Gallagher

Insurance | Risk Management | Consulting

Summer 2024 Insurance Market Summary for Life Sciences Companies

SUPPLEMENT TO GALLAGHER INSURANCE MARKET REPORT MARCH 2024

Gallagher's Summer 2024 Life Sciences Industry P&C Insurance Market Update complements our broader view of the Gallagher insurance market conditions report. This supplement will give insights into what pharma, biotech, med device, CMOs, and related companies are experiencing with insurance carriers. The risk transfer market is being driven by a number of factors including general inflation, higher interest rates, capital market effects, regulatory impacts and social inflation. With the report and consultation from your Gallagher representative we can help optimize your risk financing objectives.

DIRECTORS & OFFICERS LIABILITY

According to the Stanford Law School Securities Class Action Clearinghouse, the most frequently sued industry is life sciences (biotechnology and drugs).[1] Due to the nature of their work, life sciences companies face unique challenges in securities litigation. They are compelled to disclose impediments to their progress in the pre-approval phase of drug development, inclusive of negative clinical trial results, adverse effects experienced by patients, feedback and determinations by the Food and Drug Administration (FDA), and terminations or suspension, as well as disclosures for the post-approval phase which involves manufacturing or supply chain issues, hindrances to product launch and marketing, and obstacles to sales growth. Public disclosure of these setbacks to progress frequently causes a decline in stock price attendant with securities class actions, shareholder derivative litigation and regulatory activity.

As the primary catalyst for claim losses in the D&O market, 215 securities class actions were filed in state and federal courts in 2023 (an increase from 208 in 2022).[2] Life sciences companies were targeted in 20% of the legal actions filed. In a departure from 2022, a slightly higher percentage of large cap life sciences companies were sued in 2023 (11.6% versus 16.3% respectively).[3] This consisted of companies with a market capitalization of more than $10 billion. Those life sciences companies with a market cap of $5 billion and above were defendants in an estimated 23.3% of cases and 30.2% of the securities class actions filed against life sciences companies were filed against small cap companies with market capitalizations between $250 million and $2 billion in 2023 (as compared to 2022 with 34.9%).[3]

In 2023, 83 securities class actions settled with a total settlement value of $3.9 billion as compared to 105 settlements in 2022 with a total settlement value of $4 billion. The median settlement amount was $15 million which was the highest level since 2010 and represents an 11% increase from 2022. Notably, the median settlement for life sciences companies from 2014 to 2023 was $8.5 million. The average settlement amount was $47.3 million in 2023 which was a 25% increase over 2022. In comparison to prior years, these cases took longer to settle and often reached more advanced stages prior to final resolution.[2]

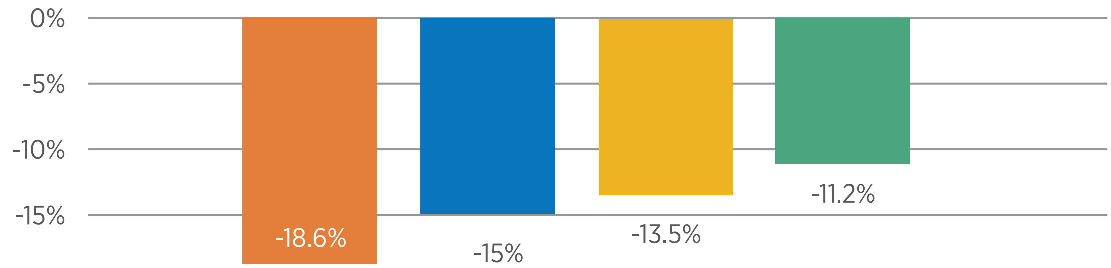
Allegations in securities class action complaints filed in 2023 included, among others: misrepresentations regarding product efficacy, safety, negative side effects, or general ineffectiveness which could potentially impact FDA approval (46.5% of complaints); misrepresentations pertaining to regulatory hurdles with the FDA (27.9% of complaints); misrepresentations of purported unlawful conduct that resulted in a securities fraud claim (9.3% of complaints); and misrepresentations of material information regarding proposed mergers, sales, IPOs, or other transactions (18.6% of complaints).[3]

Unlike prior years, more than 50% of the 2023 cases filed involved mature products versus those in the pre-approval stage. The majority of these cases related to sales performance and issues with financial reporting.[4]

Although life sciences companies are recurring targets of securities class actions, they prevail much more frequently than defendants in other industries. The success rate for motions to dismiss/motions for summary judgment in 2023 was 56%. This is consistent with the "wins" in prior years which fell between 50% to 60%. Moreover, 80% of cases involving the pre-approval stage were dismissed compared to dismissal of 50% of the cases pertaining to the post-approval stage. At the appeals level, life sciences companies were victorious in having five out of six case dismissals affirmed.[4]

