



TRANSACTION LIABILITY

MARKET UPDATE 2025

The Americas

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THE RWI LANDSCAPE

The M&A landscape in 2025 was characterized by a mix of resilience and caution. While potential buyers grappled with significant macroeconomic and geopolitical uncertainty, M&A remained buoyant, fueled by acquisitions in the technology, healthcare, and financial sectors, the deployment of significant dry powder from private equity, and a more favorable interest rate environment. Overall, we are optimistic that recent positive momentum in M&A activity will carry over into 2026.

PRICING & RETENTIONS: A TALE OF TWO CITIES

Increasing Premiums, Market Split

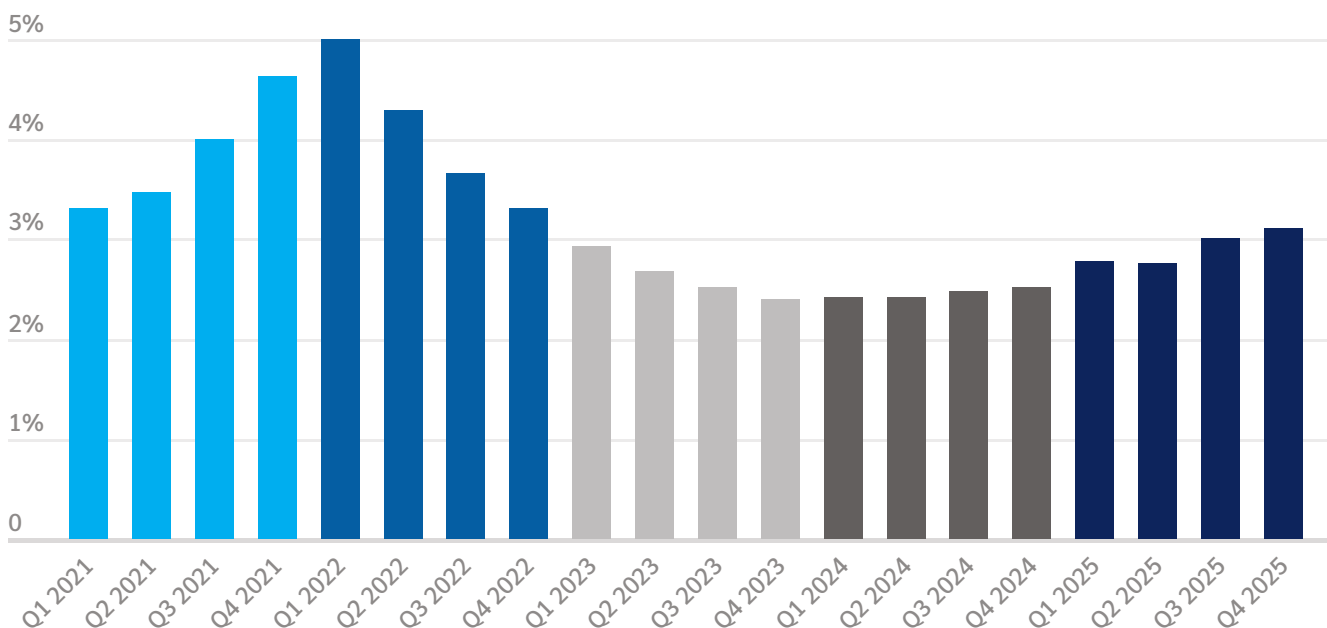
Despite the recent exit of three markets – The Hartford, Volante and Themis – the representations and warranties insurance (“RWI”) landscape remains robust and competitive.

This competition continues to result in insured-favorable terms, including historically low initial and drop-down retentions and few outright deal-specific exclusions or deemed modifications to representations and warranties in underlying purchase agreements. Nevertheless, while RWI premiums are still markedly lower than the highs of early 2022, average premium pricing has continued its modest but steady climb from Q3 2024, due to the combination of the gradual M&A recovery and unfavorable loss experience across the RWI market.

THE INCREASING GAP IN PREMIUM PRICING BETWEEN MARKETS WE NOTED IN LAST YEAR’S REPORT HAS CONTINUED TO WIDEN AS WELL, with certain carriers looking to differentiate on pricing by maintaining aggressive rates, while others are instead highlighting key soft factors, such as claims handling and payments, as well as commerciality in underwriting. The premium increase by some carriers also reflects their revised view on sustainable rates in the face of increasing claim frequency.

The chart below illustrates the latest trend in rates for Lockton-placed policies.

