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Insurance Market Report

JUNE 2023

Foreword

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The big picture: A tale of two markets

Two distinct markets are emerging as we progress through 2023. On the property side, many buyers are experiencing their most challenging market in at least two decades, but within the casualty and liability classes, they are seeing less challenging conditions.

This market update includes a special spotlight on current trends within the property market and the various strategies being utilized by insurance buyers in partnership with their brokers.

As discussed in our March 2023 report, the hard reinsurance market remains a key factor driving capacity constraints within property insurance. Those dislocations were even more pronounced at the market's April 1 renewals.

As anticipated, clients with coastal exposures and/or less desirable risk profiles (national/risk management size, tougher occupancies, outstanding recommendations, etc.) have experienced more difficult renewals. They have taken what coverage they can get, where it is available, and have been ready to consider the alternatives.

The impact of inflation on valuations continues to compound many of these pressures, and severe weather events during the first half of the year—following record claims from Hurricane Ian in 2022—are adding further operational friction and loss cost pressures.

Catastrophic risks are pushing the market into a much harder marketplace than anticipated. In addition to traditional CAT perils, losses from severe convective storms, large hail losses and tornadoes are driving double-digit increases in 2023 so far.

At this stage, it seems likely the challenging headwinds within the property business will continue through the rest of the year and most likely into 2024.

Competition returns to the rest of the market

If the property market is still rising, within casualty classes, a more rational market is developing.

As our rate trends charts demonstrate, pricing increases are beginning to ease for many casualty lines of business, including those that experienced severe capacity constraints over the past three to four years, including cyber and D&O.

Market dynamics at a glance

Property:

Buyers are experiencing an extremely challenging renewal phase, driven by the hard reinsurance market and elevated recent catastrophe claims

Casualty:

A more rational market is emerging, but social inflation and nuclear verdicts will continue to challenge pricing trends

Cyber:

Ransomware activity is picking up again, and the insurance industry has responded in a smart and meaningful way to accumulation concerns

D&O:

An influx of capacity over the past 12 months has brought relief to the space, with public companies enjoying rate discounts

Many accounts are renewing at single-digit rate increases, with plenty of choice on the program. Bucking the trend in quite a spectacular way is public D&O, where rates have pulled back from the spikes we saw in 2020, as capacity and competition return to the market.

Nonetheless, it is clear that carriers are committed to maintaining underwriting profitability with no sign of the behaviors that characterized the prior soft market. All in all, we see a sensible and sustainable market emerging on the casualty side of the business.

Reasons to be hopeful

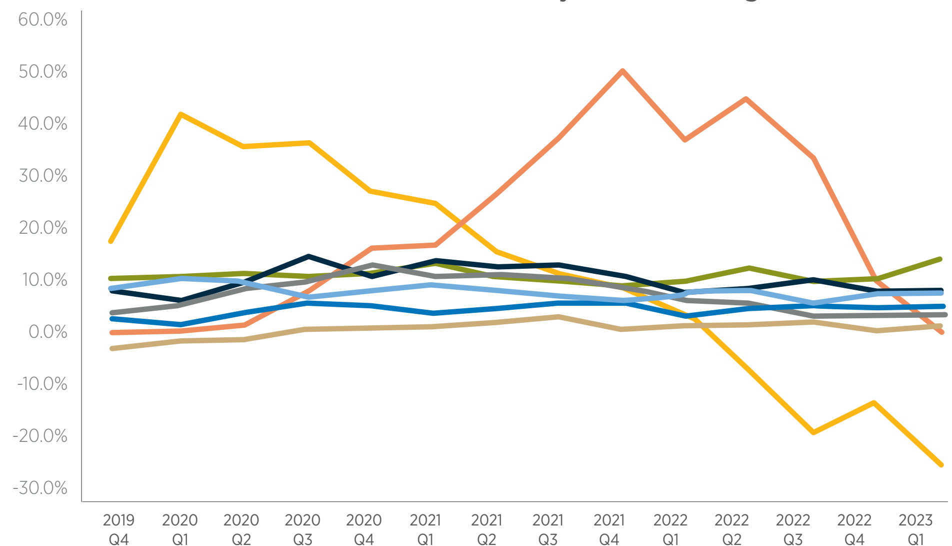
Our latest insights on the US wholesale market are set against the backdrop of what continues to be a highly uncertain macroeconomic and geopolitical landscape. While it is impossible to predict where the next curve ball could come from, there are some areas we are closely watching.

In the economy, action by the Fed to raise interest rates is helping curb inflation. The supply chain logjams that were such a feature of the past three years have diminished, but there is still talk of a looming recession.

Meanwhile, the insurance industry has responded in a smart and meaningful way to a number of challenges, including cyber risk and the pandemic, and we can expect this approach to continue.

While property remains a challenging class of business, and there is no way to sugarcoat the renewal challenges that lie ahead, there are tools at our disposal to minimize some of the impact, which will be covered later in this report.

Please continue to reach out early to your brokers, be ready to present your risk profile as transparently as possible and work with us to proactively navigate this bifurcated market. As ever, a big part of our role remains the facilitation of our clients' growth, so you can mitigate the downside while seizing advantages as and when they arise.



Source: Gallagher US Clients

Spotlight on Property: Navigating a Perfect Storm

Key takeaways

- A significant dislocation in the (re)insurance sector is directly impacting pricing and capacity in the primary market, particularly for CAT-exposed business.
- The hard property market will continue for some time, with inflation, valuation adjustments and rising loss costs as other key drivers.
- Overall, rates online increased by an average of 14% in the first quarter of 2023 and by 36% for the top quartile.
- Pricing is rising steeply for CAT-exposed accounts. There are fewer markets available and, in some cases, cover is not available at any price.
- Underwriters are repricing risks exposed to secondary perils.
- A lack of capacity from incumbent markets is pushing buyers to seek alternative options, with a surge of business into E&S markets and an uptick in inquiries around captive solutions.