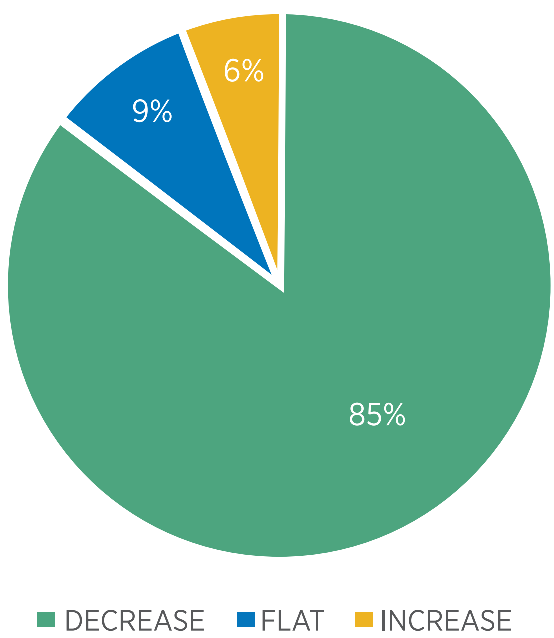
In an industry where success hinges on FDA approval and one in which subsequent post-approval activity is vigilantly monitored by multiple regulatory bodies, life sciences companies will remain a prime sector for investigations and litigation. Overall losses are generated by: stock price volatility; inordinate interest (and skill) of the plaintiffs' bar; access to capital including capital from licensing and collaboration; perpetual regulatory pressure, and many others. Plus, constantly evolving newer risks on today's life sciences boardroom agendas have the power to impact this sector in a multitude of ways. These include: cybersecurity, data privacy, and intellectual property; supply chain disruption; environmental impact; economic uncertainty; ethical considerations; and shareholder activism, the talent pool, and health equity. Raising the level of awareness is the first step to mitigating risk.

D&O PUBLIC RATE TREND

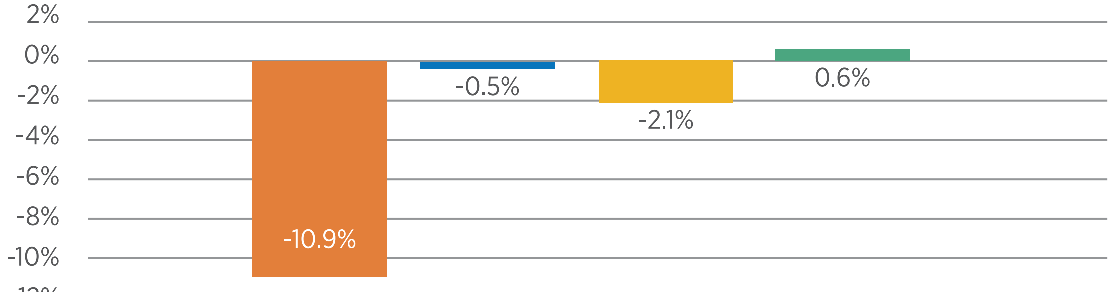


	2024 Q1
25TH% RATE CHANGE	-18.6%
MEDIAN RATE CHANGE	-15%
AVERAGE RATE CHANGE	-13.5%
75TH% RATE CHANGE	-11.2%

D&O PUBLIC RATE TREND

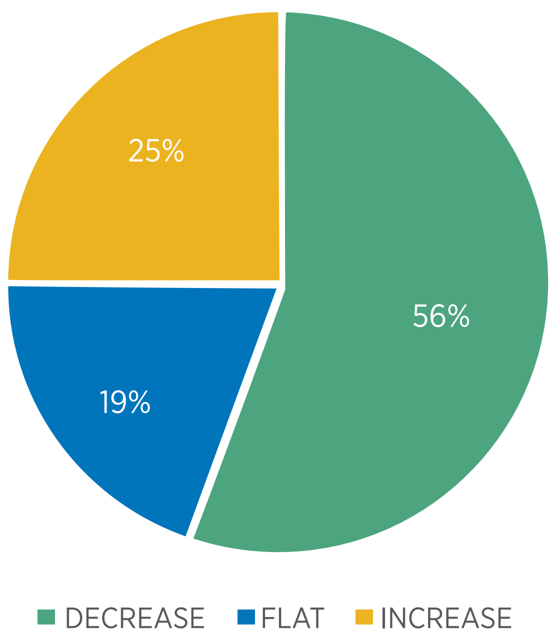


D&O PRIVATE RATE TREND



	2024 Q1
25TH% RATE CHANGE	-10.9%
MEDIAN RATE CHANGE	-0.5%
AVERAGE RATE CHANGE	-2.1%
75TH% RATE CHANGE	0.6%

D&O PRIVATE RATE TREND



LIFE SCIENCE PROPERTY RISKS

In general, the property portion of life science renewals follow the trend in the overall property market which is still inflationary but flattening from the large increases experienced by most accounts in 2023.