AVERAGE RATE ON LINE BY QUARTER (2021-2025)

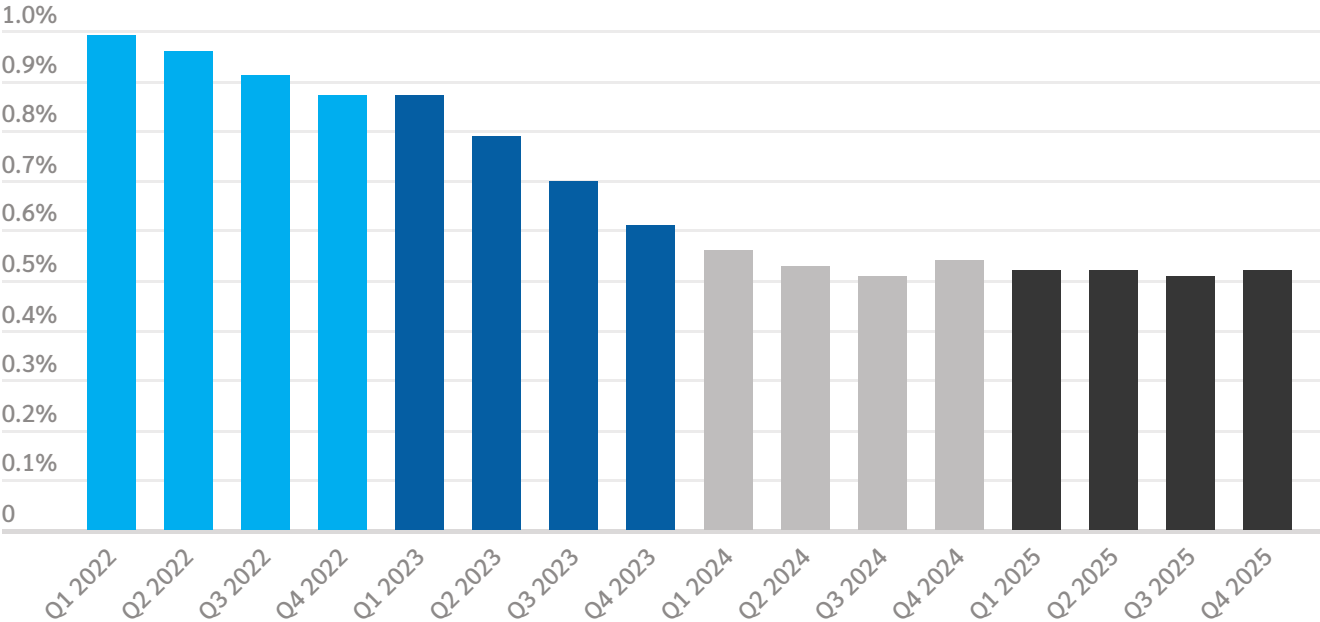


Stabilized, Low Retentions

In contrast to the upward movement and market divergence on premiums, initial retentions have largely stabilized across carriers at the lower, insured-friendly rates highlighted in last year’s report. With limited exceptions, carriers are consistently offering initial retentions in the 0.45-0.60% of enterprise value (“EV”) range, with dropdown retentions commonly in the 0.30-0.40% of EV range. Additionally, a lower (or nil) retention for “true fundamental” representations - previously a differentiating point amongst carriers - is becoming increasingly standard; however, while this enhancement is now offered by most markets upon request, the scope of what constitutes a “true fundamental” representation is still very much subject to negotiation.

For example, while certain fundamental representations like organization and authority are universally considered true fundamental representations, the inclusion of the capitalization representation varies on a carrier-by-carrier and deal-by-deal basis. Also, while certain operational representations such as tax, IP, and environmental may be included as a fundamental representation in the definitive purchase agreement, carriers to date have not had appetite to treat such representations as “true fundamental” representations subject to the lower (or nil) retention.

AVERAGE INITIAL RETENTION BY QUARTER (2022-2025)



The chart above reflects the steady decrease in retention levels on Lockton-placed policies since 2022, with signs of stabilization over the last couple years. While the chart reflects fluctuations in average initial retention over the past several quarters, such fluctuations are minor and driven by variances in average deal sizes by quarter. Accordingly, we do not believe that this signals any broader trend, but that initial retentions have largely stabilized.