Reinsurance—the unseen influence

We remain in the midst of a perfect storm as far as property market dynamics are concerned, with the rising cost of reinsurance being the dominant trend.

Often described as a driving force, the reinsurance sector is experiencing its most dislocated market since 2005. This is having a direct impact on both how much protection carriers themselves can afford and, as a direct result, the limits they themselves are able to offer.

The hard reinsurance market has been triggered by a series of major catastrophe losses—including losses in excess of $50 billion in relation to Hurricane Ian—and a lack of substantial new capital entering the market. Global reinsurance capital declined by 12% during 2022 to $638 billion, according to Gallagher Re.

It comes at a time when reinsurers are reevaluating their exposure to natural catastrophe business, having failed to earn their cost of capital in the past five out of six years (2017–2022).

Unlike previous hard markets—including those post-hurricane Andrew, 9/11 and Hurricane Katrina—we are not yet seeing an influx of capital into the sector to take advantage of the more favorable pricing environment.

Treaty reinsurance renewal outcomes will continue to dominate the primary property market for the rest of the year and likely into 2024.

CAT capacity crunch

The challenging dynamics in the reinsurance market continue to directly impact available capacity within primary property. There are several larger commercial carriers seeking reinsurance renewal at midyear, and we know they are factoring in further price increases.

Insurers are taking on more net risk and increasing their retained volatility. This impacts their own CAT capacity deployment and aggregation management, pricing, and the overall limits carriers are able to deploy. It also influences attachment points and pricing.

The most obvious impact at present can be seen in the outsized rate increases for CAT-exposed risks. We are seeing an increase in the number of insurers it takes to complete a program, with many incumbent markets cutting back on their expiring capacity.

Some carriers are holding back capacity for new business at opportunistic pricing, with rates for CAT-exposed portfolios seeing average increases of 30% during Q1 2023.

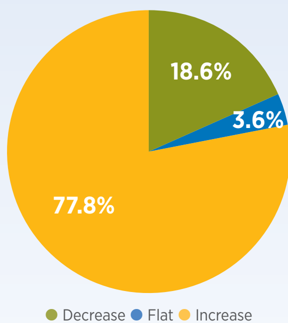
Overall, there is an absence of significant new capacity due, in part, to a lack of confidence in the market's ability to price extreme volatile risk. Property books with Florida assets and/or significant coastal wind exposure are experiencing rates in excess of these averages, often with lower CAT limits and higher deductibles/retentions.

Insurers continue to adjust their catastrophe exposures in an effort to manage their portfolio aggregates (and reinsurance spend). And for European insurers, the strengthening of the US dollar has eroded how much risk capital they have available for North American exposures. Capacity on offer via MGAs and other delegated authorities has also been significantly curtailed.

At the same time, many large property programs are being restructured, causing a shift from single-carrier placements to quota-share or shared and layered programs.

Together, these dynamics are pushing business into the open market and threatening to overwhelm wholesale and excess and surplus (E&S) line markets. Business flows into the latter have grown significantly during the first half of the year.

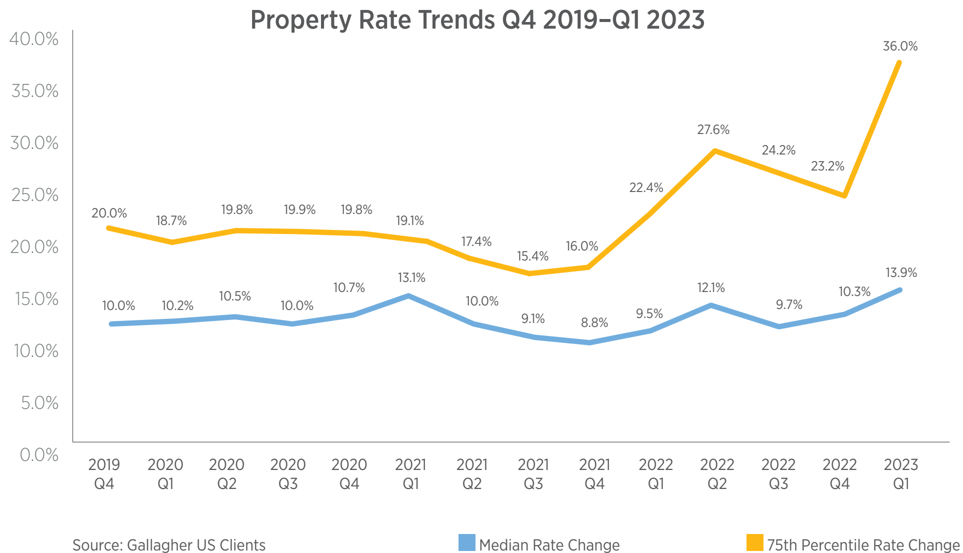
Q1 2023 Property Rate Changes
Gallagher — US Clients



Decrease Flat Increase

13.9%

median rate change in Q1 2023*



Secondary perils reexamined

The attritional impact of secondary catastrophe perils (most recently detailed in Gallagher Re's Q1 Natural Catastrophe report) is further denting (re)insurer appetite for CAT-exposed risks. Atmospheric rivers and severe convective storms (SCSs) during the first three months of the year drove insured losses to nearly $10 billion, resulting in one of the most costly first quarters on record.

Deductible trends

- Increased deductibles, in particular for water damage, as the loss trend continues to rise
- Percentage deductibles for SCSs and hail
- Increase in percentage of named windstorm deductibles from 2% to 5% (Florida is generally now 5% across the board, with some clients taking even higher deductibles—10%–15%)
- Earthquake deductibles remain relatively stable
- Freeze deductibles pushed to apply per asset, not per occurrence

There is growing evidence that lightly modeled or non-modeled events, such as wildfires, winter freeze/bomb cyclone events (such as last year's Winter Storm Elliot, which cost insurers an estimated $5.4 billion) and SCSs are increasing in frequency and magnitude. As a result, insurers are charging more premium to these types of loss drivers.