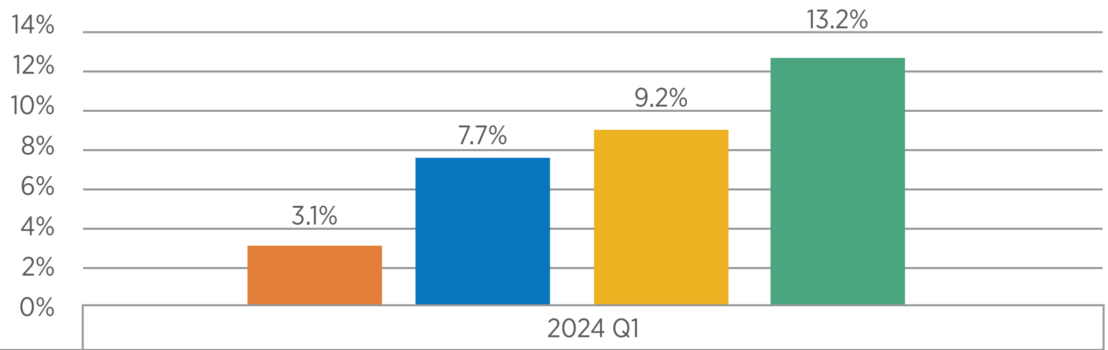
Market changes from 2023 to Q1 2024 are as follows:

- R&D Space: The same with a fair amount of capacity readily available. Average renewal rates flat to -5%. If aggressively marketed and the account incurred consecutive year increases, the rate credit could be higher.
- Commercial Space: If loss free or minimal losses, with no significant engineering issues, renewal rate likely -5% to +5%. If engineering issues, aggregation issues for third party CMO suppliers or 3PL, rate could be higher or limits potentially restricted.
- If any Florida or tier 1 wind exposure, markets are starting to utilize RMS 23 version that has a significant negative impact on wind Probable Maximum Loss. Special attention will need to be devoted for this exposure to avoid pricing increase or capacity reductions.
- Underwriting discipline remains in the areas of contingent business insurance coverage, valuation (2% to 4% on average depending on prior year changes), utility interruption, spoilage, change in controlled environment coverage, etc.
- Underwriters looking for % deductibles for tornado and hail in some markets (vs flat AOP deductible).

For non-commercial life science companies (still in R&D stage), many of those risks are covered via a commercial package and are still at single digit increases and could potentially see decreases if marketed. Almost a quarter of accounts in this space received modest rate decreases. There is not a capacity issue in this space. The average rate increase is 3.1% with a median rate increase of 7.7%.

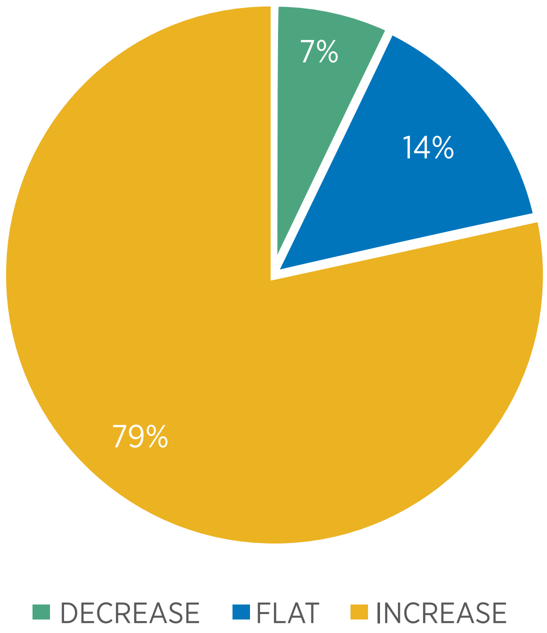
The environment is very different for commercial life science companies that have product approved by the FDA. Average renewals in this space are experiencing rate increases of 9.2%. The lower end of the range typically would require the insured to assume more risk via deductible increases and up-to-date property replacement valuations. Commercial life science companies in CAT prone areas continue to see limit reductions and increased CAT deductibles for wind, wildfire, flood, etc. The 75th percentile rate increase is 13.2% with up to 25%+ increases if claim issues or risk engineering issues exist. There are fewer companies willing to write commercial LS property business versus the smaller R&D space where capacity is available and rate increases tend to be lower according to our property teams and the Gallagher Drive® database.