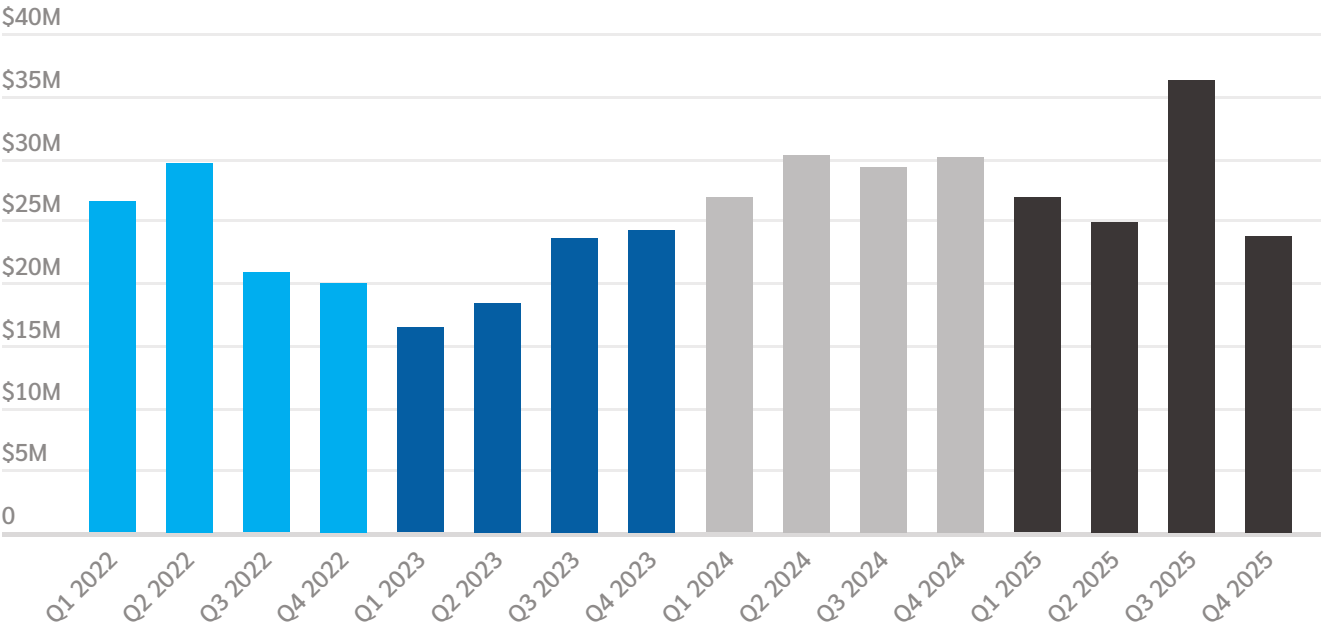
Expanding Reach of RWI at Both Ends of the M&A Market

Over the second half of 2025, we saw a notable increase in the number of high-value transactions.

As a result, the average enterprise value (and corresponding policy limit) for Lockton’s placements in Q3 correspondingly surged. This was driven by a multitude of factors, including pent-up M&A demand following a prolonged period of political and market volatility, as well as lofty technology stock prices leading to opportunistic stock-for-stock deals, which yielded a marked increase in so-called mega-deals. Larger and more frequent platform acquisition opportunities also emerged throughout the latter half of 2025.

We also saw an increased interest from clients (and appetite from carriers) for RWI policies on the other side of the deal spectrum, with policies often available at EVs as low as \$10M. The chart below illustrates the impact of this opposing dynamic on Lockton’s average limit size for its RWI placements, as the frequency of low-EV or high-EV transactions in a given quarter can now have an outsized impact on the average limit size bound in that quarter (such as Q4 2025 when we had an inordinate number of low-EV transactions).

AVERAGE LIMIT SIZE BOUND BY QUARTER (2022-2025)