We are seeing more scrutiny of accounts previously considered to be non-CAT exposed. Clients with exposure to northeast wind, wildfire and/or severe weather events across the Midwestern region may now be seen as riskier than in the past, with additional loadings and/or exclusions applied.

Currently, NOAA continues to expect an above-normal season in the North Atlantic, although it is worth keeping in mind that an active season does not always result in a major landfall, just as it only takes one major loss in an otherwise benign year. Meanwhile it is always earthquake season, as we were reminded by the February 6th earthquake sequence in Turkey.

Inflationary impacts continue

Global inflation and economic uncertainty are causing an increase in the cost of capital, driving up loss costs and adding to rising property rates. Supply chain backlogs are easing in comparison to 2022 but remain a factor when considering potential rebuild and restoration costs.

Generally speaking, the increased cost and uncertain availability of construction materials and labor are resulting in more downtime and business income losses, which are becoming a larger percentage of the overall loss.

Carriers are demanding up-to-date valuations where inflation has caused insurable amounts to rise, especially in regions that are exposed to natural catastrophes. This is in part due to additional concerns regarding the impact of demand surge on loss costs following an event.

We are seeing an increased focus on inflation in all renewal discussions, with underwriters seeking to better understand how clients are determining the replacement value of their assets. Many of these are being updated for the first time in a while, and this is creating significant operational friction.

Clients who have seen values remain unchanged and/or unsupported are seeing their rates increase dramatically, a reduction in capacity offered and, in some cases, submissions falling to the bottom of the pile.

Increased values are, however, leading to more demand for all-risk covers and increased CAT limits, further exacerbating the ongoing supply-demand imbalances in the property market.

Buyers look for alternatives

Looking ahead, clients continue to anticipate an extremely challenging property renewal and are resigned to the lack of wholesale capacity. Buyers are left with little choice but to retain more of the risk on their own balance sheets, opt for self-insurance or seek coinsurance for certain layers.

An absence of peak zone catastrophes in 2023 could alleviate some of the market pressures in the near term, but other factors will continue to drive market conditions.

Terms and conditions continue to tighten

- Buyers unable to meet minimum valuation metrics receiving outsize rate increases, decreases in capacity and more restrictive terms
- More restrictive language around valuation
- Carriers dissatisfied with the accuracy of the reported values may decline coverage
- Increasing values may impact the CAT coverage that carriers are willing to deploy
- Increase in nonconcurrent T&Cs in layered and shared programs
- Decrease in sublimited coverages
- Sublimits for named windstorm coverage
- Expansion of CAT zone definitions for wind/hail and freeze coverage limitations

More favorable renewal pricing and terms exist for clients with secure incumbent capacity and attractive risk profiles, including those with up-to-date valuations. Buyers with single admitted carriers and a clean loss history are achieving a better result in the current market, with rates in the single digits to low teens.

A strong risk profile also helps prevent claims and losses, further reducing costs and optimizing your total cost of risk. You can improve your risk profile through risk exposure reduction, implementing loss prevention programs and selecting appropriate insurance coverage. Insureds are using all the tools at their disposal to minimize the impact of the hard market, buying what they can this year and demonstrating a willingness to consider all the alternatives. This includes options that lie outside of traditional markets, including alternative risk transfer via captives and parametric structures.

They are retaining more risk with either percentage deductibles, self-insuring, purchasing less catastrophe coverage or—worryingly—in some cases, choosing to insure to a limit less than the replacement cost.

In the latter situations, underinsurance is a critical concern, leading to downstream issues with lenders over noncompliant loan covenants, and opening up the potential for claims disputes, lengthy periods of business interruption and significant uninsured cost burdens should a loss arise.

Captive owners are continuing to make more use of their vehicles, benefiting from broader, more affordable coverage that is tailored to their risk profile. They are also gaining more direct access to reinsurance markets at a time when these relationships really count. Buyers with captives are funding additional layers throughout their programs.

Meanwhile, the hard market is pushing non-captive owners to explore risk retention solutions for the first time, as they carry out due diligence on the various captive jurisdictions and structures, and assess the setup costs and time involved.

Clients are also exploring alternative risk transfer options such as ILS and parametric products to secure the CAT coverage they need.

As we have seen in previous hard markets, some of this business may not come back into the commercial markets, even after traditional capacity returns and rates begin to stabilize.

> This market has been several years in the making and what really precipitated it was the reinsurance renewals. This has come on the back of reinsurers losing money six out of the past seven years and saying, 'Enough is enough'. Until profitability returns, we're not going to see capital being attracted to either the reinsurance or insurance side.
>
> We are looking at parametric risk products, especially in cases where clients can't purchase the limits they need. And we're considering insurance-linked securities, where we're working a lot closer with our Gallagher Re team. Our clients are looking outside of the traditional insurance market more than ever before. Those who don't have captives are considering forming captives, but this is not a silver bullet.
>
> **Martha Bane, Executive Vice President, Managing Director, Property Practice, Gallagher**

Casualty: Rate Increases Start to Stabilize

Key takeaways

- We continue to see moderate rate increases across casualty lines, particularly within auto, general liability (GL) and lead umbrella business.
- Social inflation and nuclear verdicts continue to impact the casualty market, driving rate increases. We can expect this to continue for a number of years.
- There is more choice of markets at renewal, and capacity is even returning to mid-excess layers.
- The uncertain economic environment could start to impact claims trends.
- Emerging risk areas, such as PFAS chemicals and biometric privacy, breaches are being monitored closely, with carriers introducing exclusions (BIPA).

A more rational market is emerging within casualty classes of business, with competition and capacity coming back in. We are seeing steady price increases ranging from 5% –7%, primarily in general liability (GL), auto, umbrella and excess coverage. Workers' Compensation remains the outlier, with insureds typically seeing flat-rate renewals.