PROPERTY RATE TREND



	2024 Q1
25TH% RATE CHANGE	3.1%
MEDIAN RATE CHANGE	7.7%
AVERAGE RATE CHANGE	9.2%
75TH% RATE CHANGE	13.2%

PROPERTY RATE CHANGE DISTRIBUTION

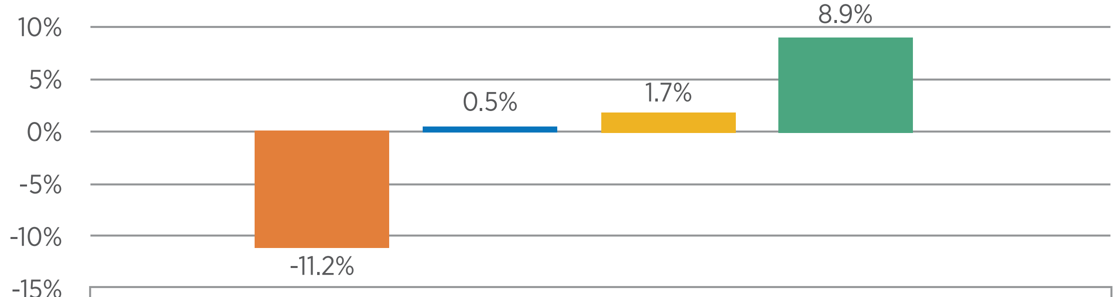


LIFE SCIENCES WORKERS COMPENSATION

Workers compensation has been the industry's most consistently profitable line of business since 2012. According to AM Best, US workers' compensation posted an 86% combined ratio for 2023, which is a full 16 points better than the industry combined ratio of 102. Workers compensation is essentially acting as a "profit leader" for LS insurance carriers to offset the more challenging commercial property and liability lines. The exception is the California WC market due to the tougher statutory and litigious environment.

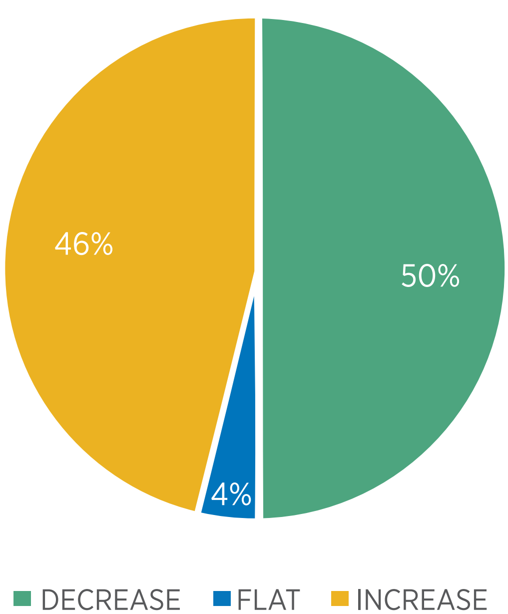
For good risks, we are seeing rate decreases of 11.2%, with the average rate a modest increase of 0.5%, for LS workers' compensation is 2.7% and poorer risks in the upper 25th percentile increase in rate up to 8.9%.

