remaining relatively unaffected by the concurrent increase in interest rates.	 0% to 5%	Anticipated rate trends for 2024 align with the current trajectory. Although surety rates presently exhibit stability, the influence of inflationary pressures, supply chain disruptions and labor shortages (both low and high skill) persist as significant drivers that could lead to potential pricing increases. As backlogs continue to expand, these factors increasingly impact balance sheets. The recent occurrences of bank defaults are an additional factor placing strain on credit markets, potentially resulting in slight rate increases.
 Capacity		Ample capacity prevailed consistently throughout the year, offering abundant resources and flexibility.		Abundant capacity persists across the market. Contractors boasting robust balance sheets are well placed to harness their financial strength, translating it into opportunities across diverse delivery methods, such as competitive bid, design-build and public-private partnership.
 Carrier		Major carriers continued to provide robust support to the surety market. The growth and profitability of the post-pandemic environment were steered by the top 25 – 50 carriers in the US (top 10 – 15 in Canada), ensuring stability in underwriting terms, conditions and pricing metrics across a wide range of construction classes.		The surety market is poised for sustained support from a multitude of participants, with carriers maintaining consistency in their underwriting appetites over the next 12 months. While smaller new market entrants may address specific demands for specialty surety products, none are anticipated to have the scale to disrupt the existing top-carrier market share.
 Claims		The sector has experienced a modest uptick in claim volume in line with nationwide frequencies. The average value of these claims has increased, attributed to contractors engaging in larger and more complex projects, compounded by the inflation-driven surge in material prices. This continued trend emphasizes the crucial role of conducting thorough risk assessments before project initiation, implementing robust financial planning and considering the potential necessity for construction firms to renegotiate contracts or secure price escalator clauses to protect against spikes in inflationary costs.		Elevating material costs, inflationary pressures and workforce shortages are heightening both the frequency and impact of claims within the industry. The surge in complex projects is expected to further escalate the number of intricate claims in 2024. These dynamics underscore the imperative for construction firms to enhance their procurement strategies, explore inflation hedging options and prioritize investments in workforce development and retention initiatives. The growing importance of predictive analytics and contingency planning is clear, providing forward-thinking strategies to foresee and mitigate potential risks effectively.

Subcontractor Default Insurance

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0%	Pricing stayed steady in accordance with the risk profile. Initial buyers are encountering slightly higher rates compared to buyers with established programs and a clean loss history.	 0% to 5%	The SDI market will maintain support from a variety of carriers boasting ample capacity. Competitive rates are expected to persist for both new business and renewals. However, with a noticeable increase in claims activity, the potential for price adjustments exists.
 Limits		Multiple markets continue to offer limits ranging from \$25M – \$100M each loss. For situations where projects are acquired at smaller contract values per scope, it is reasonable to consider limits as low as \$5M. The program structure should be tailored to align with the average contract value, and additional risk management tools, such as bonding, can be employed to handle outliers as they emerge. Certain carriers restrict coverage to the lower of 2X to 4X subcontract value or the loss limit.		The market retains robust capacity, with numerous participants actively involved in writing SDI. This trend is expected to persist unless a significant event prompts a market shift. SDI is continually making inroads into the middle market segment of construction.
 Retentions		Retention and copayment goals stayed consistent. Presently, the minimum deductible per loss ranges between \$750,000 and \$1M, marking an increase from historical figures of \$500,000 or lower.		We foresee no significant alterations in retention or copayment strategies.
 Coverage		Arch and Cove recently revised their coverage forms to better align with the marketplace. While there have been updates, variations in coverage persist among all carriers. Customers should be informed about these distinctions when assessing their risk appetite.		AXA XL has expressed intentions to revise its policy form in 2024, aligning it more closely with updates made by other carriers in recent years. As market participation continues to grow, the possibility of more favorable terms and conditions becoming available remains uncertain at this time.
 Carrier		The landscape for SDI coverage providers has experienced stability. Presently, the US market features six primary carriers, with Berkshire Hathaway offering select programs as well. In Canada, only three carriers currently provide SDI.		There are expectations of new participants entering the space in 2024. Vantage is exploring the possibility of obtaining paper to write in Canada, although this is not expected to happen until at least 2024. Hudson has also indicated potential interest. Shepard is considering writing in the US, with plans possibly starting in 2024.
 Claims		The volatile nature of material prices, compounded by widespread supply chain challenges and inflation worries, is causing notable financial challenges for many contractors. This pressure has led to a rise in contractor defaults, consequently causing an uptick in SDI claims. This underscores the urgency for contractors to adopt more adaptable procurement strategies, establish comprehensive contingency plans, and participate in risk-sharing arrangements. Moreover, strengthening the collaboration between stakeholders and investigating options for alternative materials or suppliers can play a significant role in overcoming the challenges presented by this environment.		The magnitude of SDI claims is poised to increase, propelled by persistent inflationary pressures and rising labor costs. We anticipate that this upward trend in labor expenses will impact the market throughout 2023 and potentially extend into early 2024. As SDI claims continue to surge, strict adherence to claim stipulations becomes paramount. Ensuring compliance with policy terms, particularly regarding timely notifications, is crucial to secure coverage and prevent claim denials. In response to this surge in claims, the adoption of technology tools and seeking advice from claim experts has become the preferred approach to efficiently track claim expenses for final submissions. Conducting proactive risk evaluations and providing continuous training to teams about policy nuances can further fortify the claims process, thereby guaranteeing both precision and promptness.

Construction Professional

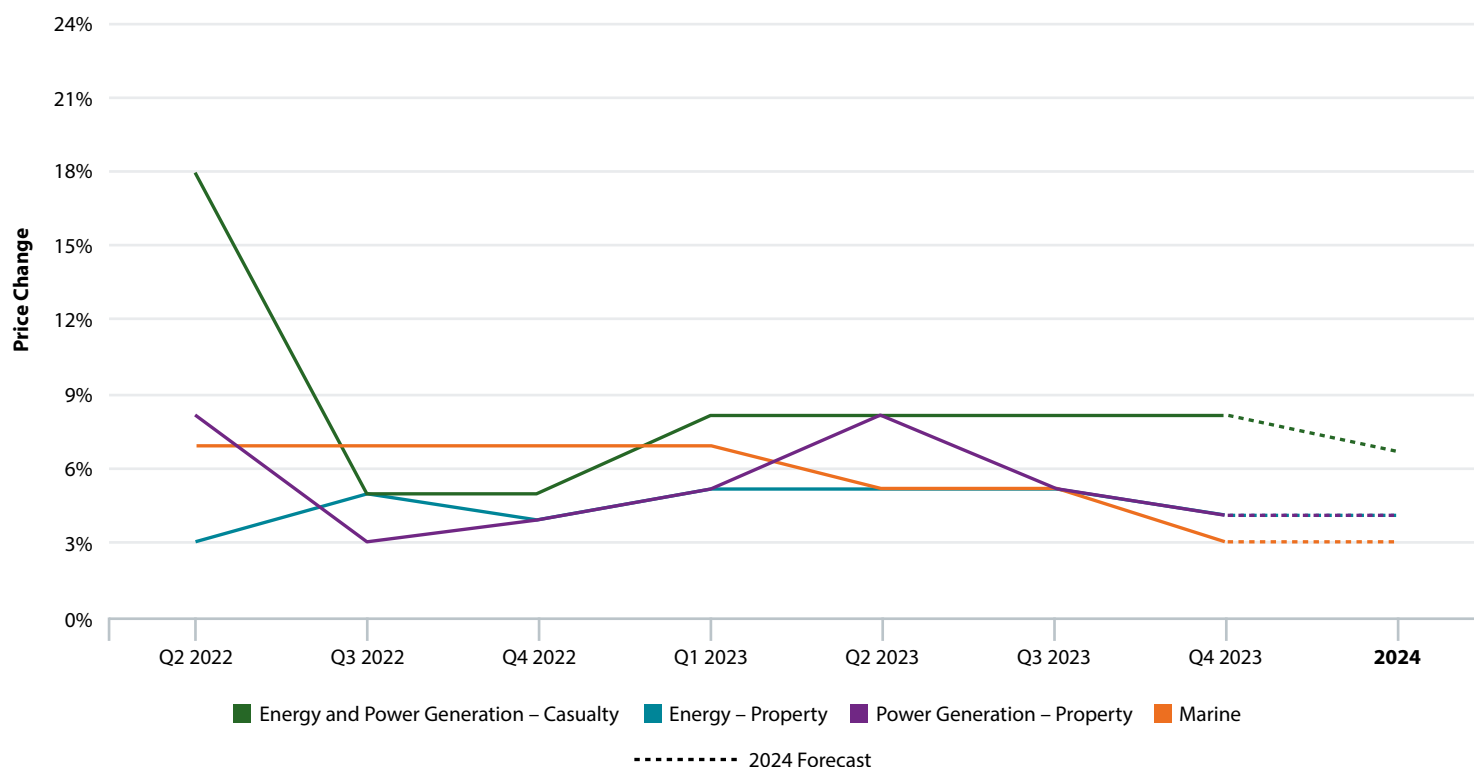
METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 10%	<p>The design-build delivery, as well as large firm A&E, witnessed a sustained trend of increasingly stringent pricing conditions throughout 2023.</p>	 0% to 10%	<p>Anticipated pricing targets for construction professional coverage are expected to remain unchanged, especially for companies with favorable loss/claims histories. Entities with exposures in design-build and multifamily residential sectors will likely experience the upper limits of price increases within the next 12 months. Limited new capacity and the reemergence of the London market in the project-specific professional liability segment will create a modest stabilization in the project-specific professional liability space. We will need to closely monitor loss trends and terms and conditions to determine if this stabilization is sustainable. In addition, we will monitor the impact progressive design-build will have on the design-build segment.</p>
 Limits		<p>The capacity available for both master program placements and project-specific placements remained consistent. Throughout 2023, the project A&E market continued to experience challenging capacity conditions, leading to the emergence and growth of alternative risk financing mechanisms.</p>		<p>Master program placements will retain ample limit/capacity. With the entry of new players and the apparent return of the London market in project-specific placements across the US and Canada, there will be enough capacity to fulfill the requirements of project-specific placements until 2024. However, for significant infrastructure and multifamily residential projects, markets may opt for lower capacity offerings to manage risk in their portfolios. The primary focus of buyers is expected to be on rectification/mitigation coverage, recognized as the most crucial component of the contractors professional policy. In the coming 12 months, it is likely that insurers will continue to provide managed limit offerings for rectification/mitigation cover. Nevertheless, buyers are anticipated to push for improvements in policy wording and more effective management of rectification claims.</p>
 Retentions		<p>There were minimal alterations to retention structures.</p>		<p>Buyers with project-specific needs will have to retain more risk to secure higher limits for extensive design-build civil works infrastructure projects, particularly those involving large road, highway, bridge and tunnel projects. Expect increased retentions for rectification/mitigation coverage as insurers aim to handle the rise in claims activity associated with this coverage feature.</p>
 Coverage		<p>Coverage remained stable, with an ongoing emphasis on determining optimal areas for rectification coverage.</p>		<p>Markets might explore leveraging coverage to manage risk in the expansive infrastructure and project-specific domain. However, we expect the introduction of new options for integrated product delivery and the entry of innovative players in the corporate program sector aiming to distinguish themselves through innovative policy forms.</p>
 Carrier		<p>There is ample participation from carriers, and several London markets are returning to the large project market segment.</p>		<p>Market involvement will persist at a robust level in the upcoming 12 months, with fresh entrants joining the marketplace.</p>
 Claims		<p>The construction industry is experiencing a notable surge in design defect claims, particularly in the realm of complex, large-scale projects. This challenge is compounded by the phenomenon known as "scope creep," where the delineation between contractors' duties and design responsibilities becomes blurred. As a result, design professionals may heighten the risk of professional liability by overstepping their primary expertise and contractual obligations. Addressing these challenges necessitates the implementation of clearer communication channels, robust training programs, and enhanced project oversight. Thorough documentation and advanced design review processes are also crucial to prevent potential oversights. The A&E markets have reported an increase in severity driven by bodily injury claims.</p>		<p>In 2024, modular construction and expansive design-build approaches are anticipated to encounter challenges. In addition to the inherent complexities associated with these methods, the industry will face difficulties in striking a balance between standardization and project-specific customization. Supply chain disruptions, particularly for modular components, have the potential to amplify both project delays and costs. Combining modular and traditional techniques may result in integration issues leading to design inconsistencies. Furthermore, navigating regulatory environments, adapting to evolving workforce skills and maintaining consistent quality across modules introduce additional layers of complexity to these construction methods. It will be crucial in 2024 to diligently monitor social inflation on construction claims and the impact of progressive design-build. This monitoring is essential to ensure that participants across the entire design and construction supply chain adhere to the best practices in professional liability risk management.</p>

Wrap-ups (OCIP and CCIP)

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 5%	Commercial risks maintain stability in primary general liability (GL) rates, and there have been no substantial variations observed year to date. Residential rates, whether for rental or owned properties, exhibit notable disparities among states, with places like Florida, California and Colorado experiencing significant swings of 10% or more. In the realm of programs encompassing workers' compensation, rates, on the whole, are showing favorable trends across the majority of the country.	 0% to 5%	We anticipate the market to remain stable, but with potential for hardening in some areas, like residential in Florida and Colorado. According to Dodge Construction, the construction market will increase substantially over the next 12 months, particularly for manufacturing and non-building construction sectors. Carriers will keep a keen eye on labor stress, as that can be a major marker for liability challenges.
 Limits		Limits for both primary and excess layers remain steady nationwide. However, securing excess layers is becoming a more time-consuming process due to stringent underwriting guidelines. Underwriters are meticulously reviewing applications and project details, with a particular focus on geo-tech reports.		Excess capacity is anticipated to remain steady and consistent throughout 2024. Markets are actively engaged in underwriting, requiring additional lead time to ensure that underwriters thoroughly comprehend your risk, thereby facilitating the acquisition of optimal terms and conditions.
 Retentions		Retention options ranging from \$25,000 – \$100,000 for most general liability and \$250,000 and above for two-line programs (workers' compensation and general liability) remain unaltered.		Retentions will continue to stay at current levels with pricing stabilization. We anticipate more buyers to evaluate and consider alternative risk structures, indicating increased large deductible and captive usage.
 Coverage		The states of Florida, Colorado and Texas continue to experience challenges – especially so for wood-framed and habitational construction risks – but the rest of the country remains fairly stable. Carriers are exercising careful selectivity with exposures in these states, insisting on rigorous adherence to underwriting requirements and the implementation of thorough quality control and assurance programs.		Coverage options should remain stable in 2024.
 Carrier		More carriers are supporting project risk than ever. This includes both domestic and E&S markets. Carriers like CNA and Great American are now more active in the project risk market. Shepard is increasing their activity and offering options for both E&S and domestic paper. The residential market in Florida and Colorado is the major challenge in this area. Carriers continue to shy away from these states, and that looks to continue into 2024.		Apart from residential, the involvement of carriers is projected to stay unchanged. The increase in market competition is welcome as construction starts increase in 2024. Buyers with well-controlled and safe projects will get the best rates. Expect enhanced underwriting protocols, however.
 Claims		There is a noticeable upward trend in claim occurrences, propelled by factors such as the prevalence of substantial nuclear verdicts, the impact of social inflation, shortages in workforce, escalating medical expenses and challenges in finalizing operations. The judicial system is facing a significant volume of pending lawsuits, and it is anticipated that the incidence of nuclear verdicts will continue to rise.		The ongoing impact of nuclear verdicts will continue to exert significant pressure on claim exposures, rendering accurate predictions increasingly difficult. With 2023 marking a year of record-breaking claim verdicts, this trend is likely to escalate in 2024. In response, both owners and contractors are advised to critically assess and potentially increase their coverage limits as circumstances warrant.

Energy and Marine

Energy, Power Generation and Marine



Energy – H2 2023 Summary

Property

While the 2023 windstorm season was considered an above-normal season, only one hurricane made landfall on the US coastline. Property catastrophic increases have become aligned between carriers, but there is still a large gap between capacity and client exposures. Carriers avoided large natural catastrophe (nat cat) losses; even Lloyd's posted a half-year combined ratio of 85.2%, which surpasses their goal of 95%. As carriers continue to show profitability, many will continue to chase rate to maintain their market share for those clients that are well engineered. Rate rises continued but at a slower pace during the second half of 2023, and certain accounts found themselves with more-than-sufficient capacity at binding.

Competition among carriers continues to benefit insureds who have experienced hard markets cycles over the past few years.

Clients with clean, well-engineered, minimal nat cat exposure should start to see flat to single-digit renewals. Those with poor loss records or inadequate loss control may experience much larger rate rises in the double digits, along with restricted policy terms and/or conditions. Now is not the time to be a complacent insured. Carriers are still deploying underwriting discipline as recent losses have occurred.

In 2022, the previously observed deceleration in rate hardening for the downstream energy sector reversed course, concluding the year as one of the most significant loss years of the decade. The estimated annual gross loss surpassed \$4B, while premiums collected amounted to approximately \$3.4B.

Increased attritional losses were driven by elevated mechanical losses due to higher utilization rates. Prolonged outages stemming from supply chain challenges and heightened business interruption exposure resulted in substantial shock losses across the US.

Inflation and ongoing supply chain issues continued to impact the industry, leading to loss settlements exceeding assessed values for both physical damage and business interruption. Insureds faced rate increases ranging from 5% to 10%, coupled with persistent pressure to adjust values based on the timing of past valuations. Business interruption rates, particularly for insureds with record or above-average earnings, were on the rise, accompanied by tightened coverage featuring limitations on monthly caps and periods of indemnity.

Premium **increases** for non-loss/non-catastrophe (cat) accounts ranged from **7.5% to 12.5%**, while loss-affected accounts witnessed **increases** of at least **10% to 30%**, accompanied by changes in coverage and deductibles.

Most insurers renewed their reinsurance treaties, with nat cat reinsurance experiencing significant adjustments, including increased retentions and rate hikes ranging from 30% to 60%. This substantial shift in capacity and cost contributed to the overall rise in premiums, as insurers passed on these expenses and reduced nat cat limits.

At the inception of 2023, Energy Property was preparing for another year of hardening with a focus on terms and conditions. The quiet windstorm season has helped with the softening of rates during the second half of the year. Flat to single-digit renewals are achievable, which is a stark contrast to the 2023 forecast originally established given the treaty renewals. Given the upstream and downstream market's appetite, midstream business continues to have an abundance of capacity. Overall, the sector's record losses continue to prompt underwriters to exercise caution, emphasizing accurate asset values and prioritizing loss control measures. Subscription placements are being finalized with more concurrent terms, which helps align many programs that were disrupted during the peak of the hard market cycle.