Having seen substantial pricing corrections during 2019–2022 (stabilizing the effect of the soft market that preceded it), a certain level of pricing moderation was anticipated. The decision by many clients to take on substantial risk retentions is also subduing the rate of price increases, even where the exposure remains the same.

There is more competition in the low to mid layers of the excess liability placement, while the lead umbrella marketplace remains limited. More markets are willing to provide rate relief above certain attachment points in the excess liability tower. Pockets that remain challenged include large auto fleets, New York construction (where state labor laws continue to pose a challenge) and certain parts of the real estate sector.

Auto liability rates have yet to stabilize, and there is no sign this will reverse anytime soon, as an increase in jury awards, general inflation and the activities of third-party litigation funders (TPLFs) continue to drive pricing upward. Supply chain disruptions and labor shortages have eased, but the cost of repairs remains much higher than in the pre-pandemic era.

Looking ahead, the combination of social inflation and nuclear verdicts will continue to shape how underwriters price the business, with the longer-tail nature of casualty claims bringing an additional layer of complexity.

However, the rate increases of the past three years have gone a long way toward creating a market that is more stable and sustainable from a carrier perspective.

Meanwhile, tort reforms currently underway in Florida could pave the way for similar legal developments elsewhere, ultimately curbing the worst effects of social inflation. On March 24, 2023, Governor Ron DeSantis signed HB837 into law[1] , reducing the statute of limitations for negligence actions from four years to two years, among other things.

[1] Governor Ron DeSantis Signs Comprehensive Legal Reforms Into Law (flgov.com)

Nuclear verdicts drive pricing

General inflation is driving up the overall level of exposure and cost of claims, ultimately resulting in higher premiums and creating additional pressure for insureds. We are working with clients to review their coverages and the feasibility of retaining more risk in order to reduce these costs.

Social inflation continues to impact casualty classes, with an exponential growth in settlement amounts. The median verdict against corporate defendants increased 95% from 2020 to 2022, reaching $41.1 million. The total costs of these verdicts in 2022 amounted to $18.3 billion, with 20 verdicts surpassing $100 million and four exceeding $1 billion.[2]

We could see the cost-of-living crisis impacting the size of settlements within GL, auto and umbrella business, as jurors become more likely to factor current financial challenges into their considerations.

This is against the backdrop of an ongoing trend toward more sympathetic juries and wider public sentiment against corporations. In New York, a law has been passed[3] requiring defendants to disclose how much coverage they have in place within 90 days of answering the complaint. Together, these developments will continue to drive severity.

The more challenging economic environment could also impact the frequency of claims within Workers' Compensation, as we have seen an uptick in claims during other economic downturns, in particular during times of rising staff redundancies.

Nevertheless, WC remains an attractive class of business for carriers due to its relative stability and predictability, and there is a lot of healthy competition for the business.

Carriers move to exclude emerging risks

While it is impossible to predict if and where the "new asbestos" will arise, claims involving PFAS (a group of over 4,000 chemicals called "per- and polyfluoroalkyl substances") are becoming more prevalent. By their nature, these pollution claims typically involve multiple carriers and policy periods, with settlements ranging from millions of dollars to $4 billion. It is likely we will see more exclusionary wording in GL policies going forward as a result.

The Biometric Information Privacy Act (BIPA) in Illinois is another emerging risk attracting attention due to large settlements resulting from violations of biometric privacy. This is where companies are found to have used face scans and fingerprints without the consent of employees and/or consumers.

To date, there have been a number of high-profile class-action rulings, including several settlements with users over the collection and storage of facial scans. Carriers are introducing wordings to protect them against the potential for privacy violation actions by explicitly excluding BIPA actions or including cyber incident exclusions.

As we approach renewals, clients need to be prepared to answer tough and new underwriting questions relating to these emerging issues, and/or accept the introduction of mandatory exemptions.

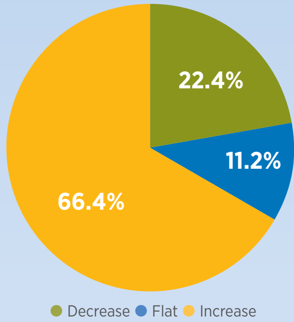
[2] A New Era for Social Inflation: What's Behind the Explosion in "Nuclear Verdicts"? (verisk.com)

[3] NY State Senate Bill S7882A (nysenate.gov)

Meanwhile, we are continuing to work with insureds to manage the impact of inflation on their programs, specifically by converting to noninflationary exposures and/or negotiating audit swings.

For those in tougher classes of business and distressed industry sectors, where harder market conditions continue to prevail with no end in sight, it pays to consider selective self-insurance strategies via captives or other risk retention structures.

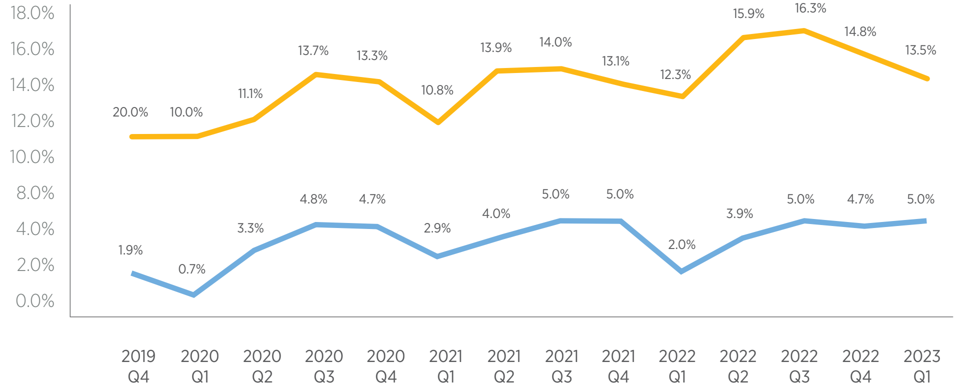
Q1 2023 General Liability Rate Changes
Gallagher — US Clients