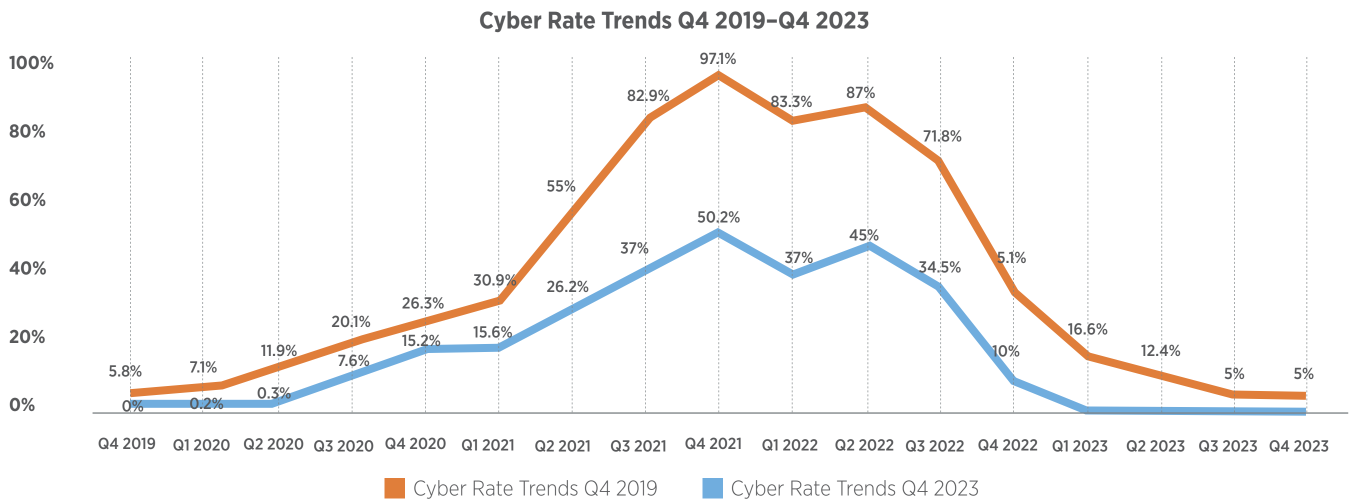
WORKERS COMPENSATION RATE TREND



	2024 Q1
25TH% RATE CHANGE	-11.2%
MEDIAN RATE CHANGE	0.5%
AVERAGE RATE CHANGE	1.7%
75TH% RATE CHANGE	8.9%

WORKERS COMPENSATION RATE CHANGE DISTRIBUTION





Source: Gallagher Drive®

Cyber threats have been a growing concern in the economy for the last few years, nudging businesses to forge a strong defense against the attacks. With companies enacting better cyber hygiene, the number of cyber claims dropped significantly in the last half of 2022. The geopolitical instability in some regions also shifted the focus of cyber threat actors, and as a result, the severity and frequency of cyber attacks reduced. After several years of rising premiums and capacity constriction, the cyber insurance market over the past year has surprised many as softening conditions rippled through the marketplace.

Key observations in 2023–2024

Since 2023, we observed an uptick in cyber claim activity with an unexpected and significant resurgence of ransomware attacks. Amidst the rising cyber threats, two factors drove the risk landscape — increasing geopolitical tension and the unregulated adoption of artificial intelligence. Several state-funded cyber threat actors carried out cyber espionage, targeting critical infrastructure and intellectual property.

While loss trends ticked higher, softening market conditions held throughout 2023 and into 2024. This posed a particular challenge to cyber insurance carriers competing to maintain and grow their client base while maintaining profitability. A number of cyber insurers have suggested that premium levels may have to be adjusted later in the year if cyber insurers suffer sustained losses from this recent increase in claims.

Constantly evolving ransomware attacks remain the most active mode of cyber threat. Cyber attackers have launched high-profile attacks on prominent vendors with broad customer bases, causing potentially extensive losses. These attacks may lead cyber insurers to increase their focus on companies' exposure to network outages at key supply chain and other providers. Life sciences companies dependent on key supply chain providers may be asked for more extensive information during their cyber insurance renewals.

Looking at the rest of 2024

Heightened regulatory risk could exacerbate cyber claims frequency and severity. While our main focus is on the state and federal level regulators in the US, regulatory risk may extend to other territories and be influenced by other global privacy regimes in 2024.

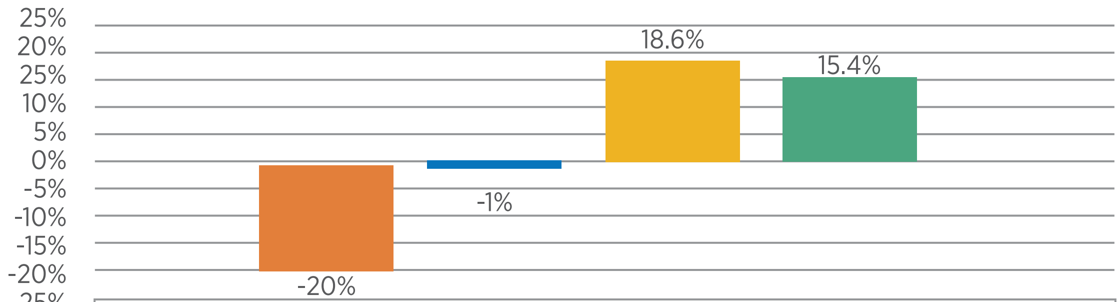
The SEC has led the way at the federal level by imposing new mandatory reporting requirements for publicly traded companies around cyber incidents and overall cyber risk management practices. The new mandates require these organizations to report "material" cyber incidents to the SEC within four business days and for annual reports to detail efforts made around cyber risk management. This development is likely to increase the already-heightened awareness by life sciences companies of the importance of managing their liability exposures under the federal securities laws. We also suspect this may be the beginning of a new wave of increased regulatory scrutiny of corporate cybersecurity practices that will raise expectations for managing cyber risk to the C-suite and boards of directors.