Casualty

The Russia-Ukraine and Israel-Hamas wars, continuing inflationary pressures and large jury verdicts continue to create upward pressure on rates. The insurance market as a whole is reporting an uptick in the combined ratio, while individual market leaders continue to show combined ratios around 90%. The funding for renewable energy, climate activists and the pressure to achieve an acceptable environmental, social and governance (ESG) rating continue to force each insurance market to re-underwrite their book of business. The uptick in combined ratios and re-underwriting the book of business are leading to specific industry pockets to experience vastly different pricing approaches.

Underwriters continue to display discipline, taking conservative pricing positions on accounts. World events and higher-than-expected cat losses for the first half of 2023 have halted any premium relief. The rate increases achieved by underwriters since 2019 are the basis for the profitability levels currently being reported, and there is the suggestion from the market that the increases must continue.

While January 1 reinsurance renewals are expected to be in line with what is considered a stable market, there is considerable concern over the loss developments from previous years. Depending on the industry segment of the market, renewal premiums will increase. Umbrella and excess markets will be concerned about market share and will look to protect their current book of business. This could come with a flat approach to premium or a small increase in capacity being offered.

There is considerable personnel movement in the casualty marketplace both in the underwriting and broking ranks. The movement could help push the market to a more policyholder-friendly state.

Upstream

Over the past several years, the upstream sector has experienced a gradual progression of rate increases. However, with a few significant claims in 2023, there is a keen observation for a potential ripple effect across the market, indicating a possible steadier rise in rates. While it remains too early to predict the next six to 12 months accurately, underwriters have initiated discussions about narrowing coverage and shifting away from bespoke wordings — a potential sign of a hard market.

Insureds are currently under intense underwriting scrutiny, with underwriters seeking integrated loss prevention measures and increasingly relying on modeling to establish limits. The issuance of quotes, once a prompt process, now takes weeks and is often accompanied by multiple requests for information, site visits and comprehensive valuations.

Despite no recent major departures from the upstream market, capacity remains available, and some carriers are actively looking to grow their presence in the upstream business. Concurrently, the casualty space sees new managing general agents (MGAs) entering, adding an element of dynamism to the market.

Midstream & Downstream

Social inflation is exerting its influence across every facet of the energy market, leading to a significant surge in claims costs and verdict awards. The median jury award between 2010 and 2019 reached \$24.6M, showcasing the exponential increase.

In the midstream energy sector, the primary challenge lies in the rising number of claims, primarily stemming from liquid pipe incidents. Notable instances include a recent pipe run release claim amounting to \$35M and an ongoing case involving an insured facing a fatality-related explosion, expected to settle for approximately \$100M. Consequently, master service agreements are increasingly incorporating provisions mandating subcontractors to carry higher coverage amounts.

The lead excess space is grappling with various challenges as well. While transportation markets advocate for elevated primary limits, the surge in auto claims frequency has led some carriers to cease offering excess coverage over auto liability. Umbrella insurers are floating suggestions on including automobile liability within the general aggregate.

Despite available capacity and new entrants aiming to establish a presence in the sector, this influx has not positively impacted rates. Accounts with no losses are witnessing at least a 10% increase, while insureds with minimal claims exposure are contending with hikes of up to 20%.

Contrary to reports of escalating costs, insureds are persistently expanding their payroll and fleet sizes. Forecasts indicate that mergers and acquisitions will continue shaping the sector for the next 12 to 24 months, as organizations seeking growth find it more expedient to unite forces rather than navigate the challenges of obtaining permits for new pipeline construction, coupled with stringent ESG lending requirements.

Oilfield Services

Over the past 12 months, the oilfield services segment has faced heightened challenges, primarily driven by a substantial surge in general liability/excess liability claims. This increase is attributed to a rise in the severity of judgments and settlements related to workplace injury lawsuits. Additionally, intensified activity in concentrated regions like the Permian Basin has led to a notable increase in severe auto liability claims. This, in turn, is affecting insurers providing excess liability capacity within the initial US \$25M of programs.

Compounding these challenges, one of the sector's last remaining providers offering \$25M lead umbrellas reduced their capacity midyear to \$10M. This reduction resulted in increased costs for many insureds who renewed in the latter half of 2023. The cumulative effect of heightened claims in both the general liability and auto liability segments within this class has exerted sustained pressure on attachment points, renewal pricing and the limits available.

Despite ample capacity persisting in the sector, it is crucial for clients to distinguish themselves by emphasizing workplace and auto safety practices, along with stringent hiring criteria.

This approach is imperative to secure the most favorable terms amid the ongoing challenges in the oilfield services segment.

Power Generation – H2 2023 Summary

Property

Clients and carriers alike were spared with a quiet 2023 windstorm season, and many are realizing slowing of rate rises for the second half of 2023. As energy consumption continues to increase, many will continue to rely on thermal energy. This sector is resilient and proven technology – those with these asset base are considered low hazard and coupled with minimal nat cat exposures should expect flat-to-low single-digit increases. Those insureds with attritional losses or smaller business interruption exposure may experience slightly higher rate rises but still within single digits. Continued focus will remain on details within submissions as many carriers gain confidence on values being declared by insureds.

Energy transition is a continued focus for both insureds and carriers, as ESG remains a priority. Carriers must continue to provide risk transfer solutions to clients who are seeking to reduce their carbon footprint. Currently there are various tools for clients who find themselves in the energy transition phase from renewable energy projects, carbon offset insurance and parametric insurance for climate-related events. As risks evolve, so too should the insurance product offerings.

Supply chain and inflation continue to drive conversations as carriers rely on policy terms for protection for underreported values. While supply chain issues and inflation have eased, there are still specific items that draw scrutiny. Concerns for transformers due to lead time or the availability of spares is still a focus. Weather also remains as an item that continues to see additional scrutiny during renewals. Carriers will utilize sublimits and or deductibles for specific perils when the exposure is warranted.

Casualty

The power generation market continues to seek increase in the 5% to 10% range. The push for rate and premium increases are being driven by inflation, global events and larger-than-expected jury verdicts. The tort reform that has been enacted in various states is still uncertain as to its impact on reducing nuclear verdicts. Since litigation funding continues and nuclear verdicts are still be handed down, underwriters will continue to price for the rising uncertainty that accompanies these drivers.

Energy – 2024 Outlook

Property

Maintaining profitability will be a focus, which means ensuring potential issues are addressed thoroughly. Carriers are no longer seeing flood and wildfire as secondary perils. Insureds should expect additional scrutiny on these exposures. Mitigation plans should be developed, executed and highlighted during renewal meetings. Weather remains as a volatile unknown but still highly scrutinized; severe convective storms (SCS) continue to plague the industry. Reinsurance companies have not made any sweeping decisions on this issue, but we suspect changes may be on the horizon. The ending of 2023 is gearing us for a 2024 where pricing should begin to stabilize. Our expectation is that coverage terms, along with attachment points, will not be moving much, unless warranted by an extreme isolated event.

Carriers are expected to grow their books, which would lend itself to competition for market share. Many have opted for higher attachment points to offset the large rate rises, so in turn the carriers' exposures have reduced, allowing them to be more flexible with capacity. Clients with adverse loss history should look to start the renewal process early, as large rate increases may become manageable with restructuring their current program. Values continue to receive additional analysis, especially if values have not been independently verified within the last two years. Those without supporting documentation should expect carriers to continue to impose terms or conditions to limit their exposure.

Casualty

The primary liability capacity has maintained stability. Insurers are valuing underwriting profitability and are willing to forgo new written premium goals. Policyholders with clean loss records continue to experience favorable results compared to peers with losses. Going into the market early is still producing the best outcomes. Auto liability rates are experiencing mid-to-high single-digit increases due to the continued deterioration of the automobile line of business for insurers. Workers' compensation rates remain flat, as this book of business has been profitable for insurers. General liability rates for most segments are within the single-digit range.

Excess liability capacity has remained stable in 2023. Although concerns about loss development from prior years and loss severity persist, pricing is now stable. We anticipate pricing trends to continue similarly to 2024, with most buyers encountering single-digit rate increases.

Power Generation – 2024 Outlook

Property

Energy transition is still a focus for many carriers seeking to abide by ESG guidelines. This has continued to increase market capacity in the renewable space. Thermal power is still reliable and necessary to meet increased demand. Carriers are challenged by providing coverage for these assets with an understanding that their lifespan is finite. There are several factors that they will continue to focus on going forward. Lead times for transformers continues to plague this sector, along with lack of spares. Clients should have vetted their contingency plans to maintain broad coverage with minimal rate impact.

Assets that will be decommissioned or shutdown in the event of a catastrophic loss should have direct conversations with their carriers to determine the best path forward for all parties. Carriers have a responsibility to ensure their coverage offerings are meeting regulatory compliance. The shift to renewable energy will continue well past 2024, but many clients are still developing or bridging the gap from thermal energy to renewable. Carriers must work through these scenarios jointly to ensure these clients have solutions for their evolving risk profile.

Thermal generation continues to be seen as proven, low risk but the ESG component lends itself as non-desirable. Rate rises have stabilized with this occupancy and will continue to remain stable in 2024. While coal and biomass occupancies are tougher to insure, which leads to less competition, renewables have attracted more capacity coupled with improved technology and will see healthy competition in non-cat-prone areas.

Casualty

We expect underwriters to continue their disciplined approach and expect rates to increase by 3% to 8%, generally speaking. On individual casualty lines, accounts with large auto exposures will continue to see pricing pressures and should expect increases in the 5% to 15% range. The workers' compensation market will continue to be competitive. The general liability market will see increases in the 2% to 5% range. The excess liability market will be seeking increases on a basis similar to the general liability market in the lead and middle-level excess. The upper excess liability pricing will trend in the 0% to 5% range.

Marine – H2 2023 Summary and 2024 Outlook

Going into 2024, cargo rates are stabilizing. Renewal rates are flat to 5% increase, tracking with inflation. Capacity is increasing, along with the market being very favorable to innovative placements regarding transit and static risk.

As tensions rise through out the world, war rates in the Eastern Mediterranean, Red Sea and Persian Gulf are on the increase. There have been several cargo vessels attacked in the Red Sea and Persian Gulf, which has led to increased war rates. Black Sea shipping is still restrictive; however, there is a Ukraine London-backed war-risk program available for shipments to and from Ukraine and countries bordering the western Black Sea.

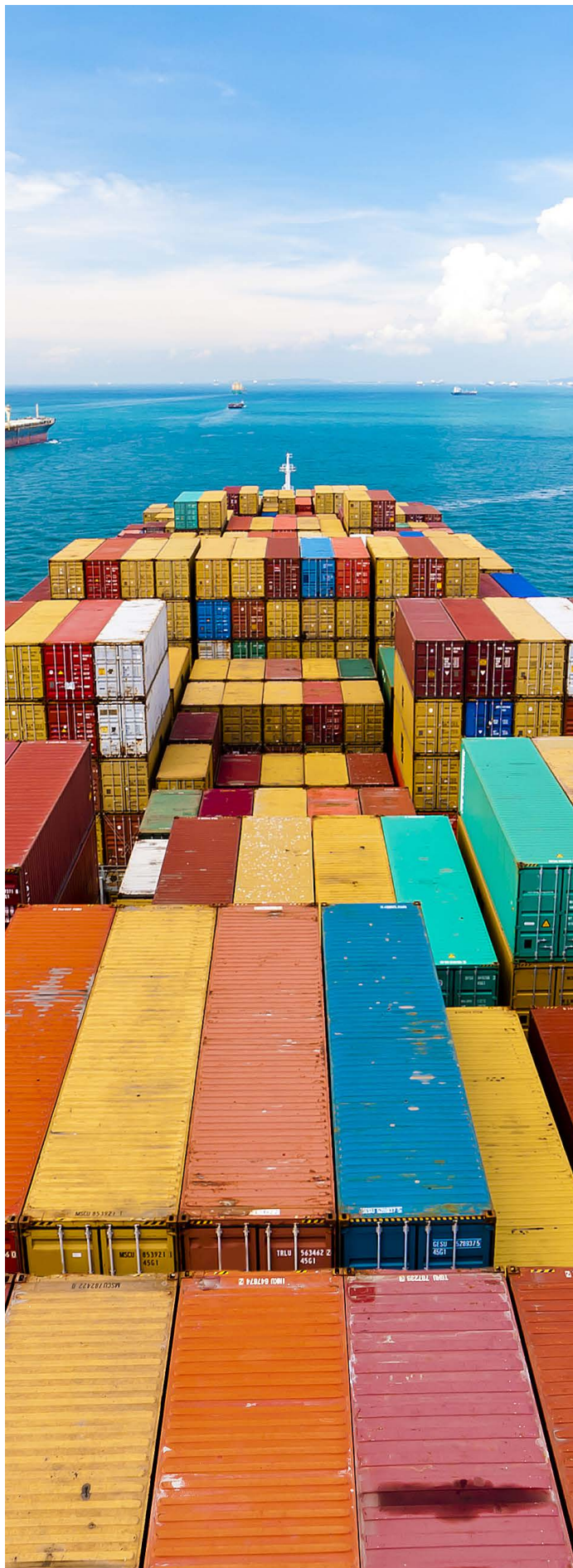
With regard to traditional hull and machinery, rates are stabilizing, with rises in line with inflation.

Protection and indemnity rates continue to rise above inflation levels. Protection and indemnity (P&I) clubs have seen their reinsurance rates rise, which have been passed along to their members. Fixed P&I placements are tracking with the clubs in premium rises following inflation.

Shoreside property rates are still rising higher than inflation with severe capacity restrictions. Cat-exposed property along shorelines are seeing rates increase dramatically, with capacity being reduced.

Marine liability rates have stabilized on the primary layers; however, excess placement rates are rising above inflation, with capability being reduced and more carriers needed to cover the higher limits.

Cat-exposed marine property will continue to be a challenge, with limited market capacity and appetite.




















Marine

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 5%	Pricing on hull and machinery is trending upwards alongside inflationary pressures (about 5% to 8%). Protection and indemnity and excess limit pricing are seeing rate increases in the 10% range. Cargo premiums increasing 5% to 10%. Marine property is up 10%, with loss limit policies becoming the trend. Cat-exposed marine property, especially along the coast, is experiencing steep increases in pricing and reduction in markets willing to write in these areas.	 0% to 5%	We will see continued pressure on rates due to claims activity and inflation. Cat-exposed coastal property will see increases in pricing. Markets are exiting coastal property areas; this is reducing capacity in this space.
 Limits		Overall, excess limits have been climbing over the last five years due to large jury awards and costs of excess limits. Excess limits could be purchased because rating was competitive. Pricing now continues to increase because of the large jury awards.		We expect to see limits become static due to the pricing of the excess limits. Additional carrier capacity is now required to complete programs as carriers reduce capacity, with increases in pricing to continue for the same excess limits.
 Retentions		Increasing retentions as a mechanism to offset premiums has been the model in the marine market for the past five years. This trend is still on the uptick, as the market continues to offer higher retentions with minimal changes in premium.		We anticipate increased pressure on retentions going forward, with minimal change in premiums.
 Coverage		Terms and conditions are remaining stable for hull and machinery, as well as protection and indemnity. Quota share policies for hull and machinery are now common. Excess liability carriers are reducing their exposures by reducing limits, which is requiring additional carriers to complete programs. Cargo is seeing restrictions and tighter coverage on strikes, riots and civil commotion due to the ongoing Russia-Ukraine war. War risk in Eastern Med., Red Sea and Persian Gulf is on the rise. Cat-exposed property is increasingly challenging, with reduced market participation and steep increases in premiums.		Terms and conditions should remain stable on marine coverages, with ongoing cargo sanctions and restrictions as the overseas conflict continues.
 Carrier		Capacity is beginning to increase with the entrance of new insurance carriers into the marketplace. This added capacity has not had its intended effect on reducing premiums.		We will continue to see capacity increase throughout the marketplace. Cargo carriers will also review year-end losses and claims activity and will adjust their preferred risk appetites accordingly.
 Claims		Hull and machinery frequency has remained steady, but severity has increased due to the size and complexity of vessels. Protection and indemnity claims are increasing in severity. Cargo claims are being impacted by mis-declared bills of lading and battery-related claims, causing high-impact claims.		Claims are likely to continue to increase in frequency and severity due to inflation of cargo and complexity of losses.

Energy and Power Generation – Property

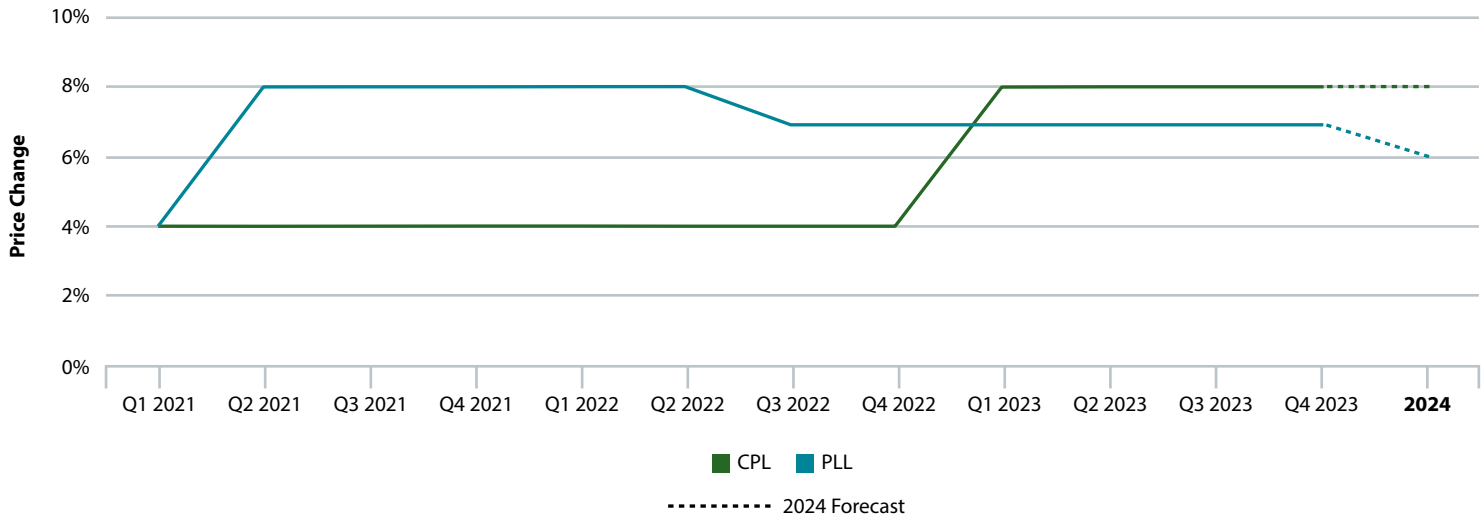
METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 7.5%	Increases have been less severe than first half of 2023. Benign windstorm season helped decelerate larger anticipated rate rises.	 0% to 7.5%	Greater pricing stability, flat to single-digit rate rises.
 Limits		Competition among carriers will help concurrent terms be realized.		Nat cat exposed accounts will continue to see underwriter discipline. Extensions of coverages may be agreed by carriers in order to secure market share.
 Retentions		Retentions have reached ideal levels for carriers to achieve rate adequacy and tolerable losses.		Carriers have increased retentions to desirable levels during the hard market cycles.
 Coverage		Extensions of coverages with minimal business interruption or monetary implications will be tested. Nat cat limits will remain status quo but those with SCS history could see lower capacity deployed by carriers.		Healthy carrier competition will test limits and clients may benefit in securing concurrent terms.
 Carrier		Market has remained stable with no significant changes to current market capacity.		Remainder of the year is expected to remain stable with no new significant capacity being added or removed.
 Claims		There has been increased claim activity. Despite several large losses, capacity has remained stable.		Shock losses are not uncommon but too many could lead to underwriters revisiting their discipline.