5.0%

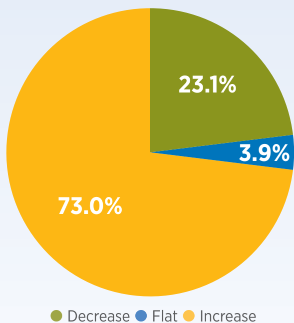
median rate change in Q1 2023*

General Liability Rate Trends Q4 2019–Q1 2023



Source: Gallagher US Clients — Median Rate Change — 75th Percentile Rate Change

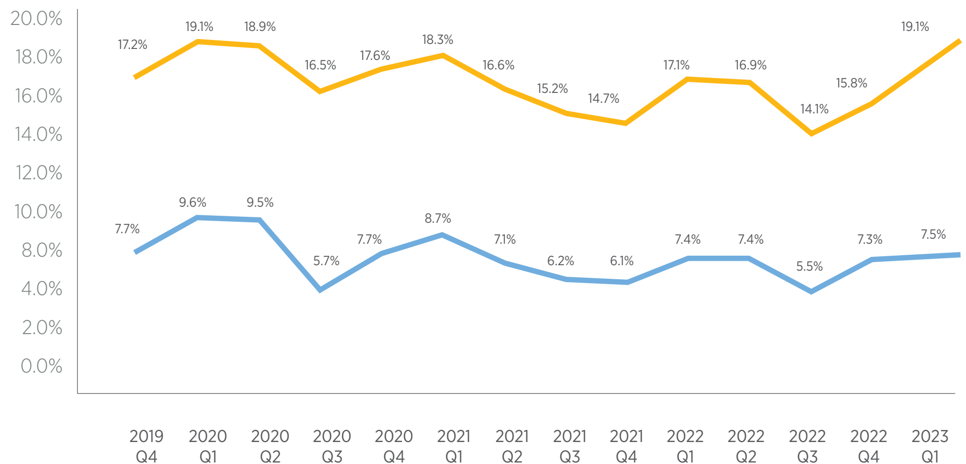
Q1 2023 Commercial Auto Rate Changes
Gallagher — US Clients



7.5%

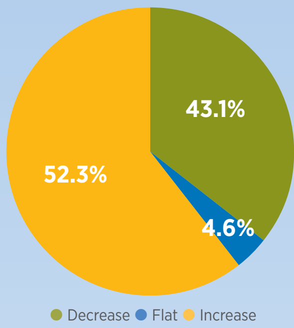
median rate change in Q1 2023*

Commercial Auto Rate Trends Q4 2019–Q1 2023



Source: Gallagher US Clients — Median Rate Change — 75th Percentile Rate Change

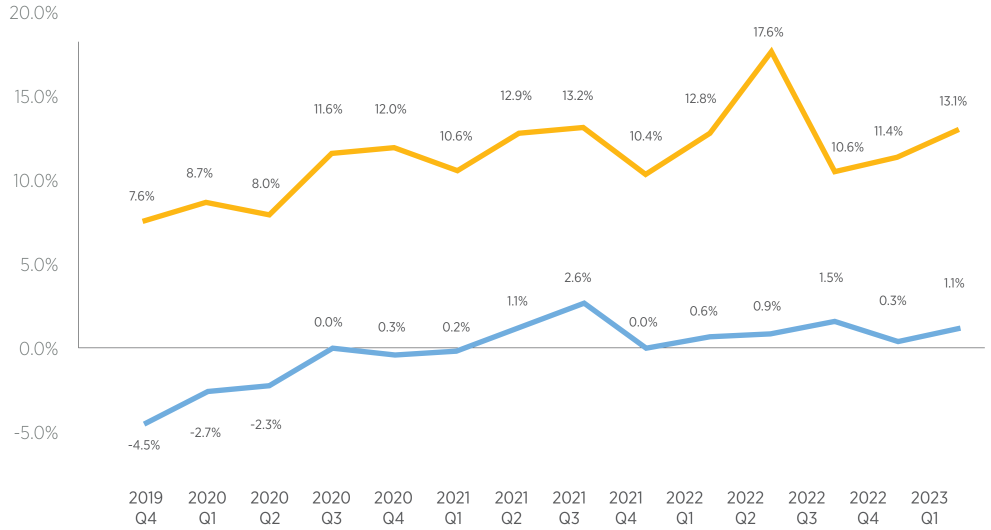
Q1 2023 Workers' Compensation Rate Changes
Gallagher — US Clients



1.1%

median rate change
in Q1 2023*

Workers' Compensation Rate Trends Q4 2019–Q1 2023



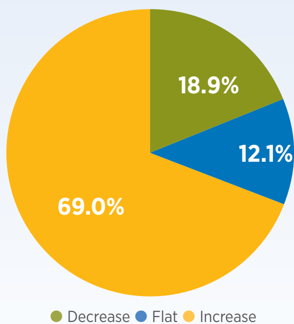
Source: Gallagher US Clients　Median Rate Change　75th Percentile Rate Change

Speaking to other casualty practice leaders in various regions, regardless of industry, we are all starting to see some competition and price increases ease somewhat in mid-excess layers, whereas back in 2020 they were in full retreat.

When you compare the casualty business to where it was two years ago, it is more rational. But there are still pockets that are very challenged. We are still seeing pushing for rate, but at a more moderate pace. We aren't seeing any end in sight for auto.