Evolution of cyber insurance products

The cyber insurance marketplace will continue to evolve in 2024 and reflect dynamic change as technology and the threat landscape advance. Cyber carriers may consider revising their policy wording to exclude war and systemic risks. Carriers may also constrict coverage for regulatory investigations, settlements, fines, and penalties. In addition, some cyber carriers may look to exclude claims stemming from specific privacy laws, such as BIPA.

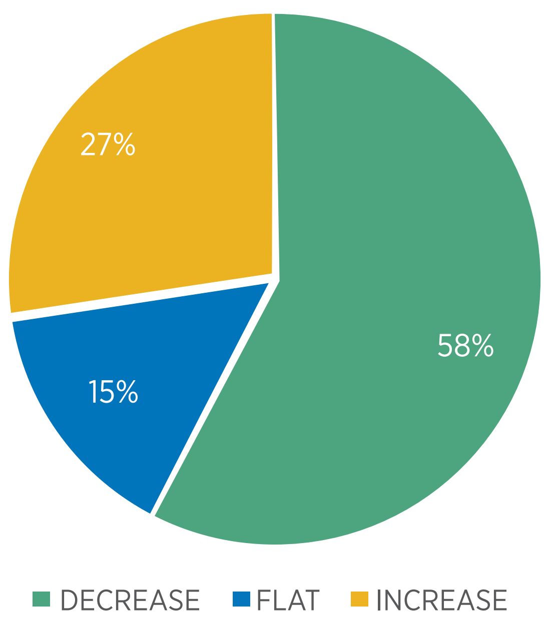
Despite the changing cyber threat landscape, we expect the cyber insurance market to follow the trends of the past several years and continue its expansion in 2024 and in the years to follow. As we look forward, we see a cyber market that has matured to a level where both applicants and providers of cyber insurance have gained valuable insight into how threats manifest into claims and generally understand the minimum security controls required to help prevent and mitigate their effects.

CYBER RATE TREND



	2024 Q1
25TH% RATE CHANGE	-20%
MEDIAN RATE CHANGE	-1.0%
AVERAGE RATE CHANGE	18.6%
75TH% RATE CHANGE	15.4%

CYBER RATE CHANGE DISTRIBUTION



GL INCLUDING PRODUCT LIABILITY

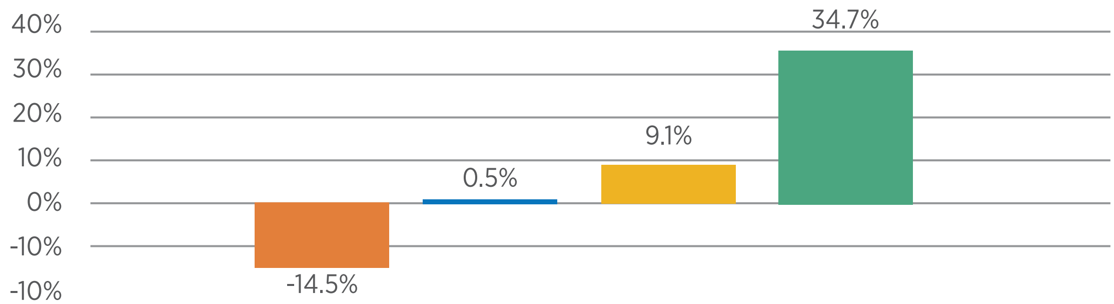
Product liability rates continue to see rates trending the general market.

- The market is showing a very modest firming with the median rate at 0.5% which is less than general inflation. This is due to the excessive capacity available currently in the product liability market.
- We are observing capacity increases yet still cautionary underwriting from certain higher risk classes of business from well-established product liability markets.
- Carriers are showing more interest and price flexibility in previous higher risk areas such as biologics and genetics as evidenced in the 25th percentile decrease of 14.5%.
- Clinical trial pricing is at an all-time low and capacity is ample despite the very low primary rating that underwriters are seeking in this space. The market-wide claims experience in this class is still extremely low, making it an extremely attractive target to write for carriers.
- Pharma generics are still commanding lower rates than their branded peers, however, the Bartlett and Mensing preemptions that exist are being heavily tested by the acetaminophen Multi District Litigation activity with the judge refusing to dismiss on that basis. Should the Judge's original decision prevail and the case is heard on merit without preemption, the insurance industry will likely see a swift hardening in pricing as losses are unsustainable at current pricing without it and still an overhanging factor in the generic space until this case is resolved.
- Medical devices still continue to maintain stiffer pricing and capacity availability as they are the notorious loss leaders in this space, led by implantable devices, life sustaining devices and elective surgical devices, lasers, etc. Preemption only exists in Pre-market approval devices. This leaves the class very vulnerable to loss and loss expectancy which is high.
- AI integration into medical devices, telemedicine, and clinical trials for both R&D, diagnostics, and post-market surveillance is growing rapidly, which puts pressure on traditional product liability markets to integrate with technology professional liability exposures.