Energy and Power Generation – Casualty

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 5% to 10%	We continue to see moderate rate increases contingent upon individual loss experience.	 3% to 10%	The general liability market will continue to see increases in the 3% to 10% range, depending on the industry segment. The excess liability market will be seeking increases similar to the general liability trend in the lead and middle-level excess. The upper excess liability pricing will trend in the 0% to 5% range. Accounts with large auto exposures will see greater pricing pressures and expect increase in the 5% to 15% range.
 Limits		No material change in market capacity.		Capacity is expected to be stable.
 Retentions		Upward pressure to increase retentions, particularly in the auto space, continues. Underwriters will look to innovative retention schemes, such as corridor deductibles, as this will have a two-fold effect of higher retentions and positive rate increase when premiums are flat.		Inflation, large jury verdicts and global events will be a concern, helping fuel retention increase approaches.
 Coverage		General liability markets are continuing to focus on coverage issues which are viewed in the same light as asbestos, lead, etc. Forever chemicals, such as PFAS, are a key concern. Umbrella and excess markets are keen to follow the general liability markets on these issues.		Markets are focused on coverage review and coverage restrictions, along with an ever-hardening ESG stance.
 Carrier		Pressure continues on MGA/MGU facilities, as insurance companies evaluate the current and long-term profitability of the facilities writing on their behalf. Insurers writing business directly remain stable.		The market is stable and should be into 2024; however, a change in an insurance company's ESG profile and change in underwriting philosophy could impact market stability.
 Claims		The trend for nuclear verdicts (awards greater than \$10M in value) continues. Some states are enacting some tort reform, but the impact of those reforms are unknown.		The insurers continue to push for rate and premium increases to remain profitable in their view.

Environmental

Contractors Pollution Liability, Site Pollution Liability



Environmental – H2 2023 Summary

Challenging market conditions continue to delay deals as commercial debt is still difficult to come by and interest rates remain high. As a result of the uncertainty, purchasers and developers continue to put off deals and redevelopments.

Emerging contaminants are becoming more problematic as insurers and insureds are becoming painfully aware of their impacts on society. Insurers continue to apply exclusions, although some will provide sublimited coverage or no exclusion at all, depending on the underwriting information available as well as the geographic location. The EPA is also putting forth more guidance which will ultimately result in more claims being filed as some of the new guidance requires manufacturers to disclose products that contained PFAS/PFOA.

While we did see a major carrier pull back on offering mold coverage in habitational exposures in the first half of the year, no other carriers have followed suit. Mold coverage is still readily available in the marketplace for habitational exposures, and we strongly recommend that habitational clients are purchasing environmental coverage.

Premium increases are holding steady at anywhere from 5% to 10%, depending on the type of environmental insurance coverage. Insurers will continue to place greater emphasis on shorter policy terms for certain classes of operational risk as we go into 2024.

Longer policy terms remain available for transactional policies.

Environmental – 2024 Outlook

Going into 2024, we expect emerging contaminants to remain an area of concern for both carriers and clients. The EPA released their final rule on PFAS in October of 2023. Part of the new rule eliminates an exemption that allowed facilities to avoid reporting information on PFAS when the chemicals were being used in small concentrations. As this information is now required to be disclosed, we expect underwriters to be able to get a better sense of where it was used and underwrite accordingly. We continue to recommend that clients who are not purchasing environmental coverage and who operate in a space that may have used any of these emerging contaminants to explore an environmental insurance policy.





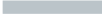
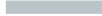











Entering 2024, we can expect more markets to gravitate towards shorter policy terms and those who write extended policy periods to be a bit more selective on when they deploy the longer policy terms.

We also anticipate rates to increase; however, we do expect that carriers will try to remain as competitive as possible to retain the business. Rates continue to increase more than 10% in some classes of business, and we expect this to continue going into 2024.

Contractors Pollution Liability (CPL)

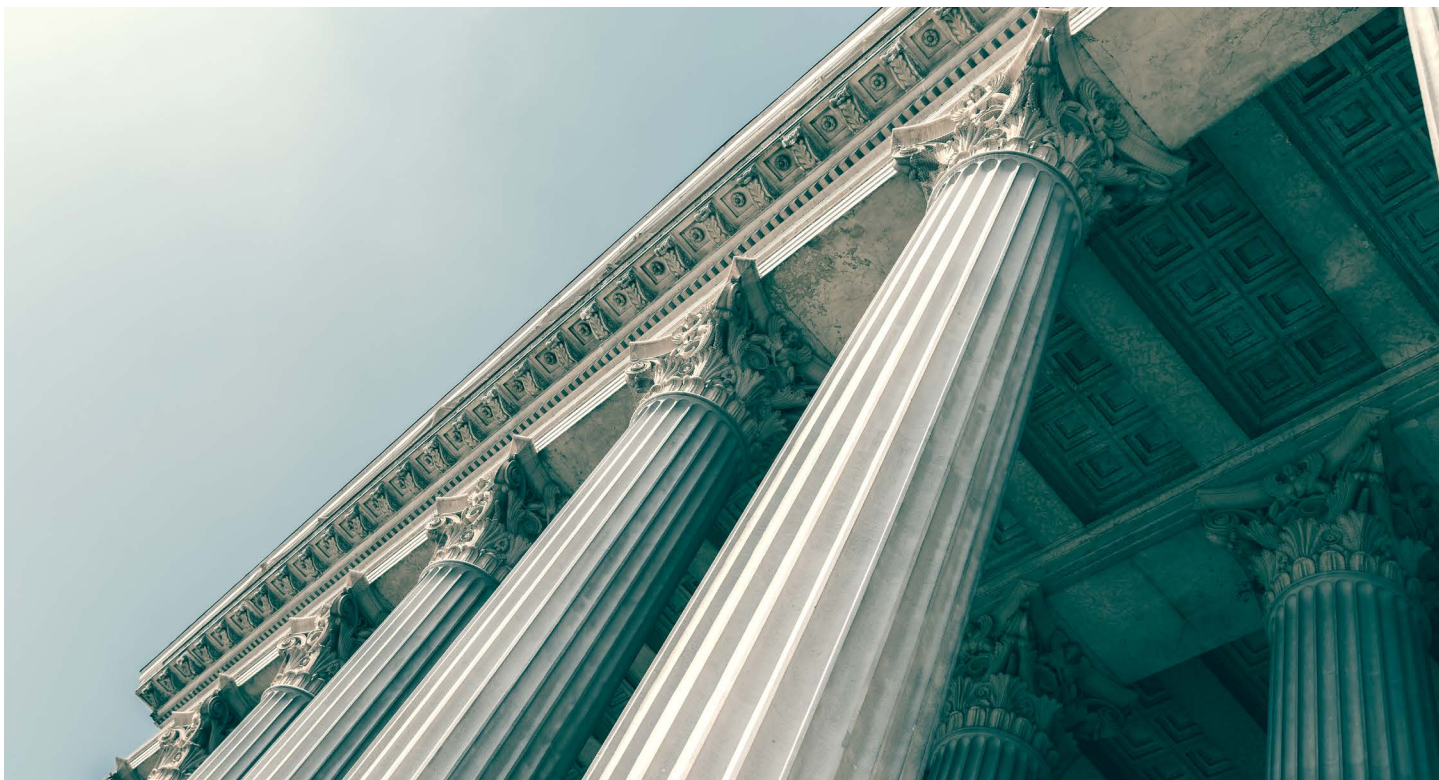
METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 5% to 10%	Abundant capacity continues to pressure rates downward. Practice policies are experiencing slight increases, ranging from 3% to 5% on average.	 5% to 10%	We expect the rate on CPL to increase anywhere between 7% to 10% over the next 12 months.
 Limits		Limits remain abundant, with most carriers offering up to \$25M in the aggregate.		We expect limit and capacity to remain strong, as this product is desirable for carriers.
 Retentions		A wide range of retention levels are available. Lower retentions are available through online portals for practice policies.		Retentions remain stable for practice policies. We are beginning to see a slight uptick in retention levels for project-specific policies.
 Coverage		Coverage remains broad for CPL. Exclusive coverages remain available to NFP, including delay expense which results from work stoppage caused by known or unknown pollution events.		There is greater likelihood of carriers pulling back coverage associated with emerging contaminants.
 Carrier		No new entrants into the marketplace; however, CPL coverage remains a desirable product for carriers given the favorable loss ratios.		We do not foresee any markets exiting the CPL space, as it remains very profitable.
 Claims		Claim frequency has leveled off for the time being.		We expect that claim frequency will increase over the next 12 months with project restarts and more contractor activity.

Site Pollution Liability (PLL)

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 3% to 10%	Renewal policies continue to see modest increases in pricing. Transactional placements are experiencing an uptick in pricing when meaningful coverage is provided.	 5% to 7%	Markets will continue to approach business selectively and will actively pursue low-risk/low-premium placements, which will have a downward pressure on renewals. Market interest for long-term transaction placement is decreasing, causing upward pricing pressure.
 Limits		Ample limits are available for most risks. There is abundant capacity in the marketplace with new carrier entrants. Heavily contaminated sites posed for redevelopment have ample but smaller market interest. Quota share arrangements and layered approaches provide most limits for complex or less desirable placements.		Availability of limits is expected to increase for shorter-term placements — five years or less, for example. Arranging higher limits for long-term placements will become increasingly difficult.
 Retentions		Retentions have remained generally static. Less challenging risks have smaller retentions of \$25,000. More complex remediation and redevelopment risks are north of \$100,000 per pollution event.		Less environmentally exposed risks are not seeing changes in retentions. Other, more complex risks, such as redevelopments, are being challenged by carriers to accept higher retentions.
 Coverage		Restrictions associated with PFOA/PFAS/PFOS remain an issue. Underwriters are still applying them as needed and are becoming more widespread among carriers. Clients should also pay close attention to 1,4-Dioxane and microplastics as we anticipate potential coverage issues.		Handling remediation coverage knowns versus unknowns and crafting coverage accordingly is becoming increasingly difficult. We continue to see increasing focus on excluding all expenses within the boundaries of remedial action work plans. Broader coverage remains for purchasers of brownfields. Greater restrictions around mold and other indoor air quality related claims are likely.
 Carrier		Launch Underwriters has recently entered the marketplace and will be providing site coverage specializing in oil and gas.		No significant changes expected in the next 12 months.
 Claims		Claims activity associated with emerging contaminants continues. Damages to the environment and environmental justice initiatives continue to trend upward. We have seen an uptick in the number of Legionella cases and encourage clients in the hospitality and habitational sector to consider the coverage.		Expect claims activity associated with emerging contaminants to increase through 2024 as the EPA guidance takes effect.

Financial Institutions

Commercial Banks, Investment Management, Insurance Companies, Loan Portfolio



Financial Institutions – H2 2023 Summary

After the volatility of the first half of the year, the last six months have seen a general calming of the financial institutions (FI) insurance waters as concerns about an immediate widespread banking crisis have faded. However, in its stead, long-standing issues have reemerged. FIs continue to face challenges across the board, from cyber risks, aggressive regulator action at both the federal and state levels, and an uncertain economic future. Insurance carriers continue to be focused on a number of the same pressing topics within the FI space, including the overall economic landscape, the geopolitical environment, and sensitivity to capital and lending standards, environmental social governance (ESG)/climate, cyber, artificial intelligence (AI), opioids and inflation.

Throughout this year, and especially the back half of the year, the FI insurance market has undergone rapidly softening market conditions. Due to increased competition, FI insurance saw the first significant decreases in almost five years, most notably on excess layers. New capacity drove falling rates and even retentions, with increases in limits and coverage enhancements. New carrier capacity is still impactful and has created an overall competitive market.

In keeping with the trend of H2, claims were steady but did not see the aggressive spike that some feared. There were upticks in cyber claims, especially regarding social engineering claims as cyber criminals attempted to manipulate new technologies in their efforts to infiltrate FIs. We have also seen some significant claim activity in the errors and omissions (E&O) and employment practices liability (EPL) lines.

Regulators were aggressive this year, and that continued to be true in the second half of the year. New cyber rules announced at both the state and federal/SEC level require FIs to be more vigilant and proactive in preventing and reporting any cyber incidents. The SEC announced that for fiscal year 2023, it filed 784 total enforcement actions (a 3% increase over fiscal year 2022), of which 501 were original/stand-alone enforcement actions, an 8% increase over the prior fiscal year. In fiscal year 2023, the SEC obtained orders for \$4.949B in financial remedies, the second-highest amount in SEC history, after the record-setting financial remedies ordered in fiscal year 2022. The financial remedies comprised \$3.369B in disgorgement and prejudgment interest and \$1.580B in civil penalties. Both the disgorgement and civil penalties ordered were the second-highest amounts on record.

FIs remain a **major target** of the SEC, and **investment managers** ranked among the **top three** in **enforcement actions** in 2023.

Banks and Credit Unions

The bank failures in the first half of the year and ratings agency downgrades more recently in H2 have not shown to be material insurance events to date, but carriers are still focused on how those will play out and remain conservative. Consistent with the first half of the year, financial lines pricing has remained stable with some decreases, mainly in the excess layers. Several notable primary carriers have taken a more conservative stance on quoting new bank business, although most traditional bank markets remain committed to the space. The most notable driver in pricing has been the new capacity that has entered the market over the past few years. This has led to increased competition in all areas. Excess competition remains especially strong even through the headline events of the past six to nine months.

Directors and officers (D&O) and bankers professional liability have traditionally been the main drivers in overall pricing, and both remain stable. Cyber risk continues to be a focus for both banks and credit unions. As we are now mostly a renewal cycle past the hardening cyber market conditions of 2022, carriers have become more comfortable with the risk and class.

With the appropriate underwriting information, we continue to see some carriers more willing to offer larger limits on bank programs in some cases. Some key sublimits remain prohibitively low, such as social engineering fraud on the

FI bond, as claims frequency remains an issue. Retentions remain stable but have not trended downward. Increased competition has continued to pressure test this trend but has not had a material impact this half. While specific deals may warrant retention decreases, we don't expect any material or consistent downward movement.

Coverage and terms have started to expand, after remaining relatively firm since Q2 2020. We are just exiting a multiyear sustained hard market and, as a result, the market is showing signs of expansion, including in coverage. A slight increase in overall primary appetite and continued competition should lead to broader terms over the next 12 months.

Bankers professional liability, EPL and D&O claims remain the loss leaders in the commercial bank space. FI bond claims related to computer systems fraud (e.g., diverted wire transfers), forgery and unauthorized signature have also been on the rise. Social engineering claims also continue to impact banks, their vendors and their customers. Recent suits against KeyCorp and PacWest have elevated carriers' focus on D&O exposures.

Investment Management

The softening pricing trend from the first half of the year continued through the balance of 2023. Insurance for investment managers continues to be one of the most profitable parts of many insurers' financial lines books and as such, there remains significant demand from the markets for these risks which puts downward pressure on pricing. That being said, pricing trends have not accelerated as quickly to the downside as we may have expected, as many of the new entrants to the market lack the ability to write primary policies, mitigating some of the supply and demand effect. But we do see insurers more willing to provide expansionary coverage terms and lower retentions, as well as frequently providing some premium relief.

As is usually the case, investment strategy remains a determining factor in the terms and pricing that we can achieve for our clients. Managers with strategies focused on investments significantly impacted by higher interest rates, as well as those including cryptocurrencies, cannabis and psychedelics, remain more difficult risks to place. In contrast, managers with more straight-forward strategies and less complex investment vehicle structures continue to be highly sought after by a broad range of insurers. This has been the case for many years, and we see no sign of this changing anytime in the near future.

On the regulatory front, we continue to see heightened focus from the SEC and other regulators on investment managers, particularly around disclosures, appropriateness and false claims by managers. Regulators are focused on the ESG claims that managers make and if they are hewing to the strategies they present to investors around these goals. In addition, actions against managers for cyber breaches are on the rise, as the SEC has made this a new area of heightened focus. There were 139 actions filed against investment advisers and/or investment companies, including unregistered investment companies — and 18% of all SEC enforcement actions filed in 2023 were against investment managers, making this one of the top enforcement categories for the SEC.

Insurance Companies

The insurance company marketplace remained consistent in H2 2023. Pricing volatility historically seen across other industry classes within the FI space has been relatively more static in the insurance company category, particularly with insurance company professional liability (ICPL). Primary carrier appetite remains somewhat limited for ICPL, with a more competitive market for the other managing liability/financial lines of coverage. Insurers continue to be focused on a number of the same hot topics within the space – economic landscape, geopolitical environment, and sensitivity to opioids, climate change, AI and inflation – while also keeping a close eye on market conditions (specifically property and casualty coverage in high-risk geographies), end-of-year reinsurance renewal results and recent/potential IPO activity in the space (e.g. Hamilton IPO in November, potential Aspen IPO in 2024).

Noting all of the above, NFP and our insurance company clients continue to see stable retentions along with more active and receptive conversations with insurers around coverage amendments. Excess capacity remains readily available, with many of the recent entrants gaining comfort underwriting insurance company risk and creating a competitive pricing environment. Primary competition is also there in this space but for the most part remains focused on all lines but for ICPL.

NFP's insurtech clients continue to see mixed appetite from the underwriting market, with the firms that can best outline their business plan and path toward positive financial performance seeing the most favorable results. Many of the insurers in this space are monitoring this class with respect to D&O coverage for both private entities, as well as those who have gone public over the past several years. The use and implementation of AI for insurtechs will remain a key discussion point.

Claims in the insurance company space carry long-tail exposures for financial lines insurers, again with a focus on ICPL. Several carriers in the space have seen significant recent claims payments in 2023 for matters first reported five or more years ago. Legacy carriers had taken the required steps prior to 2023 to reduce aggregate exposure but will remain focused on monitoring aggregate capital deployment for insurance company risks.