Jessica Cullen, Managing Director, Casualty Practice, Gallagher

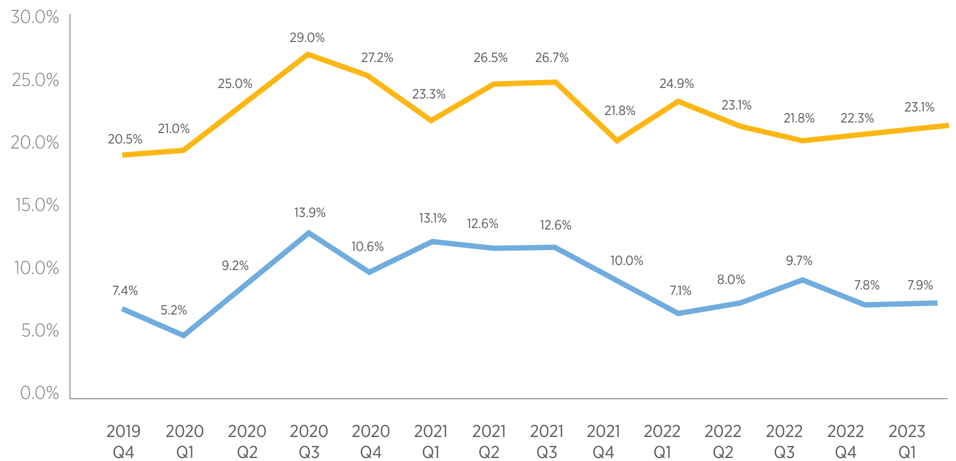
Q1 2023 Umbrella Rate Changes
Gallagher — US Clients



7.9%

median rate change
in Q1 2023*

Umbrella Rate Trends Q4 2019–Q1 2023



Source: Gallagher US Clients　Median Rate Change　75th Percentile Rate Change

Cyber: Industry Responds to Ransomware Losses

Key takeaways

- Competition has returned to the market after a short, sharp correction, driven by improved loss ratios during 2022 and more attractive levels of pricing.
- Carriers have introduced tighter policy language to limit their exposure to potential systemic risks, including cyberwarfare. Many of these exclusions have yet to be properly tested.
- Capacity is coming back in, either through incumbents, MGAs and/or start-ups, resulting in improved limits and a flattening of rate increases
- In some cases, clients with superior security controls have been able to secure a discount on their premium and/or better terms and conditions
- The threat landscape remains rich and evolving, with ransomware activity up during the first quarter of the year (after dipping in 2022).
- There is heightened attention on the potential for risks arising from AI.

The insurance industry's smart and meaningful response to the frequency and severity of cyber losses over the past several years has helped bring more stability back into the market.

From its peak in late 2021 and early 2022, rate increases have begun to flatten, particularly for accounts that can demonstrate a sophisticated approach to cyber risk management. For some, there is now an expectation of premium discounts.

A combination of new wordings to address accumulation risks, clearly communicated risk appetites and improved risk controls are giving underwriters much greater comfort levels than was the case three years ago when the market began its substantial correction.

Capacity has come back into the market, attracted by a more favorable pricing environment and improvement in loss ratios over the past year. Existing carriers are willing to deploy more limit, and we have seen the arrival of a number of start-up carriers and MGAs into the space. Meanwhile, the industry's first cyber CAT bond in January 2023 demonstrated the appetite for cyber risk within the capital markets[4], which should ultimately support further growth in this area.

While claims have not disappeared, we did not see as much ransomware activity over the course of 2022, in part due to an improvement in insureds' security controls. The decrease in claims activity resulted in improved loss ratios for insurers, reassuring underwriters that current pricing levels are more reflective of the underlying risk.

Cyber insurers continue to demand that clients demonstrate strong levels of cyber hygiene in order to qualify for cover.

[4] Industry's first cyber cat bond to 'unlock' market potential (globalreinsurance.com)

Ransomware activity levels resume

The threat landscape continues to evolve, with cybercriminals continually seeking to exploit new vulnerabilities and circumvent existing security measures.

We have seen an uptick in ransomware activity during the first quarter of 2023, which will be a factor at upcoming renewals. Meanwhile, business email compromise and social engineering are becoming more sophisticated and costly, with AI tools offering cybercriminals the capability to develop more convincing scams.

From a severity perspective, the average cost of a data breach continues to rise year over year[5], with corporate risk and insurance managers frequently citing business interruption and reputational damage as among their chief concerns.[6]

The regulatory landscape continues to evolve with regard to data protection, with new laws —such as Illinois' BIPA Act—focusing more attention on the collection of biometric data, with at least one carrier introducing BIPA exclusions into its cyber policies.

As a result, CISOs are implementing zero trust and least privilege frameworks in an effort to reduce the potential for human error and the number of potential vectors that hackers can exploit to gain access to sensitive data and systems.

Systemic risk remains an ongoing concern for the reinsurance industry, with a strong appetite to limit exposure to scenarios such as prolonged cloud outages. Meanwhile, non-cyber markets continue to focus on potential silent cyber exposures to ensure their policies are clear on where cyber coverage begins and ends.

Wordings have tightened, with carriers moving to explicitly exclude cyberwarfare and/or state-sponsored attacks, although it has yet to be seen whether such exemptions will stand up to legal scrutiny.

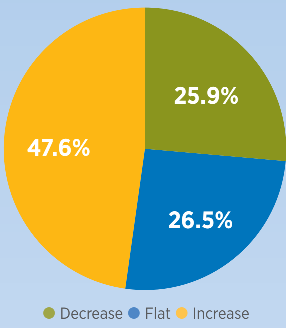
Loss modeling continues to be essential for quantifying the impact of a cyber attack on an entire book of business. The analytics available to cyber carriers and brokers continues to improve, facilitating the continued growth and innovation of the market.