Overall, markets are seeking modest increases and willing to compromise in the face of competition and better understanding of individual product and its risks.

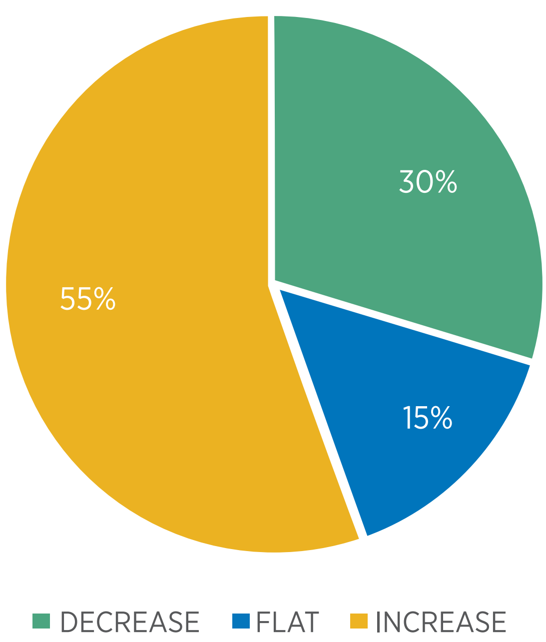
Finally, any risk with opioid products, services, or exposure can be expected to have exclusions on renewal risks, and very strict underwriting terms with new retro dates.

GL RATE TREND



	2024 Q1
25TH% RATE CHANGE	-14.5%
MEDIAN RATE CHANGE	0.5%
AVERAGE RATE CHANGE	9.1%
75TH% RATE CHANGE	34.7%

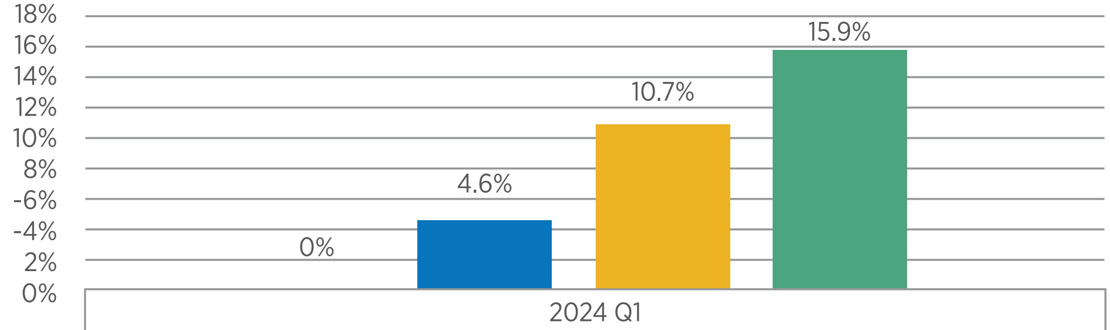
GL RATE CHANGE DISTRIBUTION



UMBRELLA RATE TREND

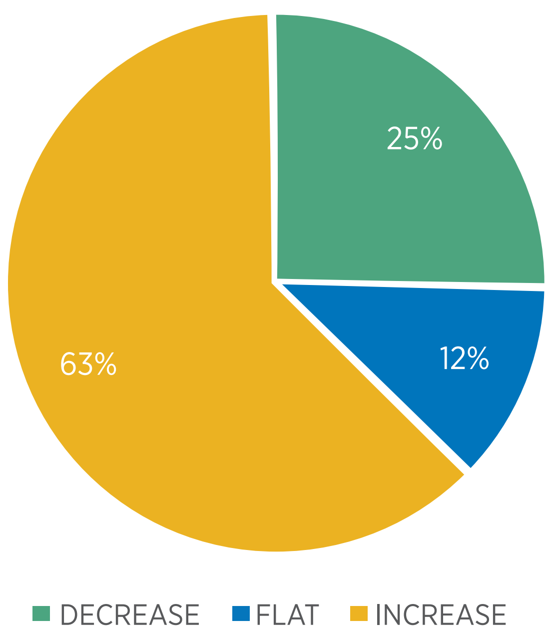
Umbrella excess of underlying GL (excluding products), auto, workers' comp coverage, etc. is generally in line with the broader market. Pricing trends are reflective of the general market.