Insurers will continue to monitor how the economic environment responds to stalled rate hikes and release of performance-indicative metrics and data. Fiscal and social inflation remain key areas of focus, as increased claims severity trends continue due to replacement costs and attorney fees. Carriers are also monitoring a potentially emerging trend of private equity entering the insurance company space via block transactions or reinsurance transactions. Fiduciary liability and excessive fee litigation with respect to proprietary funds exposure remain an area of focus. Last, some carriers are seeing cost of insurance claims rise in the life and annuity space and will view this as a focus point with respect to placement and structure of ICPL coverage.

Loan Portfolio

Pricing on the real estate portfolio continues to trend upwards. This has been exacerbated by primary carriers withdrawing from residential markets, such as Florida, and constrained reinsurance capacity. Mortgage impairment rates continued to remain stable for H2, although whether that continues into next year remains to be seen.

Auto portfolio pricing continues to increase, given rising repair costs and delinquency rates. Lenders single interest rates on the auto side continue to trend upwards as a result. Historically, deductibles have been zero or relatively low. Recently, we have seen a push towards adding or increasing deductibles across the board to be more consistent with primary auto insurance.

Insurers continue to show a keen interest in mortgage hazard and mortgage impairment, particularly as they assess investor schedules. Master policies for investor business provide fewer touch points and reduce the administrative work involved by utilizing NFP's proprietary portal. Insurer interest on the auto side continues to be evaluated in more detail due to increase in borrower delinquencies and defaults. Rates continue to trend up, with corrective action coming in to play more frequently.

Real estate claims frequency and severity continue to remain stable. Auto claims continue to see an increase on physical damage due to the high cost of replacement parts. Skip claims continue to be an issue, with a rise in delinquency rates and a decrease in find rates from our skip tracers due to an industrywide staffing shortage. We expect the industry to start heading towards pre-COVID staffing as more of our partners continue to hire and reenter the industry.

Financial Institutions – 2024 Outlook

After years of a hard market, the FI insurance marketplace softened dramatically this year. Whether this trend continues in 2024 is a looming question. Signs point to continued softening, including increased carrier appetite in the FI insurance industry and new entrants in the space.

However, there are signs that the market may **start to stabilize** due to anticipated **economic tightening** in 2024, concerns over the commercial real estate and auto market, **increased regulatory scrutiny**, and **more frequent** consumer actions.

As with any election year, much of next year and future years will be predicated on the national election and the candidates' respective regulatory outlook.

The bank insurance market continues to monitor any fallout from the spring bank failures and ratings agency downgrades this year but remains largely in a "wait and see" stance. We anticipate that in 2024, bank insurers will focus on the same hot topics that are critical to banks, including:

- Increased regulatory scrutiny and expected tightening of capital requirements
- Loan portfolios (CRE in particular)
- Bank funding sources such as increased attention to brokered deposits

These factors could impact primary pricing, although excess capacity remains plentiful which should continue to put pressure on excess pricing.

For asset managers, we expect continued pressure on pricing in 2024. A number of new entrants have joined the marketplace recently and are eager to build their books. Excess investment management deals are of particular interest to these carriers, and programs should continue to see downward pressure on pricing. Economic volatility and increased regulatory scrutiny in 2024 may stop the downward momentum.



We do expect pricing competition to continue and drive favorable results for insurance company clients. Many of the excess players in this space will be actively pursuing growth for 2024 and creating a continued competitive environment. Carriers will continue to be competitive in the space and likely will be more open to enhanced terms and coverage. NFP will continue to focus on coverage as the market environment continues to improve.

For loan portfolio coverage, moderate rate increases will continue on the real estate portfolio coverage as the market starts to adjust for the primary markets, catastrophic events and potential economic recession. Auto rates will continue to see rates increase as losses continue to increase with the rise in delinquencies.

We do not expect claims activity to dissipate anytime soon. We expect continued increase in claims costs, driven by rising defense costs, social inflation and event litigation. ESG/climate disclosures will continue to be under the spotlight by both regulators and investors. Cyber attacks against FIs have also risen in both number and severity, especially social engineering and third-party vendor attacks. FIs should continue to be focused on both preventing and responding/reporting any potential cyber incident.

Regulatory enforcement activity has increased across the board and will be monitored for 2024, especially with the federal election looming. On top of the already aggressive pace set by the SEC, the SEC's new cybersecurity rules released this year and its anticipated climate rules to be released next year will likely lead to further activity and scrutiny in 2024. Federal and state regulators are also acting quickly to reign in AI and its uses. There may be both regulatory and private litigation stemming from these areas.

Commercial Banks

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -10% to 10%	Financial lines pricing has remained stable with some decreases (mainly excess), in line with first half 2023 trends. D&O and bankers professional liability have traditionally been the main drivers in overall pricing, and both remain stable. The bank failures in the first half of the year and ratings agency downgrades more recently have still not shown to be material insurance events to date, but carriers are focused on how those will play out. Cyber continues to be a focus, but given that we are now mostly a renewal away from the hardening marketing conditions of 2022, carriers have become more comfortable with where they stand.	 -5% to 5%	The bank insurance market continues to monitor any fallout from the bank failures and ratings agency downgrades but remains in a "wait and see" stance. The carriers will focus on hot topics, including increased regulatory scrutiny (including expected tightening of capital requirements), loan portfolios (CRE in particular) and bank funding sources (i.e., attention to brokered deposits), which could affect primary pricing. Excess capacity remains plentiful, which should continue to put pressure on excess pricing.
 Limits		With the appropriate underwriting information, we continue to see some carriers more willing to offer larger limits on bank programs in some cases. Some key sublimits remain prohibitively low (e.g., social engineering fraud on the FI bond) as claims frequency remains an issue.		We expect this trend to continue into next year, with capacity increases more likely on excess participations than primary. Some key sublimits will likely remain restricted as some specific types of claims continue to exhibit higher frequency.
 Retentions		Retentions remain stable but have not trended downward. Increased competition has continued to pressure test this trend but has not had a material affect this quarter. While specific deals may warrant retention decreases, we don't expect any material or consistent downward movement.		Retentions are expected to stay at current levels. Certain banks may be willing to entertain higher retention options if premium deltas warrant a change. Most carriers will make that trade if requested but are not expected to view the market as broadly warranting retention decreases in the coming year.
 Coverage		Coverage and terms have remained relatively consistent since Q2 2020. We just recently exited a five-year sustained hard market and, as a result, the market is slowly showing signs of expansion. A slight increase in overall primary appetite should lead to broader terms over the next 12 months.		Although there is still uncertainty surrounding the underwriting factors mentioned previously and the potential for increased litigation, we do expect minor enhancements of coverage terms and conditions to become available in the coming year. This will primarily be driven by the competitive bid process and an increased appetite for primary risk (on the carrier side).
 Carrier		Since Q2 2020, several notable carriers that have occupied primary positions in the bank market have taken a more conservative stance on quoting new business. That said, most traditional bank markets remain committed to the space. This, combined with new capacity entering the market over the past 12 – 24 months, has led to increased competition, predominantly on excess. Excess competition remains strong even through the headline events of the past six to nine months.		Volatility in the market has led to a reshuffling of the carrier mix on many bank programs over the last several years. While we remain hopeful that some of the more conservative carriers will shift focus and pursue lead positions on the right risks, some may remain status quo as the banking environment plays out in the coming year. While not expected in the near term, we do think newer carriers will stand ready to be opportunistic in entering the bank space or dropping down on programs should capacity be needed.
 Claims		Bankers professional liability, EPL and D&O claims remain the loss leaders in the commercial bank space. FI bond claims related to computer systems fraud (e.g., diverted wire transfers), forgery and unauthorized signature have also been on the rise. Social engineering claims also continue to impact banks, their vendors and their customers. Recent suits against KeyCorp and PacWest have elevated carriers' focus on D&O exposures.		Overall, claims activity remains somewhat elevated. Potential claims activity from the bank failures has not yet materialized, but there is potential for additional activity as evidenced by the PacWest and KeyCorp suits. Mergers and acquisitions should remain muted but could tick up as banks are forced to reevaluate loan portfolios and capital levels, potentially driving claims volume. From a cyber perspective, social engineering and business email compromise claims volume continue to trend upward.

Investment Management

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -10% to 0%	Pricing continues to soften in this space, although not as rapidly as we have seen in the commercial D&O space. There is enough concern in the marketplace due to higher interest rates, ongoing wars in Ukraine and Gaza, recent bank failures and more to moderate any pricing decreases.	 -5% to 0%	Continued competition for investment management risks should lead to pricing remaining under pressure, but the environment remains somewhat cautious, so we do not expect decrease to accelerate rapidly from what we have seen in the second half of 2023.
 Limits		Carriers increasing their exposure to these risks remains the trend. Limits that were previously reduced are now being expanded again, and carriers are showing additional eagerness to provide ventilated limits on programs and/or to write multiple lines for the same risks.		Many markets remain hungry for premium, and we expect to see continued willingness to deploy expanded capacity in the investment manager space.
 Retentions		Retentions are also starting to move lower, particularly for new buyers. Carriers are also not pushing for higher proprietary fund retentions on fiduciary coverage or for high-earner retentions on EPL coverage as often as we had seen as recently as H1 2023.		We expect retentions that had been walked up over the past few years to reverse this trend and continue to drift lower. We also expect higher targeted retentions to be seen less often.
 Coverage		Carriers have been much more willing to add expansive coverage grants in the latter half of 2023. While we haven't really seen much in the way of novel coverage, carriers are more broadly granting coverages now that they previously only granted intermittently.		We anticipate that insurers will continue to look for ways to differentiate themselves in a crowded market through coverage enhancements. As the regulatory environment shifts, coverage would be expected to match any new risks that arise.
 Carrier		There hadn't really been any new carriers joining the investment management space in 2023 aside from K2 opening a US arm focused specifically on asset managers. As the market is fairly saturated, this is not likely to change anytime soon.		As we have seen many new carriers join the market over the last couple of years, we expect that many will not be able to meet their growth goals. We have already seen DUAL pull out of the commercial D&O market, and we suspect that we may see a few of the newer carriers retreat over the next 12 months.
 Claims		The regulatory environment is constantly evolving, and regulatory risk shows no sign of abating. 2023 was one of the highest years on record in regulatory actions brought against investment advisers. Clients have to be ever vigilant to ensure that they are keeping up with any new regulatory exposures that arise.		Aside from ever-increasing regulatory risk, the plaintiffs bar is always looking for additional ways to bring cases against investment managers. While excessive fee cases and prospectus liability cases have been less frequent, we expect plaintiffs' attorneys to continue to find new ways to come after investment managers. The explosion of litigation finance funding creates additional likelihood that the frequency of cases brought against managers will continue their inexorable march upward.

Insurance Companies

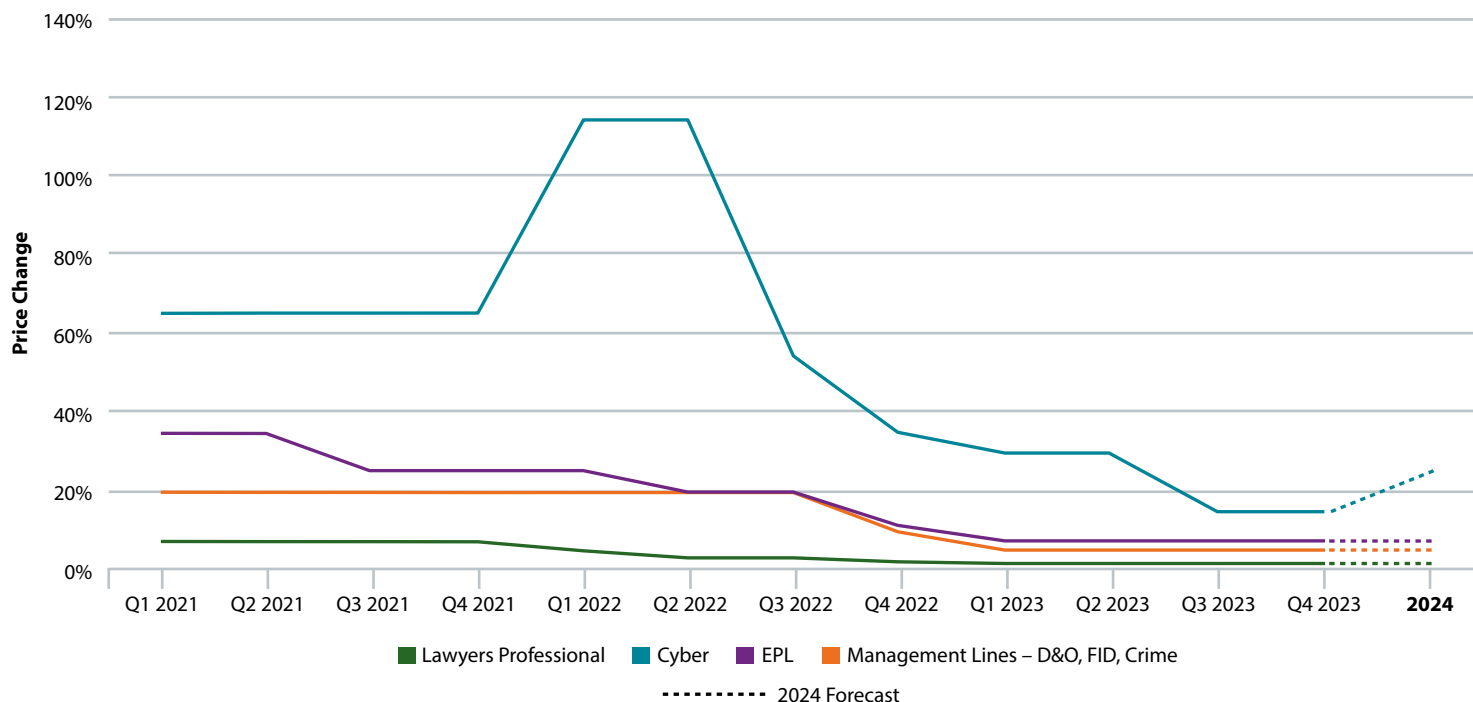
METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -5% to 0%	Pricing has remained relatively static for this class. The relatively limited ICPL market has driven less pricing volatility over the course of the past two market cycles. Carriers have remained tempered on pricing for ICPL but have been more competitive for D&O and other lines.	 -5% to 0%	We do expect pricing competition to continue and drive favorable results for insurance company clients. Many of the excess players in this space will be actively pursuing growth for 2024 and creating a continued competitive environment.
 Limits		Carriers have gotten to a point of comfort with aggregate capacity across their insurance company portfolios, with a willingness to expand. While carriers have kept primary and excess ICPL capacity roughly flat, there remains significant excess capacity available for other lines and excess placements.		In line with above, we expect continued appetite for deployment of capacity in this space (excess in particular). Carriers will entertain excess ICPL capacity, as this line is a pricing driver.
 Retentions		Retentions remained stable in the second half of the year. Carriers took action over the past few renewal cycles to raise retentions, particularly for ICPL and for fiduciary programs with proprietary funds exposure. Retentions have leveled off for 2023, with some carriers entertaining lower retentions.		We expect to see retentions remain static, with potential for negotiating decreased retention levels for some ICPL risks which have been driven up since the last cycle.
 Coverage		As with other classes of FIs, we have seen more active and receptive discussions with underwriting partners around available coverage amendments and concessions in the insurance company space.		Carriers will continue to be competitive in the space as they focus on growth and likely will be more open to enhanced coverage/language. NFP will continue to focus on coverage as the market environment continues to improve.
 Carrier		The US and London markets have seen a slow down in new entrants to the space. The number of carriers writing insurance companies remains strong, with carriers actively pursuing business in this class of FI and with primary ICPL remaining the exception for some.		Underwriter movement has slowed along with the number of new entrants to the market. As such, we expect the number of carriers actively engaged in the insurance company space to remain static.
 Claims		Carriers remain focused on inflation, both fiscal and social, and how that has affected overall claims costs. Some recent activity on long-tail claims has also trended during the back half of this year. Carriers will keep an eye on IPO activity and trends in the life and annuity space as well. Overall, claims costs have continued to rise in the second half of the year.		We expect continued increase in claims costs, driven by social inflation and replacement costs. Potential D&O exposure remains elevated given regulatory and investor focus on disclosures around climate change and AI. E&O activity continues to be a concern in this line of coverage due to potential bad faith claims.

Loan Portfolio – Lenders Single Interest, Mortgage Impairment, Mortgage Hazard

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 5% to 10%	<p>Pricing on the real estate portfolio continues to trend upwards, exacerbated by primary carriers withdrawing from residential markets such as Florida and coupled with constrained reinsurance capacity. Mortgage impairment rates continue to remain stable for now.</p> <p>Pricing on the auto side continues to see an increase in delinquency rates and the cost to repair. Lenders single interest rates on the auto side continue to trend upwards as a result.</p>	 5% to 10%	<p>Moderate rate increases will continue on the real estate side as the market starts to adjust for the primary markets, catastrophic events and potential economic recession.</p> <p>Auto rates will continue to see rates increase as losses continue to increase with the rise in delinquencies.</p>
 Limits		<p>Mortgage hazard property maximum amounts of insurance up to \$5M are typically available.</p> <p>Mortgage hazard liability limits of \$1M per occurrence/\$2M annual aggregate are standard while we have the ability to adjust this based on the portfolio.</p> <p>Lenders single interest limits sit at \$100,000 limit per collateral type, while the amount financed can exceed this limit.</p>		<p>We foresee no changes on the residential real estate side of the business, while the commercial side continues to see requests for significantly higher limits.</p> <p>We continue to see increases on our lenders single interest side of the book, with limits up to \$150,000 to \$250,000, depending on the type of collateral.</p>
 Retentions		<p>Mortgage hazard property and flood deductibles remained stable, with deductibles ranging from \$1,000 to \$10,000 typically being available and higher deductibles being available depending on the insured's size and risk appetite.</p> <p>Lenders single interest typically runs at a \$0 deductible, but with the rising cost of collateral/repair, we have seen these deductibles range from \$0 to \$10,000.</p>		<p>We expect to see larger lenders take on higher deductibles to offset the continued rise in rates.</p> <p>We continue to see increases on our lenders single interest deductibles, with the \$0 deductible option slowly phasing out.</p>
 Coverage		<p>Coverage availability and terms remained stable.</p>		<p>Coverages will continue to remain standard with no material changes.</p>
 Carrier		<p>Insurers continue to show a keen interest in mortgage hazard and mortgage impairment, particularly as they assess investor schedules.</p> <p>Insurer interest on the auto side continues to be evaluated in more detail due to increase in delinquencies and defaults among borrowers.</p>		<p>Carrier interest will continue to remain stable on mortgage-related coverages.</p> <p>Carrier appetites are reactive to loss trends on the auto side. With no sign of slowing claim frequency and severity, we expect appetite and rates to adjust accordingly.</p>
 Claims		<p>Real estate claims frequency and severity continue to remain stable.</p> <p>Auto claims continue to see an increase on physical damage due to the high cost of replacement parts. Skip claims continue to be an issue, with delinquency rates rising and find rates from our skip tracers decreasing due to an industrywide staffing shortage.</p>		<p>Real estate claims start to increase as rising interest rates will increase delinquency and foreclosures.</p> <p>Auto claims are likely to continue to increase in frequency and severity.</p>

Legal Practice

Lawyers Professional Liability (E&O), Cyber for Law Firms, Employment Practices for Law Firms, Management Lines for Law Firms (D&O, Fiduciary and Crime)



Legal Practice – H2 2023 Summary

Lawyers Professional Liability (E&O)

One of the main story lines during the second half of 2023 in the legal market was the number of both successful and unsuccessful mergers for the midsize and large law firm segment. During this time firms also had a conscious eye on billing rates and expenses related to inflation.