> We have all come to understand what controls are required of our clients, and we made sure our clients put those in place. That was, at least in part, one of the reasons why we saw a decrease in claims activity. We prevented a lot of attacks and mitigated others that got through.
>
> There's more competition and more capacity coming into the market and we're starting to see carriers offer $10 million limits, which was not the case in the hard market. They were cut from $10 million to $5 million on a regular basis.
>
> It's not all great news. We're seeing tighter language and more restrictive coverage when it comes to cyber war, but that will vary from carrier to carrier, so you really have to watch the wording.
>
> **John Farley, Managing Director, Cyber Practice Group Leader, Gallagher**

[5] Cost of a Data Breach Report 2022: Executive Summary (IBM.com)

[6] Allianz Risk Barometer 2023

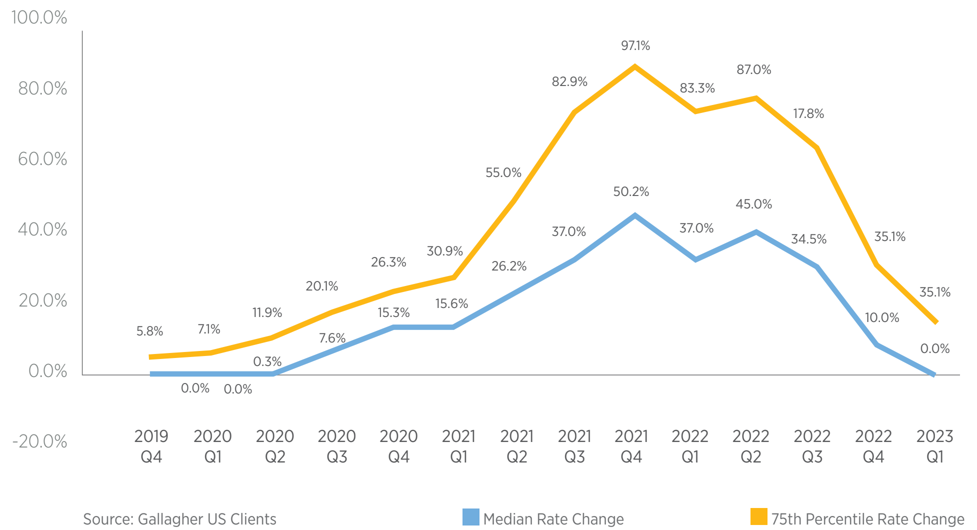
Q1 2023 Cyber Rate Changes
Gallagher — US Clients



0.0%

median rate change
in Q1 2023*

Cyber Rate Trends Q4 2019–Q1 2023



D&O: Rate Relief as Capacity Floods In

Key takeaways

- A surge of new entrants is bringing rate relief into the D&O space, particularly for public companies.
- For private companies, renewal rates are flat or with single-digit increases, and for public companies, there are some significant price reductions, with a median 26% decrease during Q1 2023.
- Even with the recent drop in pricing, rates remain more sustainable from a carrier perspective (in comparison to pre-2019 soft market pricing).
- D&O is still a highly volatile class of business, with claims severity higher for public companies.
- Underwriters are paying more attention to environmental, social and governance (ESG) as a potential driver of greenwashing and discrimination claims.

After a significant hard market correction, premium increases for private directors and officers (D&O) have eased and begun to decrease for public company insureds.

Rates have come down most dramatically for public companies, with a median rate reduction of 26% during the first quarter of 2023. This follows steady reductions during 2022, which came as a pleasant surprise to clients, many of whom were anticipating further rate rises.

The current downward pressure on rates reflects an increase in competition resulting from an influx of new capacity into the market, attracted by the more favorable pricing environment and a brief respite from securities claims.

The market has seen 32 new entrants come in over the past 12 months. These carriers are hungry to build their books and willing to operate in lower layers of the market.

The new capacity has driven incumbent markets to decrease current rates, primarily due to a lack of growth and a decrease in new business opportunities given capital market conditions (i.e., fewer public offerings). They are willing to secure renewals, even at significant decreases. As a result, legacy and less risky public companies may even see pricing closer to 2019 levels at upcoming renewals.

Nevertheless, claim activity in the D&O market remains high. After a lull during the pandemic, there is anticipation that M&A activity will pick up again and, with it, securities actions, including those involving SPAC IPOs and de-SPAC transactions. The market saw 13 mega settlements (those in excess of $100 million) in 2022, compared to four in 2021.

There are changing routes to litigation, with derivative cases becoming more frequent and settlements increasing in severity year over year. For the moment, however, claims frequency remains below the very high levels we saw in 2018 and 2019 and, at this stage in the year, are within a more acceptable range historically.

Inflation—even if it is coming under apparent control, at least in the US—continues to add to the financial strain many are currently under. Whether this translates into claims remains to be seen. The wave of insolvencies expected post-pandemic has not materialized, but turmoil in the banking sector continues to play out and is one to watch.

ESG issues, such as board diversity and investment strategies, have grown in prominence, and claims could arise against growing scrutiny and the backdrop of a rising tide of greenwashing lawsuits and anti-ESG sentiment. Underwriters are requesting more information about clients' commitments on ESG issues and asking what concrete action they have taken to back these statements up.

It comes as the SEC finalizes its climate disclosure rules. There is concern that if companies are found to have overpromised and under-delivered on environmental or sustainability issues, it could result in fines, penalties and lawsuits.

Clients should not forget about the "S" in ESG either, with the unsuccessful action brought against a large pharmaceutical company over its use of race and ethnicity in college admissions being just one example of where company D&Os could be more exposed moving forward.

Other claims drivers remain constant. The government has set out an aggressive regulatory agenda, with an increasingly vigorous stance on bribery and corruption, as well as anti-competitive behavior.

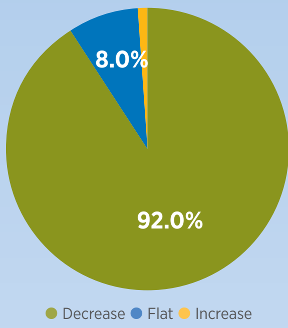
High standards of corporate governance will continue to be important, with underwriters actively seeking out clients that can demonstrate a proactive and transparent approach to governance, corporate culture and executive compensation.