UMBRELLA RATE TREND



	2024 Q1
25TH% RATE CHANGE	0%
MEDIAN RATE CHANGE	4.6%
AVERAGE RATE CHANGE	10.7%
75TH% RATE CHANGE	15.9%

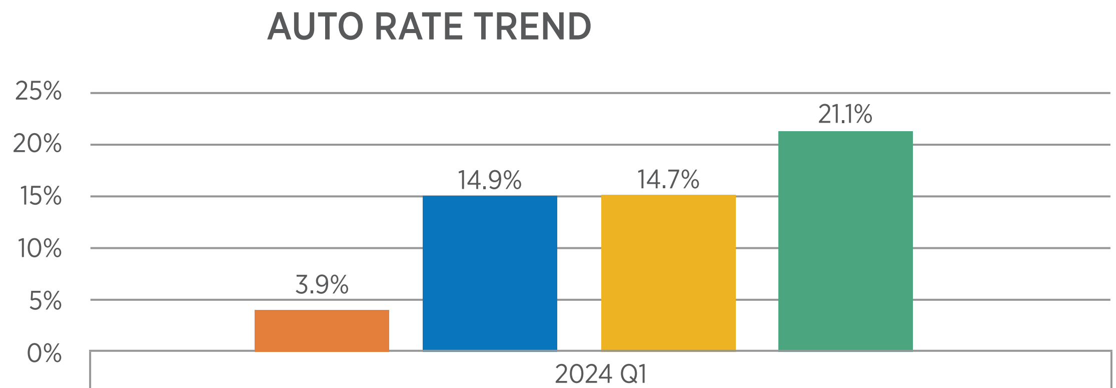
UMBRELLA RATE CHANGE DISTRIBUTION



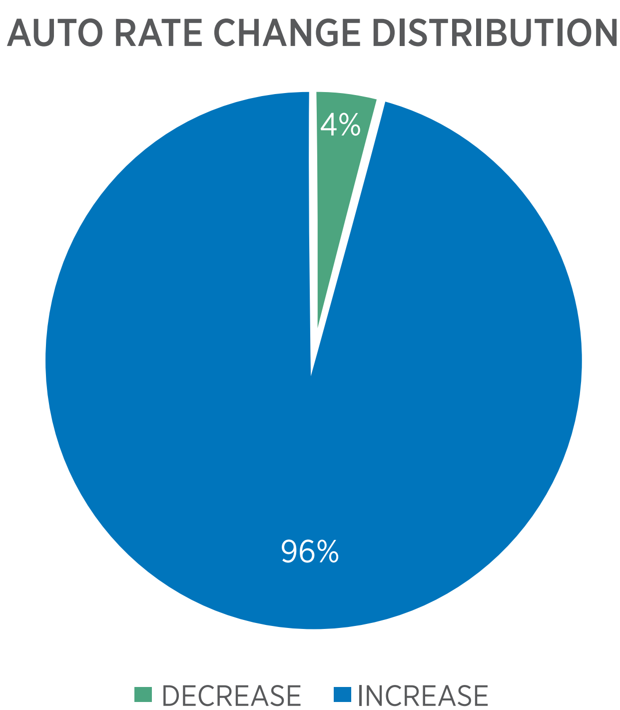
AUTO LIABILITY RATE TREND

Automobile is seeing modest single digit rate increases on well-managed, profitable fleets. The rate increases over the last several years are still rising due the unprofitability of this sector due to inflationary loss costs, large casualty awards, and trending general inflation factors. It is very important to demonstrate high levels of fleet safety, driver training, and engaged management of automobile exposure to keep costs down.

The 25th percentile saw a 3.9% increase with 21.1% increase for the 75th percentile on unprofitable or loss prone accounts.



	2024 Q1
25TH% RATE CHANGE	3.9%
MEDIAN RATE CHANGE	14.9%
AVERAGE RATE CHANGE	14.7%
75TH% RATE CHANGE	21.1%



ABOUT OUR DATA

Gallagher Drive® is our premier data and analytics platform that combines market conditions, 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 client's 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 of 2023. Due to the variability that we are seeing in this market and specific account characteristics, individual rates may vary. Please contact your Gallagher broker advisor for client and SIC specific data.

Sources:

[1]"Heat Maps & Related Fillings: Biotechnology & Drugs." *Stanford Securities Class Action Clearinghouse.*

[2]Bulan, Laarni. T, and Laura E. Simmons. "Securities Class Action Settlements." *Cornerstone Research.*

[3]"Developments in Securities Fraud Class Actions Against U.S. Life Sciences Companies." *Dechert LLP., 02 Apr. 2024.*

[4]Wechkin, Robin, et al. "Securities Class Actions in the Life Sciences Sector: 2023 Annual Survey." *Sidley Austin LLP, 2024.*

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