With an eye on 2024, law firms will continue to monitor not only their billing rates but also their expenses. Associate and partner salaries, along with long-term plans for real estate, will be top of mind heading into 2024.

From a claim's perspective, the severity of claims made against law firms continues to increase to levels not seen before. While the frequency of reported claims has remained relatively flat, the size of malpractice claims continues to garner the attention of insurers.

Cyber for Law Firms

Law firms continue to get hit with claims resulting from business email compromise (BEC), ransomware and more. Due to the continued rise in claims activity, law firms are experiencing a 10% to 20% increase come renewal. Higher price increases should be expected in firms that handle higher-than-average amounts of personally identifiable information or information protected by HIPAA, as well as firms that have had breaches or ransomware claims in the past. Increased ransomware claims and breaches have placed law firms in a high-hazard class. Underwriting has become stricter, as most carriers are requiring multifactor authentication and offline backup systems with limited personnel access. Increased retentions and lower available limits are also common.

Employment Practices for Law Firms

Law firms continue to see increasing rates in the employment practices liability market due to claims activity, with rate increases from 5% to 10%. Reduced limits on primary, particularly in historically problematic states such as California, New York and New Jersey, are common. Increased retentions are often common in these states as well.

Other Management Lines for Law Firms (D&O, Fiduciary and Crime)

Limits and retention structures are being closely monitored to ensure sharing of the risk. Social engineering and business email compromise are also generating claims activity in these segments. Pricing increases continue to range from 0% to 10%.

Legal Practice – 2024 Outlook

Lawyers Professional Liability (E&O)

Heading in to 2024, the professional liability insurance market for law firms remains extremely competitive. The addition of new capacity over the past few years has helped lead to a more robust market environment. Carriers will continue to focus on limits management for their perspective portfolios while also looking to push for higher. We anticipate rates to remain relatively stable throughout 2024, while carriers will look to push retentions up for larger law firms and firms that have significant claims.

Cyber for Law Firms

The cyber market for law firms will continue to be difficult in 2024. With the continued increase in claims activity (ransomware, business email compromise, etc.), law firms can expect pricing to increase by 20% to 30% at renewal. Underwriting will remain stringent, as most carriers are requiring multifactor authentication and offline backup systems with limited personnel access. Endpoint detection and response is highly encouraged and will impact the amount of carriers willing to consider offering terms. Increased retentions and lower available limits will also persist.

Employment Practices for Law Firms

For 2024, rates in the employment practices liability market will continue in the 5% to 10% range just as they did in 2023. Reduced limits on primary, particularly in historically problematic states such as California, New York and New Jersey, will remain, as will increased retentions.

Other Management Lines for Law Firms (D&O, Fiduciary and Crime)

Carriers will remain focused on limit and retention strategies heading into 2024. Pricing in 2024 is expected to remain in the 0% to 10% range.



Lawyers Professional Liability (E&O)

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 3%	Overall, rates have continued to flatten into Q4 2023. Rates continue to vary greatly, depending on the size, location and specialty of the firm. Small firms and middle market law firms are seeing flat renewals. Larger firms that do not specialize or that specialize in higher-risk areas of practice, such as estate probate and trust, collection, and high-end corporate and family law, are seeing slight increases.	 0% to 3%	Pricing is expected to continue to remain stable, if not soften, heading into 2024. Increased capacity has helped lead to a healthy market environment.
 Limits		Most carriers are capping primary limits at \$5M, with a few still willing to offer \$10M. Quota share options continue to rise in popularity. Excess limits are still widely available up to \$10M in capacity, depending on attachment point.		A conservative approach to primary limits is expected to continue, as is the increased utilization of quota shares to manage carrier risk.
 Retentions		Carriers have increasingly focused on matching the size of the retention with revenues and size of firm, particularly in the middle market to large firm space.		More carriers are expected to shift their focus to revenue and attorney count to determine adequate retention for firms.
 Coverage		Coverages for this line of insurance have remained relatively stable. Some carriers continue to increase add-in coverages, with low sublimits (subpoena, crisis management) becoming standard.		Artificial intelligence is becoming an extremely hot topic as carriers are beginning to wrap their arms around this technology and how it relates to their policies issued. We will be monitoring this trend as we head into 2024.
 Carrier		Market capacity continues to increase within the lawyers professional liability space, with new carriers entering the space.		We expect the addition of new capital and capacity in the market to slow down in 2024 compared to the significant growth in the prior few years.
 Claims		Severity of claims continues to rise, driven by higher defense costs and larger deals with more sophisticated clients. Frequency has stabilized or decreased due to the slowdown in litigation and related areas.		Carriers are still uncertain if they will see claims if a possible economic downturn takes place. Severity of claims is expected to continue to increase.

Cyber for Law Firms

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 10% to 20%	Law firms continue to get hit with claims resulting from BEC, ransomware, malware, etc. Due to claims activity, law firms can expect a 10% to 20% increase at renewal.	 20% to 30%	With the recent spike in claims activity surrounding the law firm class of business, carriers will start to increase pricing to make up for the losses they are experiencing. At the start of 2024, law firms can expect a 20% to 30% increase.
 Limits		Many carriers decreased limits available on primary or refused to increase limits to meet law firm demands. This resulted in the need for more participants to meet client demand for limits.		We expect carriers to continue to manage limit capacity, particularly on primary.
 Retentions		Upward pressure on retentions continues, particularly when firms lack requisite controls or have experienced claims activity.		Retentions will continue to rise, as will requirements for coinsurance or other risk-sharing techniques.
 Coverage		Ransomware coverage is closely scrutinized and often sublimited or eliminated. Multifactor authentication is a standard requirement for coverage, and firms unwilling or unable to implement this requirement will see reduced coverage.		Continued mandatory requirements for multifactor authentication, backups, encryption and more is expected for all size firms. Endpoint detection and response is highly encouraged for adequate coverage.
 Carrier		Underwriting guidelines are tightening, and a reduced carrier appetite for the class of business was common as activity targeting law firms increased.		Expect continued emphasis on minimum requirements for data security and cyber controls. Law firms continue to be a less desirable class of business as cyber carriers continue to tighten underwriting guidelines and requirements.
 Claims		Increased ransomware and BEC claims against law firms continue to become public. Several hacking incidents involving large firms heightened concerns about increased claims.		Claims activity is expected to continue to increase, and the cost of investigation and remediation is expected to continue to rise.

Employment Practices for Law Firms

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 5% to 10%	Rates have stabilized, but claims activity (discrimination, wage disparagement, deprivation of career opportunities, etc.) and growth still warrant rate increases.	 5% to 10%	Carriers will continue to issue increases based on claims activity and firm growth.
 Limits		Carrier requirements for limits have not changed.		Carrier requirements for limits will continue to stay consistent.
 Retentions		Retentions are increasing, particularly in difficult geographical areas (California, New York and New Jersey).		Retentions are likely to continue to increase in certain geographical areas (California, New York and New Jersey).
 Coverage		Carriers without specific law firm-targeted forms are pulling back on coverages, such as failure to make partner. Other restrictions in coverage, including sublimits for wage and hour claims, are becoming more prevalent.		Continued focus on reducing or eliminating coverage for trending loss leaders.
 Carrier		There is still a limited number of carriers that will write employment practices liability coverage for law firms.		The same limited number of carriers will continue to offer employment practices liability coverage for law firms.
 Claims		Claims frequency and severity are still on the rise due to discrimination, wage disparagement, deprivation of carrier opportunities, etc.		Law firms will continue to experience claims relating to discrimination, disparagement, wage and more.

Management Lines for Law Firms (D&O, Fiduciary and Crime)

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 10%	Pricing increases in these lines of business have begun to stabilize, but concerns remain due to cybercrime issues.	 0% to 10%	Primary rates should continue to stabilize, as adjustments were previously made. Economic conditions could push rates further upward.
 Limits		Carriers have focused on managing limits capacity and ventilating exposures in the large law firm segment, which is where we see most of the demand for these coverages.		No change in limits expected after previous adjustments, though we may see more sublimits implemented in certain areas.
 Retentions		Carriers continue to monitor retention adequacy and take corrective action where needed, particularly where employee count is high and policies/procedures are not fully implemented.		Retentions will continue to be monitored, particularly where there are past claims or where policies/processes are inadequate.
 Coverage		D&O liability for law firms remains stable, and adjustments that were made following Dewey failure are common. Still, some adjustments are being made in fiduciary and crime where sublimits and exclusions are being implemented to address increase in claims related to cyber crime and excessive fee litigation (fiduciary).		Coverage expansion is not anticipated.
 Carrier		The market has continued to stabilize with no real shifts in participants or appetites.		Market is expected to remain relatively stable, with no real shifts in participants or appetites.
 Claims		Cybercrime (social engineering, funds transfer fraud, etc.) has resulted in increased claims counts and severity in these lines.		Severity is expected to increase in these lines, as projected settlements and related defense costs are expected to rise. Cybercrime claims will continue to be prevalent.

Life Sciences

Product Liability



Life Sciences – H2 2023 Summary

In 2023, overall market conditions stabilized from pandemic-related challenges. More common use of risk assessments and stricter underwriting helped to maintain capacity across the industry. However, geopolitical volatility, inflation, lingering supply chain disruptions and business interruption risks are dampening an otherwise optimistic outlook.

Artificial intelligence and machine learning: Optimism for innovation and growth in life sciences is driven by continued advancements in artificial intelligence (AI) and machine learning (ML) applications. How AI and ML are applied will determine the impact. Directors and officers, especially, must proceed thoughtfully and carefully to facilitate proper application of these technologies to limit potential claims.

Social Inflation: The National Association of Insurance Commissioners defines [social inflation](#) as “a term that describes

how insurers’ claims costs are increasing above general economic inflation.”¹ Furthermore, “This is generally thought to be due to a trend in increasing litigation costs brought by plaintiffs seeking large monetary relief for their injuries.”¹ Social inflation could be causing losses to increase faster than general inflation by 2% to 3% per year, according to [research](#) by the Insurance Information Institute. Particularly in the healthcare sector, claims costs have seemingly doubled.

Volatile business environment: Ongoing human suffering caused by warring countries continues to directly affect global trade, contributing to supply chain or distribution failures and business interruption that first arose due to the pandemic. Geopolitical volatility may also drive an increase in cyber attacks and/or data breach. High turnover rates, extreme climate events and ongoing manufacturing disruptions are also contributing to the volatile business environment experienced by many organizations in the life sciences industry.

1. National Association of Insurance Commissioners. “Social Inflation,” August 2023.

A growing insurance marketplace for the healthcare sector has helped soften the overall impact on rates, with some segments seeing flat or single-digit rate increases, while other segments are seeing much higher increases.

Rising labor costs and staffing shortages: Long-term care and senior living facilities and hospitals are segments which have been hit especially hard by the impacts of the COVID-19 pandemic. They are now facing additional challenges as the world moves on from the pandemic and COVID relief money has stopped. Nonetheless, some downward pressure is expected in 2024, following significant rate increases in the past few years.

Evolution of Care: According to a [report](#) by Trilliant Health, the traditional care pathway is becoming disintermediated. Americans are increasingly turning to alternative sites of care and sources of healthcare information. We expect this trend to further promote the expansion of value-based care models, which prioritize the quality and outcomes of healthcare services over the quantity of services provided. However, it is important to note that the report lays bare an inherent challenge that comes with this evolution of care: As new players enter the healthcare sector to innovate and disrupt, more organizations are competing for a decreasing number of care providers.

External factors, such as geopolitical volatility, natural catastrophes and inflation will be primary causes for concern when it comes to factors impacting rate changes. In 2024, we expect to see:

Continued increase in demand for specialized coverage: The life science industry is constantly evolving, with advancements in biotechnology, pharmaceuticals and medical devices. This has led to a greater need for specialized insurance coverage tailored to the unique risks associated with these sectors.

Life Sciences – 2024 Outlook

Overall, we expect to see continued growth in the life sciences marketplace, adding to capacity and competitive pricing that should support a softening of the market along with rate stabilization. Flat renewals and minimal increases of 1% to 5% in certain segments are expected. However, significant rate increases for less favorable segments, such as long-term care and senior living facilities should be expected, as losses from the pandemic continue to leave their mark on loss runs. Property rates are expected to continue increasing, especially for locations in Southeast Florida and California.

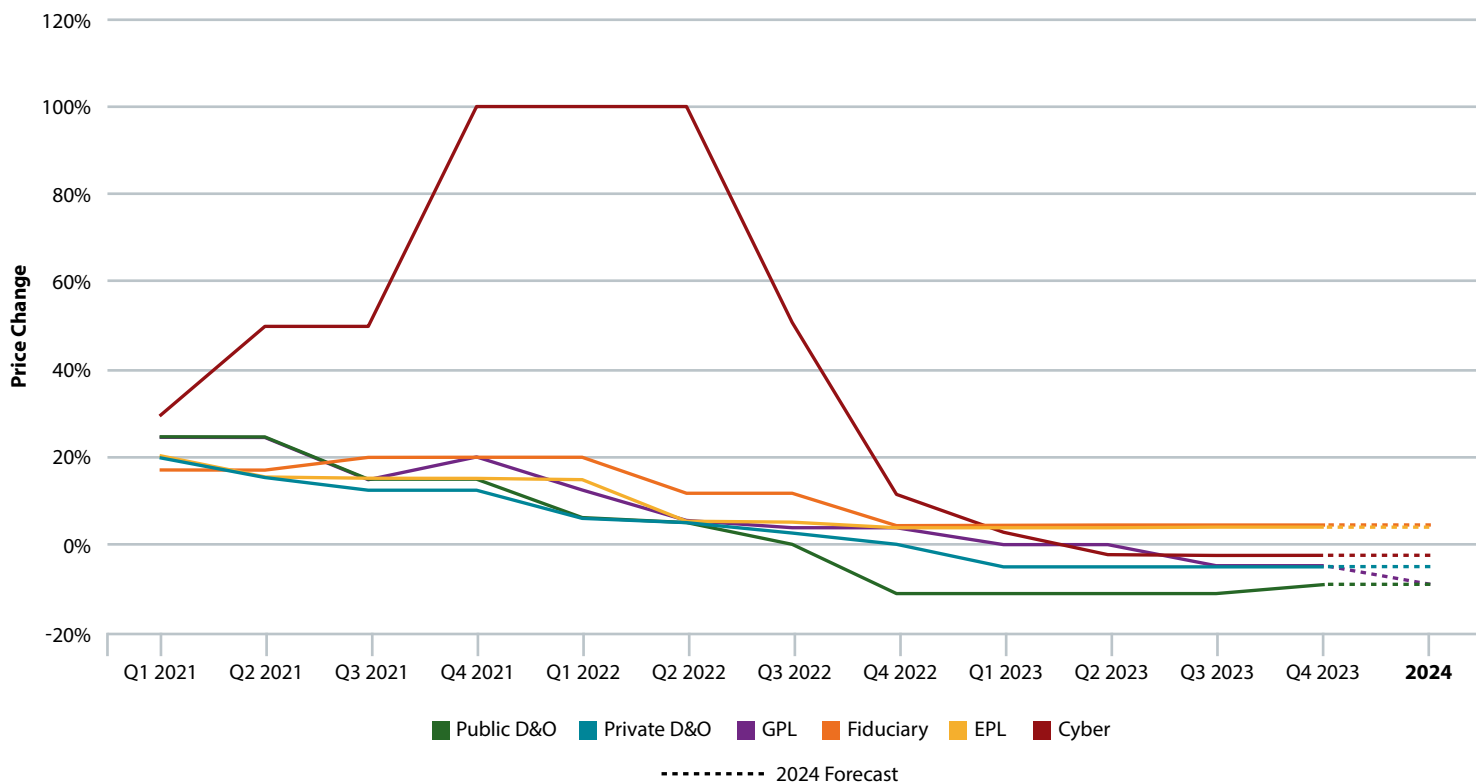
Cyber security must continue to remain a top priority for all organizations, as AI technology and the use of deep fakes will surely broaden the variation of cyber attacks. Cyber security is especially important for life sciences organizations, given the sensitive nature of intellectual property and patient privacy rights.

Product Liability

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -5% to 5%	Pricing has stabilized and is trending down in Q4. Increased capacity and carrier participation, as well as appetite expansion, is supporting the rate movement.	 -5% to 0%	Pricing will continue to be favorable, with opportunities for rate reductions.
 Limits		Limits are strategically available for most risks in this marketplace when aligned with appropriate insurance partners. Carrier specialization will continue.		We expect limit and capacity to increase as clients are better positioned to purchase extra limits. Anticipated carrier specialization and new product development to support expanded limits.
 Retentions		Retentions continue to be reflective of claims trends, with some subsegments observing increases due to losses and exposures.		We anticipate retentions to remain stable, and we expect current trends to continue for the next 12 months.
 Coverage		Strategic exclusions and provisions are being added to policies. Restrictions around services and specified operations are being implemented.		Availability of relatively broad coverage will continue to be accessible over the course of the next 12 months. Coverage-specific enhancements are anticipated to further define coverage intent.
 Carrier		Some tightening of carrier appetite is being alleviated by new carrier participation and specialization. Managing general agents and programs are supporting the market expansion and emerging segments.		Continued market expansion and competition are anticipated for the next 12 months.
 Claims		Claims activity has been case specific, with some COVID-19-specific trends developing. The life science business continues to observe class action lawsuits and severity claims.		Ongoing class actions will continue to be an exposure, with high settlements driving litigation and complex claims scenarios.

Management, Cyber and Professional Liability

Public Company D&O, Private and Not for Profit Company D&O, General Partnership, Fiduciary, Employment Practices, Cyber



Management, Cyber and Professional Liability – H2 2023 Summary

The market continued to improve for policyholders in 2023 across all product lines within the management, cyber and professional liability (MCPL) practice space. This was especially true in the directors and officers (D&O) and cyber lines of business, where new entrants may offer more competitive pricing to establish themselves in the market. These trends continued to play out in Q4 2023 and are expected to continue in 2024.