> "Rates are coming down because of the abundance of capacity in the marketplace. Over 30 new D&O insurers entered the market at the beginning of 2022, and a lot of the newer markets are very hungry for the business. This has made the market a lot more competitive."
>
> **Jennifer Sharkey, President, Northeast Management Liability Practice, Gallagher**

> "The recent banking failures are raising some red flags in terms of potential claims, but it's more of a wait-and-see situation at this stage. Everybody is waiting for the next shoe to drop, and there's a lot of noise that could lead to claims. It's just that we haven't seen it yet."
>
> **Natalie Douglass, Legal Chief and Director, Management Liability Practice, Gallagher**

Q1 2023 D&O Public Company Rate Changes

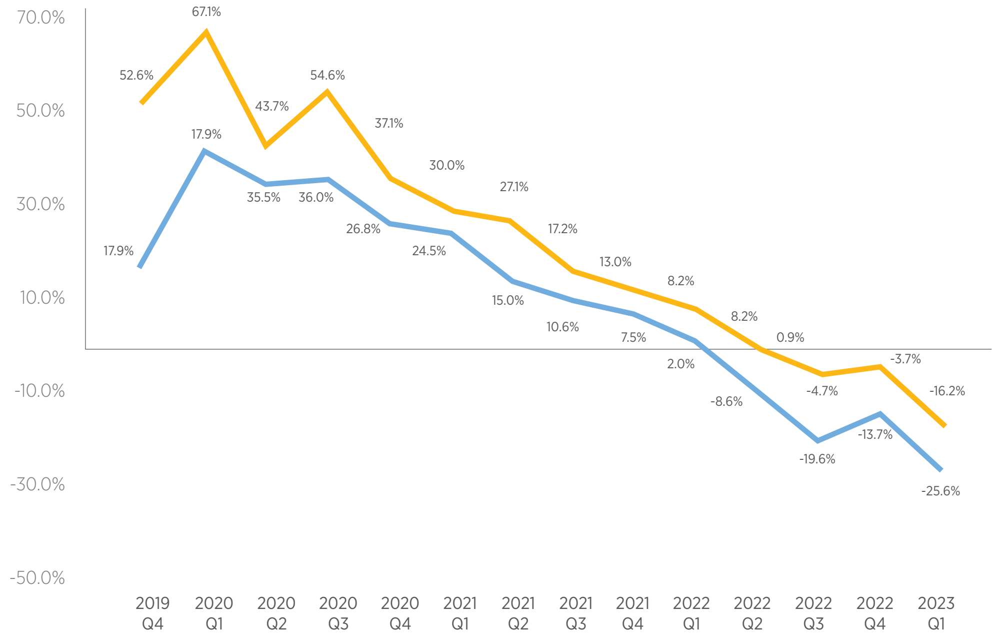
Gallagher — US Clients



-25.6%

median rate change in Q1 2023*

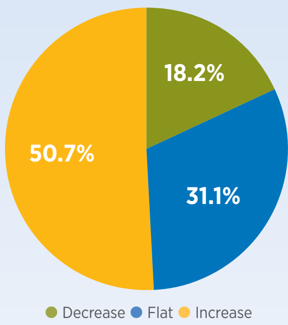
D&O Public Company Rate Trends Q4 2019–Q1 2023



Source: Gallagher US Clients | Median Rate Change | 75th Percentile Rate Change

Q1 2023 D&O Private Company Rate Changes

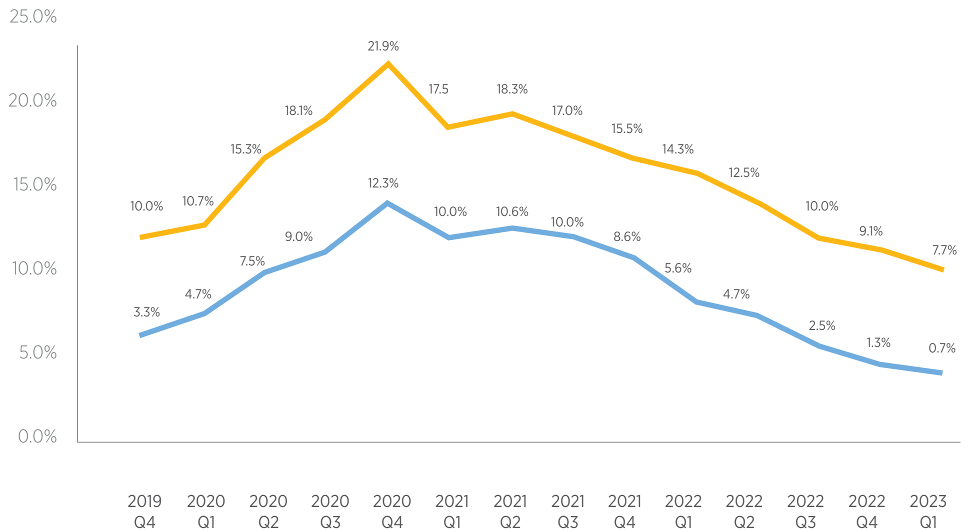
Gallagher — US Clients



0.7%

median rate change in Q1 2023*

D&O Private Company Rate Trends Q4 2019–Q1 2023



Source: Gallagher US Clients | Median Rate Change | 75th Percentile Rate Change

About Our Data

Gallagher Drive® is our premier data and analytics platform that combines market condition, claims history and industry benchmark information to give our clients and carriers the real-time data they need to optimize risk management programs. When used as part of **CORE**360®, our unique comprehensive approach to evaluating our clients' risk management program, Gallagher Drive creates meaningful insights to help them make more informed risk management decisions, find efficient use of capital and identify the top markets with the best solutions for their risks.

Rate changes in this report were calculated by using the changes in premium and exposure of Gallagher clients renewing in Q1 2023.

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*Source: Gallagher Drive US Client Data, January 2023–March 2023. The median is the value separating the upper half from the lower half data sample (or the middle value). Seventy-fifth percentile rate is the average of the top 25% of Gallagher clients' accounts that received the highest rate increases. Due to the variability that we're seeing in this market and specific account characteristics, individual rates may vary.

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