Key trends we saw in Q4 2023 in the MCPL lines of business are as follows:

- Most policyholders saw a flat to 15% decrease in all segments of D&O (public, private, nonprofit) for companies with good risk profiles. New entrants and excess capacity

continue to be readily available and are driving downward pressure, contributing to the accelerated softening we saw this quarter. We expect this trend to continue in 2023.

- In the privately held and not-for-profit company D&O space, rates ranged from flat to 10% decrease in Q4 2023. Carriers have, for the most part, achieved their limit management and rightsizing goals, so we anticipate insurance limits will remain relatively consistent on a go-forward basis and pricing to continue to stabilize, if not decrease further, in 2024. The carriers continue to monitor retention levels and adjust those on an account-by-account basis.
- Fiduciary liability rates started to moderate versus the prior quarter, mostly driven by excessive fee litigation and unique exposures surrounding an account. Insurance carriers are focused on plans with assets greater than \$100M, where previously the threshold was much higher. Employee stock ownership plans will see even greater rate increases along with those that have challenged risk profiles. This line of business continues to be challenging for insureds.

- The cyber market continued to improve, given more capacity entering the market similar to public D&O. As we witnessed in Q4, there have been significant reductions from the large swings of the 2021 and 2022 hard market. Typical rates for Q4 ranged from flat to 10% decreases. Markets are more comfortable offering terms for new business opportunities; however, terms are still rooted in a client's ability to demonstrate strong cybersecurity controls and overall strong cyber hygiene. Insureds that fail to showcase an investment in cybersecurity will continue to face less favorable outcomes.

Management, Cyber and Professional Liability – 2024 Outlook

Continuing the trend we saw for the balance of 2023, abundant capacity in the marketplace is driving softer market conditions across various MCPL lines of business as year-end approaches. In the D&O market, increased competition, especially from newer entrants, has shifted focus from excess-only appetite to entertaining primary layers to obtain more money than being relegated to just upper excess pricing, which is far less than primary or first excess pricing in most towers. Technology-based underwriting strategies are being adopted by some carriers and managing general agents.

While a **softer market** offers more **options** to policyholders, **caution is advised** to make certain that lower premiums **don't compromise** product **quality** and claim **outcomes**.

Legacy carriers with data leverage are selectively aggressive, potentially leading to different paths between established and newer capacity if pricing continues to decline. Larger publicly traded towers may prompt discussions on limit pricing adequacy.

The duration of the soft market remains uncertain. Emerging risks, such as technology and artificial intelligence (AI) growth, could trigger rapid contraction in the D&O space despite current competition. In the broader MCPL lines sector, inflation and rising interest rates may significantly impact these lines, especially for companies with thin margins or excessive leverage.

Given some of these economic headwinds, we think more bankruptcies and restructurings will take place in 2024. For those companies, we think they'll face more pricing pressure. Similarly, certain industries such as digital assets, cannabis and other emerging industries won't see the same reductions as some other policyholders.

Regarding the other key management liability lines of business, employment practices and fiduciary liability, our prediction for 2024 is more stability and fewer increases unless the policyholder has a challenged risk profile or has had recent loss history.

For 2024, we expect that cyber will see roughly flat to 10% decreased premiums, with potential capacity expanding. Underwriting decisions prioritize strong cyber risk controls and competition is high, with carriers issuing quotes earlier and often returning to \$10M blocks on towers. The one trend we are monitoring and that may be cause for concern is that ransomware losses are spiking again, with payments increasing, and cyber extortion attacks leading to a 70% rise in reported data breaches in 2023. Markets are reevaluating coverage in response to data privacy laws, and the Russia-Ukraine war prompts reassessment of war and territorial exclusions. The SEC's July 26 rules mandate prompt disclosure of cyber breaches for public companies, emphasizing the need for robust cross-functional processes.

Public Company Directors and Officers Liability

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -15% to 0%	Rates continue to fall from prior year and prior quarter given the abundance of capacity in the marketplace for publicly traded D&O. Rate decreases peaked in Q4 and have begun to level off, but we are still seeing larger decreases for companies coming off year one and two of IPO or de-special purpose acquisition company (SPAC) transactions.	 -15% to 0%	We expect the rate of decreases to level off in 2024 with continued pressure on pricing given the abundant capacity that still exists. For 2023 we did see an increase in federal securities class actions along with an increase in settlement amounts that took place in 2023. The reemergence of the transactional liability market and notably IPOs in 2024 may offset the supply and demand pressure we have seen in the past 18 months.
 Limits		Similar to our expectations at the beginning of the year, insurance carriers have been maintaining their average limits deployed for over two years. Throughout 2023, we did see incremental limit tranches increase, with expiring tranches of \$2.5M moving to \$5M and some \$5M moving to \$10M after major reductions in limit during the hard market cycle. Carriers are still limiting capacity in certain industries, especially on difficult risk profiles such as digital assets, cannabis, IPOs and SPACs.		Like we saw in the first half of 2023, we expect carriers to maintain and, in some cases, increase their capacity over the next 12 months, using the "more limit, potentially more premium" philosophy.
 Retentions		We are starting to see more decreases on retentions given the competitive marketplace.		We expect to see potential reductions in retentions as the competition continues to increase and intensify like we saw in the first half of 2023. Certain risk exposures and industry classes will still see higher retention levels, such as IPOs, SPACs, digital assets and cannabis.
 Coverage		Breadth of coverage is stable in comparison to prior year and quarters.		Barring any unexpected event-driven occurrences, we expect the breadth and scope of coverage to remain largely unchanged, with a renewed focus on expanded entity investigation coverage options.
 Carrier		Capacity continues to be abundant in the public D&O market, which continues to put downward pressure on pricing and retentions. New entrants chasing deals is driving this trend.		Insurer capacity peaked in 2023 and is expected to remain stable in 2024 with limited new entrants.
 Claims		We have seen a decrease in the past two years in federal securities class actions. For the first half of 2023, there have been 114 securities class action filings, which is flat from 115 in the first half of 2022.		We expect claims volume to increase in connection with increased SEC scrutiny, new regulations in the Insider Trading Prohibition Act, cyber disclosures and continued focus on environmental, social and governance. Uncertainty in the economy has the potential to lead to increased stock market volatility and bankruptcies.

















Private and Not for Profit Company Directors and Officers Liability

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -10% to 0%	<p>The private and nonprofit company sectors continued to improve throughout 2023. Pricing adjustments continue to be made directly in response to events related to industry sector, loss history, financial position and regulatory factors. The length of the hard market and increased competition is having an impact on the overall market. We have also seen new entrants enter the market and a renewed interest from legacy insurers that want to grow this portfolio to help offset the impact of the public D&O marketplace. However, for financially distressed risks and risks in certain industries (such as cannabis, digital assets, etc.), above-average rate increases and higher retentions still exist.</p>	 -10% to 0%	<p>Pricing is expected to remain stable and continue to improve in certain areas for 2024, given the amount of capacity in the marketplace for clients with good risk profiles. We do expect to see a rise in bankruptcies and restructurings, causing underwriters to scrutinize financial metrics in greater detail than they have historically.</p>
 Limits		<p>Carriers continue to maintain limit capacity. We are seeing stabilization due to corrective action taken over the last 24 months during the hard market. The more challenged the risk profile, the less limit that client will be offered.</p>		<p>Similar to the publicly traded segment, we do expect carriers to increase limits (e.g., \$5M to \$10M) for those companies with strong risk profiles, given the pricing economics we are seeing in this space.</p>
 Retentions		<p>We saw carriers generally maintain their retention levels, but in some cases there were some decreases throughout the quarter.</p>		<p>We expect to see retentions remain the same and, in some cases, decrease, given new capacity interested in writing more business.</p>
 Coverage		<p>The retraction of coverage terms is trending towards leveling. Portfolio corrections appear to be plateauing for preferred risks. High-risk industries and emerging industries are still seeing more restrictions and exclusions being put on their programs.</p>		<p>Trend continues toward maintaining the status quo. We expect appetite for coverage expansion, considering the new capacity trying to get market share.</p>
 Carrier		<p>We continue to see the emergence of new market capacity in the private company sector. The post-pandemic appetite for established business with less than \$100M in revenues is becoming a carrier focus.</p>		<p>The emergence of new capital will be driven by technology and application programming interface enablement. We will begin to see significant efficiencies and increased competition as carriers strive to be first-to-market with technology.</p>
 Claims		<p>Claims volume remains flat, while defense costs and other claims elements are in an upward trajectory, which is increasing overall claims activity and expense trends.</p>		<p>Claims volume remains flat, while defense costs and other claims elements are in an upward trajectory, which is increasing overall claims activity and expense trends. Given the current and expected macro environment, we do expect more claims as a result of bankruptcies.</p>


General Partnership Liability

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -10% to 0%	<p>The GPL market for insureds with no losses or significant fundraising has stabilized, with most insureds seeing flat to moderate rate decreases as the lull in deal volume has translated into a similar lull in claims. Excess layers continues to show diminished rate pressure due in part to an increase in excess-only market capacity.</p>	 -10% to -5%	<p>We expect rates to level off but continue to see reductions over the first half of the year as the market adjusts to new levels of competition.</p>
 Limits		<p>Capacity still remains strong within the GPL marketplace. The market of insurers willing to write primary is still limited but broad enough to generate steady competition, and a few traditionally excess carriers have begun taking on more primary capacity. Insurers continue to push to maintain strict capacity management and are generally unwilling to offer more than \$5M on new programs. Existing towers are able to maintain \$10M tranches.</p>		<p>We have not seen reason to believe that limits profiles are increasing for carriers.</p>
 Retentions		<p>Retentions have generally remained stable year over year, with some general partnerships seeing material increases in response to significant fundraising or claims activity. Employment practices liability (EPL) retentions are being raised by some carriers to be in line with GPL retentions in response to an increase in material EPL litigation at the general partnership level.</p>		<p>We have not seen reason to believe that retentions will increase materially.</p>
 Coverage		<p>Breadth of coverage is stable, with a focus on broadening regulatory and investigations coverage. Carriers are looking to address their employment practices-related exposure by increasing retentions.</p>		<p>Subject to unexpected event-driven occurrences, we expect the breadth and scope of coverage to remain unchanged.</p>
 Carrier		<p>The market of primary insurers in the US remains stable. New excess capacity has entered the market but has not materially impacted pricing.</p>		<p>New capacity is expected to enter the excess market, which will result in the introduction or reshuffling of carriers onto multilayered programs.</p>
 Claims		<p>The SEC implemented the majority of the rule changes it proposed in 2022 for private fund advisors. Most notably, the new rules prohibit the advisor or its affiliates from seeking reimbursement, indemnification, exculpation or limitation of its liability by the private fund or its investors for a breach of fiduciary duty, willful misfeasance, bad faith, negligence or recklessness in providing services to the private fund.</p>		<p>We anticipate that the SEC will be vigilant in its efforts to enforce these new rules and expect investigations and related litigation to increase.</p>







Fiduciary Liability

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 10%	Fiduciary liability rates continued to stabilize as we went through the anniversary (renewals) of the larger correction taken to address excessive fee litigation. Insurance carriers are focused on plans with assets greater than \$100M, where previously the threshold was much higher. Employee stock ownership plans will see even greater rate increases along with those that have challenged risk profiles.	 0% to 10%	Markets will continue to monitor developments and trends with excessive fee litigation and other exposures that are challenging their profitability. Size of plan assets is a key factor that will impact pricing. Employee stock ownership plans and those companies with challenged risk profiles will continue to see even greater rate increases.
 Limits		Given the reduction in limits during the hard market, we're starting to see a stabilization, particularly on programs that have seen structure changes over the past year. We are still seeing carriers reduce capacity on programs that still have higher limits (\$10M+), even in historically consistent and solid client relationships, given the claims environment (especially excessive fee litigation) for this line of coverage.		We expect limit deployment for fiduciary liability will remain stable.
 Retentions		Carriers are, for the most part, maintaining their retentions substantially due to the claims environment mostly being driven by excessive fee litigation. In the first quarter we did see some modest increases on the excessive fee/class action retentions.		We expect retention levels to remain stable for the rest of the year.
 Coverage		Carriers are trying to reduce their potential exposure to these excessive fee and expense claims. This is usually attempted or achieved by adding a sublimit, a separate retention or coinsurance, and by using exclusionary wording for these claims.		We expect this trend to continue toward more restrictive policy wordings and coverages based on all the recent claims activity.
 Carrier		There is no expectation of a shift in market leadership among the carriers.		There is no expectation of a shift in market leadership among the carriers.
 Claims		We saw some positive trends on the ERISA litigation front that started in 2022, which we expect will continue. Courts have begun to push back against conclusory allegations in the aforementioned excessive fee cases and have rejected suits that compare administrative fees without also comparing the services rendered for those fees. Although this a positive development, there has been no letup in case filings, and plaintiffs continue to present theories of liability. Also, evolving plan-related cyber exposures and new Department of Labor enforcement initiatives keep us concerned.		We expect more of the same for 2024. Given the push for higher retentions to address the excessive fee litigation trend, we feel this has helped the industry mitigate their claim exposure, and we expect that trend to continue.

Employment Practices Liability

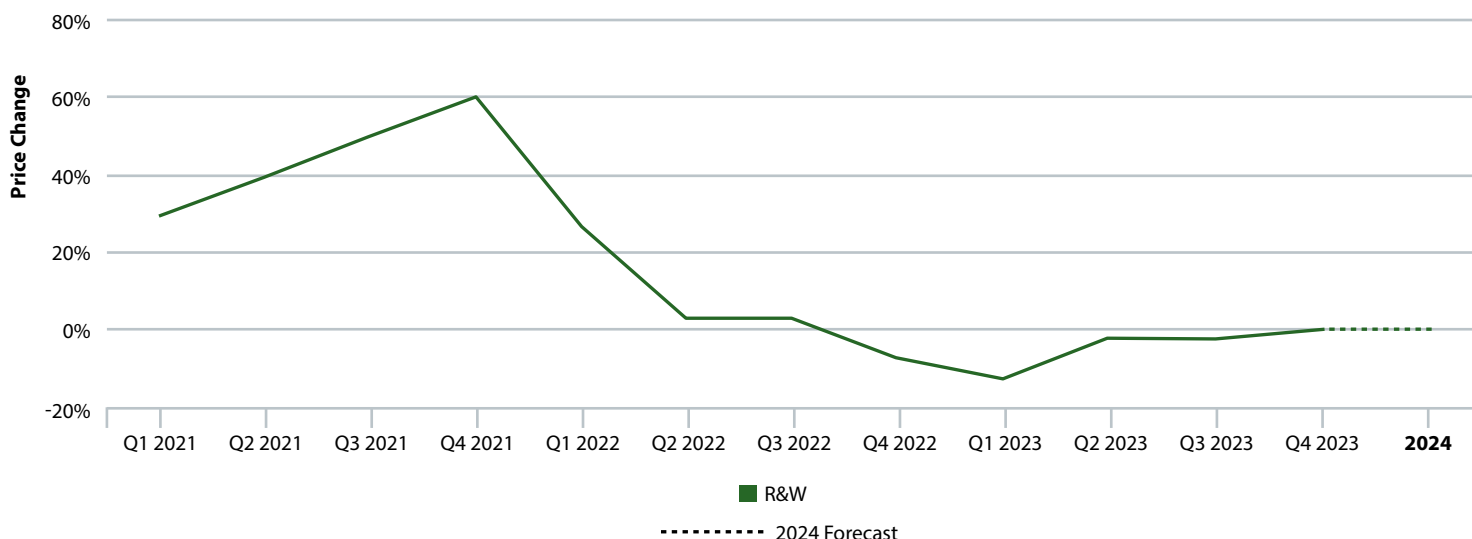
METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 10%	<p>Employment practices liability has remained relatively stable in 2023. Concerns over reductions in force (RIF) as a result of current economic conditions have not yet materialized like we initially thought might happen. Carriers are closely watching return-to-office policies and the state of the economy that could potentially lead to future claims. California exposure continues to be a challenge for the industry, with much higher retentions and pricing than any other state.</p>	 0% to 10%	<p>Markets will continue to monitor the news and economic trends and will adjust accordingly. The expected and projected market conditions may lead to RIFs in the future and impact the claims environment.</p>
 Limits		<p>Limits remained stable throughout 2023.</p>		<p>We expect limit deployment for employment practices liability will remain stable.</p>
 Retentions		<p>Carriers are and will continue to make adjustments on a state-by-state (New York, New Jersey and California) and risk-specific basis, primarily influenced by legislation and loss trends.</p>		<p>We continue to expect a consistent monitoring of regulatory trends resulting in retention adjustment to persist throughout the year, especially if claim activity picks up in the next 12 months due to return-to-work vaccination issues and potential RIFs.</p>
 Coverage		<p>We continued to see event-driven restrictions being introduced (Biometric Information Privacy Act, or BIPA) in response to COVID-19 (in Illinois). Carriers are beginning to present uniformity in approach as well as restricting the scope of coverage countrywide.</p>		<p>We expect this trend to continue into 2024 toward more restrictive policy wordings and coverages based on state and industry.</p>
 Carrier		<p>There is no expectation of a shift in market leadership among the carriers. We do, however, expect to see a slight uptick in capacity, especially with carriers that offer employment practices liability insurance as a blended product with the D&O liability.</p>		<p>Some developing appetites are likely to emerge as carriers see opportunity to gain market share and utilize efficient technology in the SME space.</p>
 Claims		<p>There has been increased volume in connection with employee claims and third-party discrimination claims. Vaccine hesitancy has resulted in some employees being suspended or not reinstated, and they are challenging these decisions. Defense costs and other elements are in an upward trajectory, which is increasing overall claims activity and expense trends.</p>		<p>Return-to-work endeavors may clash with a workforce that has quickly become accustomed to work-from-home arrangements, and accommodations to work remotely may spawn more claims. We expect claims volume under the Fair Labor Standards Act and wage and hour statutes to continue to increase.</p>

Cyber

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -10% to 5%	Ransomware events surged over the previous quarters. Business email compromise continues to be a severe loss driver, and network compromises remain frequent. "Ransomware as a service" is a continued issue and thus small and medium enterprises, particularly those that have not put investment into their cyber security hygiene, continued to experience ransomware throughout the quarter. Clients that have implemented proper controls to reduce these events have experienced flat to decreased pricing. Clients lacking proper controls continue to face challenges regarding price and capacity.	 -10% to 5%	Ransomware, privacy regulation and systemic or catastrophic cyber risk continue to be at the forefront of claims and actuary concerns. While premiums have decreased due to market competition, ransomware claims remain frequent. The increase in claims frequency is a reminder that even with premium reduction opportunities, the cyber market has not yet reentered a "soft market," and will likely hold stable in 2024.
 Limits		Most carriers continue to monitor aggregate risk by maintaining \$5M max capacity offerings per client; however, clients with strong cyber security controls are seeing more opportunities to take advantage of larger capacity offerings, up to \$10M. Coinsurance clauses have become less frequent. Rather, many carriers will offer sublimited first-party loss coverage when clients lack strong cyber controls. Some carriers will offer the opportunity to increase sublimits midterm with demonstrated betterment to cyber security posture.		We expect this trend to continue into the new year. Carriers will continue to strategically deploy capacity for accounts that maintain favorable cyber hygiene. First-party cyber insuring agreements will be limited or unavailable when cyber controls are not optimal. Clients who want to mitigate decreases to dependent business interruption should prepare to demonstrate strategic initiatives to mitigate vendor dependency and risk.
 Retentions		The market has stabilized, leaving retentions secure. Clients that can showcase more investments to cyber hygiene may be able to take advantage of reduced retentions and waiting periods.		Given the new entrants into the cyber market and after two years of a hard market, we expect retentions to stay the same and have some downward movement throughout the year.
 Coverage		Carriers continued to reduce or exclude ransomware coverage when controls are not favorable. Many carriers are looking to address aggregation concerns by amending policy language. Notable changes were seen for all Lloyd's of London syndicate carriers that are now mandated to include affirmative cyber war exclusionary language. Web tracking, biometric and wrongful collection exclusions have also become common on policies.		Trend continues toward more restrictive policy wordings and coverages, especially around ransomware and systemic events. Clients will need to focus more on cyber hygiene controls (particularly multifactor authentication, endpoint detection and response, email filtering, secured/tested backups and privileged access management solutions), as well as media and biometric information handling to gain coverage. We expect continued focus on war exclusion language and other trending litigation.
 Carrier		Carriers continue to make cyber security hygiene a key component to offering coverage; however, increased players in the market have provided clients with optimal controls more opportunities to save money in the market. Coverage will be paired down when controls are lacking. Multifactor authentication, endpoint detection and response and backups are critical components in the underwriting process. More carriers have made investments to offering clients assistance on implementing key controls and rectifying vulnerabilities as a means to drive better risks across their portfolio.		Carriers will emphasize the requirement for quality ransomware and cybersecurity controls. Use of noninvasive scans (BitSight, SecurityScorecard and Cyence) during the underwriting process will continue, and questions about findings and potential issues (e.g., open ports) will need to be remediated. Additional questions around vendor management, business continuity plans and employee training will continue to be part of the underwriting process. We expect to see an increase in capacity due to additional carriers entering the market.
 Claims		Significant increase in frequency and severity of cyber claims, especially ransomware, continue. The MOVEit vulnerability drove many of the ransomware and data breach claims seen in the second quarter. Social engineering and financial fraud claims continue to target companies in all industries. A resurgence in privacy litigation has begun with claims related to violation of the Video Privacy Protection Act for pixel tracking on many Meta-based websites.		Cyber claims activity is expected to continue to remain frequent as bad actors become more and more creative at ways to trick employees into complying with rogue tasks or into mistakenly clicking on links or downloading information. With the fast past of transactions and the help of AI, it has become harder to detect many phishing schemes. Further, D&O-like claims may continue to make their way further into the cyber world. We have already seen the SEC make its first move with new legislation requiring public companies to disclose details of a cyber breach. Further, we have seen the SEC initiate litigation against organizations for misleading users around their cyber security posture. We will continue to keep an eye on claims stemming from a company's breach of fiduciary duty towards its cyber security posture.

Private Equity

R&W Insurance



Private Equity – H2 2023 Summary

Representations and warranties (R&W) submission flow slowed considerably in 2023 and trended closer to volumes prior to 2021. While submissions still remain high from an overall historical basis, 2023 did see a continued moderation in submission flow. Both premiums and retentions have come down to be more reflective of the first half of 2021 as well.

Premiums have continued to moderate and have even decreased somewhat in 2023 with an ~2.5% to 3.5% primary rate online as an average. Larger deals of over \$1B will see primary rates closer to 4.0%, but with excess; blended rates are closer to the 2.5% to 3.25% range. Claims frequency and severity have increased over the past few years and have continued to do so in 2023. This seems to potentially support rate increases over time; however, we have not seen that materialize in 2023. Appetite across industries is broad, and smaller transactions (under \$50M in enterprise value), in particular, have become a sweet spot for many insurers. There are a couple newer markets that opened in early 2023 that are trying to focus on smaller limit deals (under \$50M in enterprise value), which continues to help drive this trend.

2023 has seen a decrease in demand as anticipated with the current debt and interest rate environment. In fact, 2023 has not seen activity even in comparison to early 2021. Many insurers have added staff to meet anticipated capacity and that growth has not materialized in 2023.

It will be interesting to see if activity increases in early 2024 or if a potentially fluctuating interest rate environment will continue to dampen activity.

Private Equity – 2024 Outlook

If the trends we have seen in 2023 continue, the outlook for R&W insurance in 2024 will likely continue to be tempered by a potentially fluctuating interest rate environment. The current debt financing market is pushing firms to do smaller transactions. Until there is more certainty in interest rates, we do not see this trend changing considerably in 2024. With the reduction of overall deal activity, there will be competitive pressure on the insurers to write enough business to support their internal cost structures.

With these competitive pressures, and absent an improved debt and interest rate environment, we do not see premiums and retentions increasing in 2024. At the current historically low premium rates and retentions, we will likely see them remain fairly consistent until the overall economic market improves. While some markets have and will continue to try to hold the line on rates and retentions, there are a number of markets willing to continue to drive pricing and retentions down as they try to get market share.

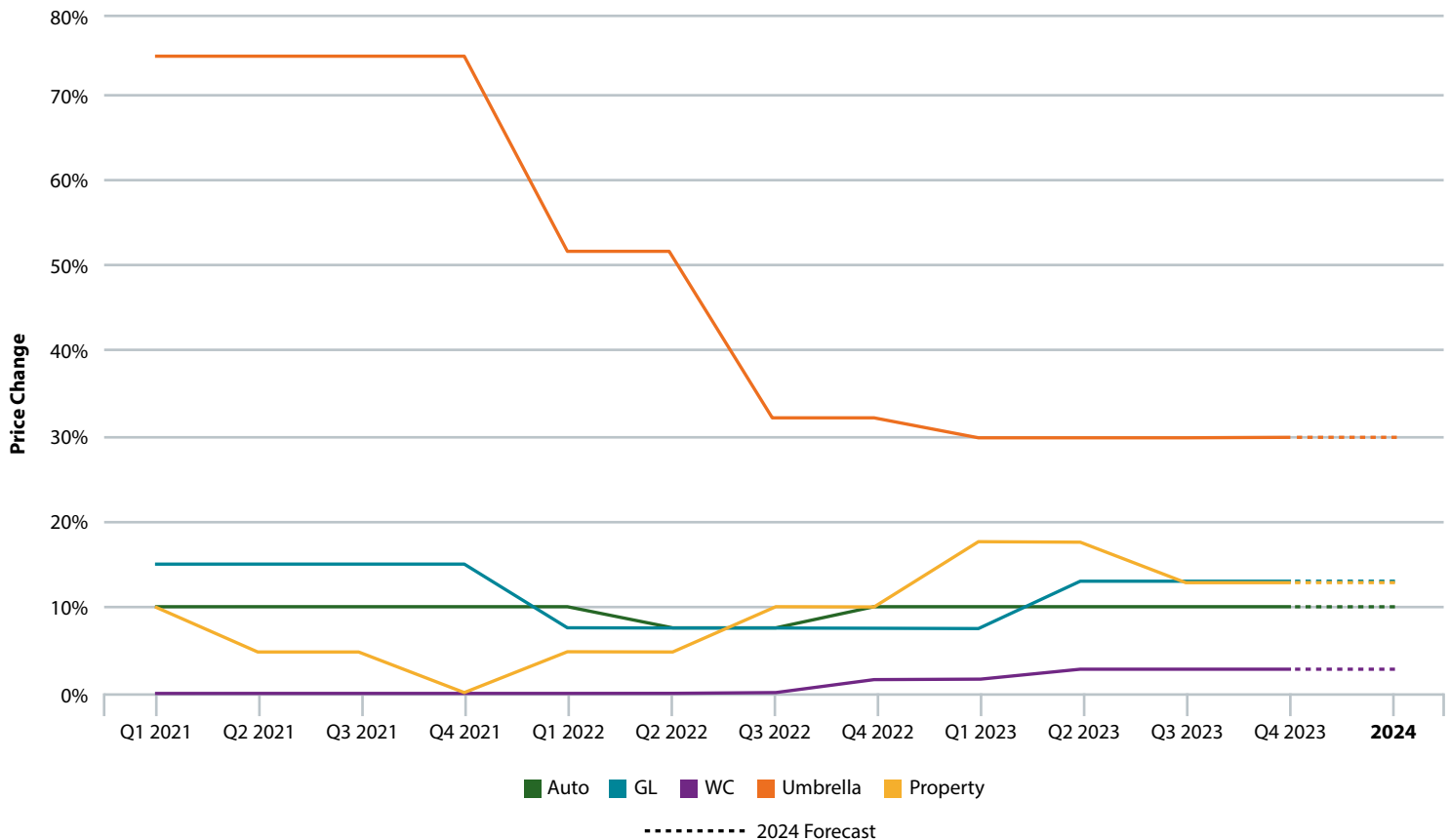
There were two new R&W insurers in 2023, and it would not surprise us to see a similar trend for 2024. While not at the peak pace of Q4 2022, there remains a considerable market for those looking to establish a new line of insurance for their portfolio.

R&W Insurance

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0%	<p>The R&W insurance market remained soft in H2 2023. While pricing varied from market to market, overall pricing for a customary policy remained flat to H1 2023. Rates remain as low as they have been in several years.</p>	 0%	<p>Pricing over the next 12 months will depend on the health and level of activity of the broader economy and mergers and acquisitions market, we would expect premiums to remain somewhat flat in 2024. We would expect to see flat rates to continue throughout 2023.</p>
 Limits		<p>Insurance carriers have been more cautious on the primary limit offerings and there has been no significant change to the limits being offered by most carriers. Most primary R&W carriers can offer a \$30M limit policy for any particular transaction.</p>		<p>We do not have reason to believe that carrier limit profiles will change.</p>
 Retentions		<p>Initial retentions on R&W policies have softened considerably in 2023. We are seeing ones as low as .4% on larger (over \$200M in enterprise value). Smaller transactions are seeing moderation as well, with .5% being seen on one under \$100M in enterprise value.</p>		<p>We do not have reason to believe that policy retentions will change materially. Policy retentions have remained stable on R&W insurance in recent years.</p>
 Coverage		<p>As a general matter, breadth of coverage has been stable in 2023. One coverage area that has come into focus in 2023 is the specific "fraud" remedy language in the policy. Many insurers are not willing to negotiate on this point, and it has become a factor in deciding who to use as the insurer on a particular transaction.</p>		<p>We do not have reason to believe that policy retentions will change materially. Policy retentions have remained stable on R&W insurance in recent years.</p>
 Carrier		<p>The Volante facility is now up and running in 2023. As of Q3 2023, there are now 27 domestic carriers.</p>		<p>Balance Partners opened a new facility in 2022, as did Volante in 2023. We find it likely that there could be additional entrants in 2024.</p>
 Claims		<p>Over the past several years, R&W insurance claim severity and frequency has increased steadily. Some markets report a slight increase in claim frequency, while others report that frequency has not changed materially. However, severity has continued to increase for most insurers.</p>		<p>We do not have reason to believe that claims volume or severity will change significantly over the next 12 months.</p>

Real Estate

Auto Liability, General Liability, Workers' Compensation, Umbrella Liability, Property



Casualty – H2 2023 Summary

The casualty insurance market is closing out 2023 with many of the now-familiar issues that have challenged brokers and clients for the past three years. Stability has surfaced in some pockets, defined mainly as single-digit rate increases and consistent coverage terms and conditions. A robust, competitive market producing flat-to-reduced rates remains elusive for most classes of real estate accounts.

Insurers continue to refine appetite and do not often veer from well-established mandates.

Advantageous criteria in the marketplace:

- Office occupancy, followed by retail and industrial.
- No alternative use or outside door (motel) exposures for hospitality.

- Mixed portfolios – determinate how much (if any) habitational exposure is included.
- Limited or no locations in problematic jurisdictions such as New York, Georgia, Florida or Texas.
- Favorable loss history.
- Newer construction (1990s or newer).
- Solid relationship and renewal intentions from incumbent insurers.
- Credible and engaged management:
 - Strong third-party contracts favoring insured backed up with certificates of insurance.
 - Consistent and demonstrable capital improvements and resolution of any risk management concerns.
 - Proactive engagement on claims and sound safety/maintenance practices.

Critical or no-go criteria for admitted marketplace:

- Heavy or 100% habitational – very few to no admitted markets are writing new habitational accounts of any size. An incumbent insurer offering reasonable renewal terms will not likely be bested. An admitted market nonrenewal will almost certainly result in only nonadmitted market solutions.
- New York City exposure, even non-habitational occupancies, due to labor law and sidewalk liability claims. Georgia is also becoming very problematic:
 - Punitive gang act/laws assign liability to building owners for injuries in high crime areas.
 - Commonly used precedent to award treble damages and express track to a jury determination.
- Florida follows behind the above two states for difficult jurisdictional environment.
- Hotels being utilized to serve nontraditional populations such as homeless or newly arrived immigrants.
- Adverse loss history, particularly crime-related such as assault/battery; weapons, etc.
- Significant percentage of subsidized or student housing.
- Use of armed security.

Keen underwriting continues, especially for risks falling somewhere in between the most advantageous and automatic declinations, as underwriters seek only very well-qualified new business. Heavy workloads continue to present difficulties, with underwriters struggling to evaluate risks under tight deadlines. Providing the best information upfront is critical:

- Timely, thorough and quality submission, including supplemental applications, are especially critical to allow enough time for loss-control visits if needed.
- Executed third-party contracts demonstrating strong indemnification obligations and insurance requirements in favor of building owner/property manager.
- Loss summaries with details on larger and/or open claims as heavy scrutiny of loss history continues.
- Use of analytics to understand risk retention versus premium trade-offs upfront.
- Clear and realistic guidance on pricing/coverage goals.
- In-person underwriting meetings where appropriate and/or useful if client has a compelling or unusual presentation or circumstances.

The nonadmitted market continues to perform erratically:

- Last-minute nonrenewals or refusal to write certain portions of a risk are more common, leading to last-minute scrambles for solutions.
- Difficult risks may find only one or two renewal options, usually with several adverse exclusions.
- Obtaining primary quotes and building entire excess tower is now nearly always within days of expiration.

Exclusions continue to be the preferred method of dealing with the potential of any catastrophic loss potential or uncontrolled exposure, generally without much negotiation. The more information that can be provided about an insured's internal training, policies and protocol around high-profile risk areas such as abuse/molestation, human trafficking and more, the more leverage for potential softening or removal of certain exclusions.

Adverse coverage restrictions, depending on occupancy and/or risk profile:

- Assault/battery
- Cannabis or controlled substances
- Habitability
- Animals/pets
- Firearms/weapons
- Sexual molestation/misconduct
- Human trafficking
- Discrimination
- Contractor-related, particularly New York
- Sidewalk liability (New York)
- Vermin

Umbrella/Excess Liability

Umbrella/lead excess placements in 2023 continued to be challenging as the traditional working layer of primary auto and general liability has now expanded to \$2M – \$3M, due to social inflation and claims severity/frequency.

- The layer immediately excess the primary liability continues to be the most critical and volatile:
 - For insureds in the admitted market, supported lead umbrella offerings remain by far the most competitive and a critical advantage. Admitted unsupported lead

umbrellas are offered by only a few insurers, all of which require a minimum attachment of \$2M/\$4M, adding to the overall cost.

- Close tracking with primary rate increases. There is little competitive leverage in the first excess position.
- Very few insurers are offering as much as \$15M in lead capacity. A \$5M – \$10M lead umbrella is now the norm in the admitted marketplace.
- Home office review seems more prevalent, with last-minute repositioning or withdrawal of support.
- Nonrenewed lead umbrellas present a problematic situation for all insureds due to scarcity of stand-alone lead umbrella markets. Nonrenewed habitational-dominated risks very often must use three insurers to achieve the first \$10M of excess coverage at very steep and opportunistic pricing, often with adverse exclusions.
- The \$15Mx\$10M layer continues to draw competitive attention in most occupancies other than habitational.
- High excess capacity remains abundant, although not consistent, until the \$25M attachment point.

Workers' Compensation

There is a general sense that rates are not as pliable as in the past. However, the market overall remained stable in 2023, especially for well-performing accounts that can provide added premium to round out other casualty lines.

Automobile

Liability rates continued to increase year over year, although generally no more than 10% to 15%. As well, physical damage premiums and deductibles continue to increase due to escalating costs of car repair/replacement. Insureds in real estate tend to own a few private passenger vehicles and/or light trucks used locally for general maintenance, and well-performing accounts do not constitute a large portion of overall premium spend. Hospitality shuttle van exposure continues to be carefully underwritten, due to the catastrophic potential of multiple passengers.

Property – H2 2023 Summary

Toward the last two months of 2023, accounts without losses and valuation that are up to par with the market began to see competition among carriers wanting to hit year-end quotas or use aggregates for the year that were about to expire. This competition is something that hasn't been seen for most of the year due to unfavorable treaty renewals and carriers trying to push rate and values up.

Soft occupancy accounts, including those primarily composed of Class A highly protected office buildings, and those with minimal losses and no catastrophic exposure, experienced rate increases ranging from 7.5% to 15%, with the former being due to replacing incumbent capacity.

Conversely, accounts characterized by adverse loss activity, less desirable occupancy classes (such as habitational and hospitality) or substantial exposure to natural catastrophe-prone (nat cat) areas experienced premium increases exceeding 20%. The heightened claims activity arising from climate-related events, including wildfires, convective storms and hurricanes, continued to exert influence on capacity, retentions and pricing dynamics throughout 2023.

The focus on valuation concerns persists as a primary consideration in the market. To address this, margin clauses and coinsurance subjectivities continue to be widely implemented, particularly within the habitational occupancy class or for accounts advocating for lower valuations. Insured parties are urged to proactively align replacement cost values with inflation trends. Failure to do so may lead carriers to independently enact adjustments, emphasizing the importance of staying current and accurate in reflecting the true value of insured properties.

Furthermore, carriers are beginning to get creative with deductibles, trying to prevent large-magnitude losses from occurring from freeze events. It is not unusual to see per location water damage deductibles versus per occurrence water damage deductibles at this time. Expect that trend to be pushed by more carriers going into the new year.

Casualty – 2024 Outlook

Significant positive changes in the market are not anticipated in 2024 at this point:

- Stability for well-performing, favored real estate classes of business is anticipated to continue, with mild rate increases and consistent terms/conditions.
- Nonrenewals will continue from regional insurers as legacy losses develop and impact these incumbent insurers that otherwise would have stayed on the risk historically.
- The latest trend of insurers carving out problematic jurisdictions or exposures from master programs at renewal will continue, particularly for New York and Georgia locations. Stand-alone placements with less favorable premium, higher deductibles and more adverse exclusions will follow.
- Specialized programs or risk purchasing groups still are writing new business, but appetite remains exceedingly narrow, demanding and particular in terms of acceptable risk profile and increased number of insurer-specific applications and required data.
- While favorable occupancy/well-performing insureds can anticipate at least reasonably predictable renewals, other complex, habitational or budget hospitality real estate risks will remain in jeopardy of +15% rate increases or nonrenewals of primary or lead umbrellas.
- Labor shortages compounded with greater-than-normal marketing activity will continue. Underwriters and staff now routinely handle accounts strictly on a calendar time frame with little ability to provide quotes well in advance of expiration. Renewal pricing is often released no more than two weeks or less before the expiration date, often without optionality due to lack of time. Post-binding activities (making last-minute changes, obtaining binders, invoices, etc.) are taking 7 – 10 days to complete, creating further backlog and frustration.

Setting clear and uncompromising expectations for clients, well ahead of the renewal, is imperative as the market conditions (especially for habitational risks) continue to shift. For insureds with incumbents willing to offer terms, the renewal process will continue to be relatively smooth; but, unfortunately, it does not seem as though customary or reliable rate reductions or significant broadening of coverages will be the norm in the next six to nine months.







Property – 2024 Outlook

With 2023 being the 6th year since 2017 to eclipse \$100B+ in global cat losses, it is safe to say we will not be seeing a soft property marketplace anytime soon. With that said, there are absolutely signs that show that the property market is becoming more stable and that the increases and capacity restraints we grew accustomed to in 2023 will begin to lessen.

While the full results of the January 1, 2024, reinsurance treaties aren't exactly known, we do know that the changes to terms and pricing that affected the 2023 property marketplace did not occur to the same extent this year. The word "stabilizing" has been thrown out numerous times over the past week regarding the property marketplace, and that is what we are expecting for our clients going into 2024, with the following considerations:

- While rates won't be as egregious as they were in 2023, we are still not expecting to enter a soft market at this point. Increases on clean, non-cat-exposed accounts will likely settle in around 7.5% to 15%. That may even get pushed lower if you are replacing incumbent capacity with opportunistic new capacity.
- Valuation concerns are here to stay and will remain an important underwriting criteria.
- Cat-exposed accounts will continue to face challenges as carriers continue to manage their aggregate.
- Perils once considered secondary will continue to face higher scrutiny, such as convective storm and winter storms.

















Auto

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 5% to 15%	Real estate owner/operator auto fleets usually consist of private passenger vehicles and light trucks used for local maintenance purposes, other than hotels, which often have shuttle vans used for guest transportation. Renewal rates have stabilized between 5% to 15% for well-performing accounts.	 5% to 15%	Moderate rate increases will continue over the next 12 months. Hotel shuttle van exposures present significant risk for potentially catastrophic claims and will continue to be carefully underwritten, particularly around staffing/experience of drivers. Shuttle routes providing 24/7 service and/or that transport guests to nearby attractions other than simply the airport are subject to greater scrutiny.
 Limits		The combined single limit of \$1M remains standard for automobile liability. Umbrella markets requiring an attachment point of \$2M/\$4M/\$4M may be problematic for some auto liability carriers and necessitate the placement of a buffer layer for umbrella/excess liability placement.		Trend of requiring \$2M/\$4M/\$4M attachment points from the umbrella market is still not widespread, although a useful tool in providing ventilation for otherwise interested carriers. Significant fleet exposure will limit the number of carriers willing to provide lead umbrella or low excess layers.
 Retentions		Physical damage deductibles and premiums continue to steadily increase as the cost of repair/replacing automobiles continues to rise. Some insurance carriers routinely are quoting with \$5,000 deductibles. Retentions for automobile liability are not common for real estate clients due to light fleet exposure and limited vehicle usage.		No widespread change expected in the next 12 months.
 Coverage		Automobile coverages are largely statutorily driven, but there are extensive broadening endorsements available which vary from carrier to carrier. Since most serious claims arise from third-party bodily injury scenarios, coverage enhancement endorsements are not generally difficult to obtain.		Availability of reasonably broad automobile liability and physical damage coverages are anticipated to continue over the next 12 months.
 Carrier		Insurers are still offering automobile coverage in conjunction with other casualty lines without issue. Monoline automobile coverage, especially for clients with adverse loss experience, is difficult as stand-alone markets for these risks are severely restricted. Small regional carriers may still provide options through nonadmitted markets and/or traditional direct writers such as Progressive and State Farm.		Monoline auto markets will continue to be scarce due to the lack of additional casualty premium needed to balance the potential for severe losses.
 Claims		The automobile liability claims continue to present very significant exposure to carriers, as severe claims can result from a single occurrence, both from owned- and non-owned auto exposure. Distracted and/or stressed driving continue to contribute considerably to accidents, and hospitality risks with guest shuttle vans carry the risk of multiple passenger injuries.		Flat-to-reduced rates are not anticipated in the foreseeable future, given the inherent danger and potential for severe losses that driving presents overall across industries.















General Liability

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 0% to 25%	<p>Insureds with well-performing office/retail/industrial portfolios, can obtain 0% to 10% increases. Hospitality accounts with favorable loss history are also experiencing stable rates, depending on the class of hotel. Well-performing habitational accounts are taking higher percentage increases, up to 15%, with poorly performing risks continuing to experience 30%+ increases. Nonrenewed habitational accounts are experiencing significant increases of 30% to 50% and higher, due to lack of admitted markets.</p>	 0% to 25%	<p>Well-performing non-habitational/hospitality accounts will continue to experience reasonable market interest, providing options and leverage over the next quarter. Incumbents still retain considerable advantage and occasionally will seek to negotiate a renewal well in advance to keep the risk out of market. More difficult risks such as alternative-use hospitality and nonrenewed habitational accounts will continue to struggle to find feasible market options.</p>
 Limits		<p>\$1M/\$2M/\$2M remained the standard limit offering. Per-location aggregate limits have stabilized, usually with policy caps. Sublimiting assault/battery and/or sexual abuse/molestation (as opposed to remaining silent) or including defense within the limits has become more common, particularly for habitational/hospitality risks.</p>		<p>Umbrella carriers requiring a \$2M/\$4M/\$4M attachment are the norm only for admitted insurers writing unsupported lead umbrellas. Nonadmitted excess liability insurers are not providing attractive credits for attaching at a \$2M/\$4M/\$4M general liability limit – rather, just providing very short layers excess the traditional \$1M/\$2M/\$2M.</p>
 Retentions		<p>\$1M/\$2M/\$2M remained the standard limit offering. Per-location aggregate limits have stabilized, usually with policy caps. Sublimiting assault/battery and/or sexual abuse/molestation (as opposed to remaining silent) or including defense within the limits has become more common, particularly for habitational/hospitality risks.</p>		<p>Retentions are expected to remain heavily dependent on class of business and/or loss history, although in general first-dollar coverage options continue to diminish as insurance carriers struggle to stabilize healthy profitability margins. Small retentions of \$10,000 to \$15,000 are becoming more common tools to engage insured participation in managing risk.</p>
 Coverage		<p>Adverse exclusions (communicable disease, abuse/molestation, assault/battery, New York labor law, human trafficking, etc.) remain widespread, particularly for habitational and hospitality risks. Negotiation to remove certain exclusions is possible only in highly competitive situations and/or for an increase in premium. Removal of geographically driven exclusions in some classes of business (e.g., New York City), are nearly impossible to achieve.</p>		<p>Reducing coverage via exclusions, driven primarily by class of business, crime score or specific loss profiles, is expected to be a continuing trend with little negotiating ability, particularly for those real estate occupancy classes that continue to suffer such type losses, mainly habitational and/or hospitality.</p>
 Carrier		<p>Carriers have not significantly changed appetite, seeking new business opportunities mainly in favorable office/retail/mixed-use occupancies. Best-in-class hospitality operations are also of interest for many carriers, but Class B establishments are not favored. Neither are any hotels with alternative use. Carriers for habitational risks continue to constrict, especially for the larger middle market size portfolios and older garden-style/frame construction. At this point, nonrenewed habitational accounts are nearly universally finding replacement coverage only in the nonadmitted marketplace.</p>		<p>While there has been some new carrier capacity entering the market, these tend to be very specific in appetite. Overall, primary market options have not significantly expanded and are not anticipated to do so soon, especially for the more difficult occupancies.</p>
 Claims		<p>General liability claims and carrier-combined ratios are continuing to be driven by adverse litigation trends exacerbated by long-term inadequate pricing. Concern over potential high payouts for violent crimes or catastrophic “deep-pockets” losses for which the insured is tapped to participate continue to drive underwriting focus.</p>		<p>While carriers continue to deploy capital for well-performing, favorable classes of real estate business, generating limited competition for some insureds, claim frequency and severity of settlements continue to increase, dampening robust recovery overall.</p>

Workers' Compensation

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 -1% to 10%	<p>The workers' compensation market has remained stable over the past few years, subject to state of operation, industry and loss experience. There are signs of slight market cooling recently, but not to the point of establishing a trend just yet.</p>	 -1% to 10%	<p>Rates should continue to be relatively stable, although with mild increases due to uptick in claims driven by labor shortages, particularly in the hospitality sector. Continuing inadequate staffing with less-skilled employees will lead, over time, to increased workers' compensation losses and premiums.</p>
 Limits		<p>Workers' compensation limits are statutory, so not defined by the broker or carrier. The standard limit of \$1M for the employer's liability component of coverage has remained available without issue.</p>		<p>No changes foreseen.</p>
 Retentions		<p>Guaranteed cost workers' compensation policies remain common in the real estate sector and widely accessible. Larger and more sophisticated clients with the interest and ability to control claims costs by utilizing strong risk management practices continue to pursue large retention programs. Hybrid or structured programs (Sompo, Strategic Comp) are also attractive options that provide certainty in ultimate cost while providing potential for return premium during well-performing years.</p>		<p>No changes foreseen.</p>
 Coverage		<p>Workers' compensation coverages are standard regardless of carrier, with few broadening endorsements (e.g., blanket waiver of subrogation and voluntary compensation). Coverages for workplace-related injuries and loss of income are set by state statute, and exclusions are common across the marketplace. There have been no significant coverage changes or trends developing over the last 12 months.</p>		<p>No changes foreseen.</p>
 Carrier		<p>Insurer interest in workers' compensation remains strong, with some carriers looking to lead with sizeable workers' compensation exposures/premiums in the real estate sector to bolster the often more-challenging general liability performance.</p>		<p>Workers' compensation remains largely a profitable line of business, and we anticipate continued strong carrier support for the foreseeable future despite a potential increase in claims activity over the next 12 months.</p>
 Claims		<p>Retail and business/leisure travel have long recovered and/or continue to increase post-pandemic, with claims activity by now approaching prior normal claims levels for these occupancies. Increased claims may result from labor shortages and lack of training in many service-related occupancies.</p>		<p>Labor shortages of experienced hospitality workers may contribute to an increase in claims. Lingering questions around working remotely and safe return to work will continue, creating potential for increased claims activity.</p>

Umbrella Liability

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 10% to 50%	<p>For incumbent markets willing to renew, lead umbrella placements have settled into relatively stable pricing, with normal increases of 5% to 10%. Commercial risks (retail, office and light industrial) have the lowest increases and most stability. Nonrenewed lead umbrella placements (unsupported habitational and/or poorly performing risks) lead to severe pricing correction. Flat lead umbrella pricing is not yet occurring; the best renewal result might be a 5% to 7% rate increase. Carriers often disregard underlying pricing as a benchmark of what its own capacity should cost, and price accordingly. For stable renewals, 10% increases are the norm; for nonrenewed accounts, 50%+ is typical.</p>	 10% to 50%+	<p>Competition for lead umbrella options of all classes will remain limited as this layer is perceived as a working layer and underwritten conservatively. Insurer options for habitational risks are anticipated to remain extremely limited, with corresponding opportunistically high premiums. Increasing competition excess of \$10M or \$15M will contribute to continuing competition and providing some pricing relief in upper excess layers.</p>
 Limits		<p>Primary carriers that also provide lead umbrella coverage hold considerable advantage in the marketplace. \$10M lead umbrellas are most common in the admitted space for favorable occupancies. Habitational and poorly performing risks are experiencing splintering of once-intact lead \$10M umbrella layers into two or three carriers, which drives up the cost of the overall excess tower considerably. Insurers are still reducing total capacity offered, with \$25M layers offered only for the most favorable of insureds and usually only at a \$25M attachment point. Purchasing additional limits is still price prohibitive.</p>		<p>We expect current trends to continue for the next 12 months with increased capacity and competition occurring in the higher excess layers (excess of \$15M).</p>
 Retentions		<p>Minimal standard retentions still apply. Carrier pricing not impacted heavily with primary retention increases.</p>		<p>We expect current trends to continue for the next 12 months.</p>
 Coverage		<p>Most adverse exclusions are being driven by occupancy, insured-specific loss history, crime scores, etc. Human trafficking exclusion remains a deep concern for hospitality risks, but exclusion is still not universal. Assault/ battery and sexual abuse/molestation exclusions are widespread for habitational risks, and we are seeing more exclusions for firearms, discrimination, animals and habitability at the lower limit levels.</p>		<p>Coverage restrictions will persist throughout the next year. Formal safety and risk management plans around assault, sexual abuse and human trafficking are key in negotiating exclusion removal. Account-specific claims, including violence and bodily injury, will drive introduction of new exclusions.</p>
 Carrier		<p>Carriers revise appetite, capacity and attachment point regularly, although lead umbrella limits for new business opportunities are deployed very cautiously. Generally, lead umbrellas provided by the primary general liability carrier are nearly universally more competitive than unsupported carrier pricing. Risk purchasing groups continue to be exceedingly selective with renewals and new business; however, they continue to offer very competitive options when interested in an account. Reliance on crime scores as an underwriting tool and guideline is becoming frequent.</p>		<p>Carrier appetites are reactive to loss trends. With no sign of slowing claim frequency and severity, we expect the current course to persist through the year. In areas where appetite is static, we anticipate capacity to fluctuate.</p>
 Claims		<p>Two major claim trends continue to contribute to current market pressures:</p> <ol style="list-style-type: none"> 1) Social inflation drives rising claim payouts, loss ratios and insurance costs. 2) Significant increase in claim severity, settlement awards and verdicts. 		<p>Claim trends will continue through the next 12 months, especially with the use of litigation financing.</p>

Property

METRICS	H2 2023 YOY CHANGE	H2 2023 COMMENTARY	12 MONTH FORECAST	12 MONTH FORECAST COMMENTARY
 Pricing	 10% to 15%	<p>Accounts exhibiting minimal or no exposure to catastrophic events, coupled with a favorable loss history, are currently witnessing rate hikes in the range of 10% to 15%. Conversely, less desirable occupancy classes, less lucrative accounts, and those situated in states prone to higher nat cat losses (Florida, Louisiana, Mississippi, Texas) are experiencing more substantial pricing adjustments, exceeding 25%. Florida-heavy accounts, particularly, are still grappling with these significant increases, especially if they are dealing with a single carrier writing the risk, such as AmRisc. Clients experiencing these large increases are now exploring alternatives to insurance such as parametrics or captives.</p>	 10% to 15%	<p>2023 is expected to eclipse \$100B in global cat losses, making it the 6th time since 2017 to do so. Initial feedback from January 1 treaty renewals is that increases were up single digits to low double digits and terms remained per expiring, with many treaties being oversubscribed. We expect those increases to be passed on to clients starting in 2024 as the market begins to stabilize. The exceptions to the above are cat-heavy portfolios, tougher occupancies (like multifamily) and loss-heavy accounts who will see potential rate increases starting at 25%.</p>
 Limits		<p>Throughout 2024, we saw carriers cutting back on limits on loss-sensitive accounts and those with a heavy cat footprint. That trend continued in the 4th quarter, but as we are nearing one full insurance cycle of carriers doing so, there are signs that the carriers are now getting comfortable so limit corrections should be significantly curtailed going forward.</p>		<p>Carriers will continue to scrutinize named windstorm limits, specifically in Florida and Texas, especially on accounts written by a single carrier. On shared and layered accounts, we are beginning to see carriers who previously cut capacity now offering more capacity, and we expect this to continue. Clients' decisions on named windstorm limits are increasingly contingent on pricing considerations, resulting in a growing number opting not to acquire full policy limits for wind coverage.</p>
 Retentions		<p>Pressure still remains for new/higher water damage deductibles on accounts with and without water-related loss activity. Several carriers have been pushing location-specific water damage deductibles (instead of per occurrence) to account for the recent freeze events. Wind deductibles for accounts heavily exposed to catastrophic events continued to rise above the 5% norm.</p>		<p>The higher water damage and hail deductibles are, unfortunately, here to stay, and we will continue to see that push throughout 2024. The push for higher wind deductibles could still continue on accounts with losses, but if a client experienced a higher wind deductible in 2023, we don't expect them to absorb another increase in 2024.</p>
 Coverage		<p>Across the board, the majority of renewals have experienced either no change or minimal adjustments to coverage terms and conditions. Valuation concerns persist, particularly in residential accounts, where underwriters are increasingly emphasizing coinsurance and/or margin clause subjectivities in response to identified areas of concern.</p>		<p>Supply chain disruptions and inaccurate valuations are compelling underwriters to scrutinize reported replacement costs and business interruption/contingent business interruption exposures. This heightened attention may lead to the enforcement of corrective measures, if not already implemented. Accounts without such issues or risk exposure can anticipate minimal to no alterations.</p>
 Carrier		<p>The end of 2023 did not see as many carriers cut back on capacity or exit off accounts as we did in the first nine months of 2023. That being said, coastal accounts, especially in Florida, are still limited to carriers willing to entertain the exposure. AmRisc and Velocity, while not exiting the marketplace, have been reevaluating their cat books and decreasing capacity, increasing premium substantially or both.</p>		<p>While there have been few new entrants into the property marketplace as of late, there have also been equally few carriers exiting/cutting back in the property marketplace. We expect this trend to continue throughout 2024, with the exception of some new MGA capacity opening up in the marketplace potentially in Q1.</p>
 Claims		<p>Advocacy for carrier claims still faces ongoing challenges, largely due to rising loss estimates and reported losses stemming from prior events.</p>		<p>Anticipated to persist, this pattern underscores why underwriters are intensively focusing on specific accounts and occupancy classes with notable undervaluation or poor valuation.</p>

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