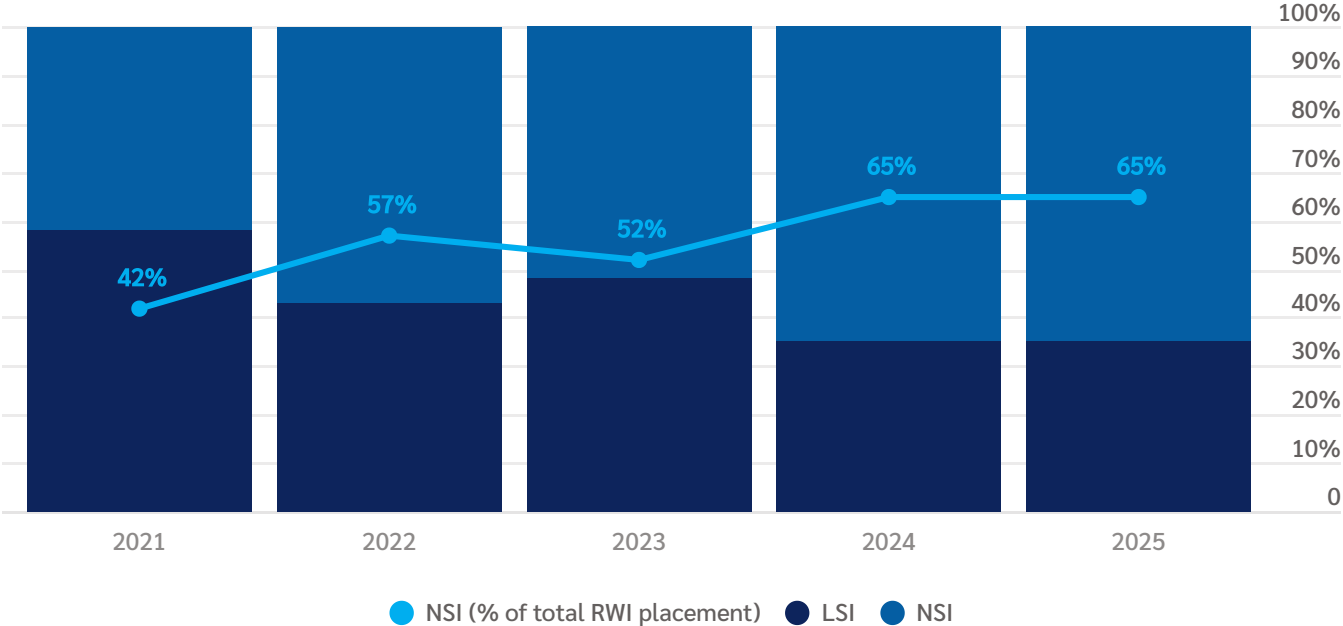


Public-Style Deals Remain the Market Norm

The market expectation continues to be the use of public-style, “no seller indemnity” (“NSI”) deal structures, whereby buyer’s sole recourse for breaches of the general representations and warranties (excluding fraud) is the RWI policy.

This continuing trend is illustrated in the chart below.

TRANSACTION STRUCTURE - LSI VS. NSI (2021-2025)



WITH AN ESTIMATED 65% OF LOCKTON’S PLACEMENTS IN 2024 AND 2025 UTILIZING AN NSI CONSTRUCT, PUBLIC-STYLE EXITS REMAIN THE DOMINANT STRUCTURE ACROSS DEAL SIZE AND SECTOR.

This prevalence is partly attributable to buyers’ high familiarity and comfort with the RWI product, along with carriers’ increasing comfort with underwriting to an NSI standard, as claims data has substantiated there is only a marginal correlation to higher claims frequency for NSI placements as discussed in the Claims section below. While many carriers still ascribe some value to sellers bearing a portion of the risk via a limited seller indemnity (“LSI”), this is no longer reflected in a meaningful differentiation in pricing between LSI and NSI structures.

Market Continues to Adapt to the Rise of AI & Crypto

TRANSACTIONS IN THE TECHNOLOGY SECTOR DROVE MUCH OF THE M&A ACTIVITY IN 2025, as rapid advances in artificial intelligence ("AI") technologies and a friendlier regulatory environment for cryptocurrency forced the RWI market to adapt.

As acquirers and insurers alike look to better understand and mitigate the unique risks presented by such fast-paced innovation, coverage has continued to evolve, and carrier appetite has shown signs of increasing alongside increased deal volume, despite challenges such as a nascent legal and regulatory framework. For example, when underwriting targets that utilize AI, some carriers may include a broad exclusion around copyright infringement, particularly if the company is utilizing a material, proprietary AI model that is training on publicly available data.

SIMILARLY, WHILE THE CRYPTOCURRENCY REGULATORY ENVIRONMENT IS CERTAINLY MORE WELCOMING THAN IT WAS A YEAR AGO, THERE IS STILL AN ABSENCE OF A CLEAR REGULATORY FRAMEWORK, and until that is developed, carriers will continue to find it difficult to provide coverage for broad compliance with laws representations.

Consequently, in the near-term, carrier appetite will likely continue to focus on crypto-adjacent assets rather than companies with direct exposure to cryptocurrencies.

Asia Expansion

We continued our international expansion in 2025, most recently with growth in Asia. While RWI has been a longstanding feature of many transactions in the Asian market, we are seeing some notable recent developments, including private equity sponsors seeking enhanced coverage and execution outcomes across a wider range of deal structures, and strategic acquirers, in particular, in a number of jurisdictions becoming more acclimated to utilizing RWI in their transactions.

In addition, secondaries RWI is poised for significant increased adoption as limited partners in the region are seeking new and creative paths to liquidity. From a geographic perspective, we expect to see considerable growth in the market in India, Japan and Southeast Asia, and a rebound in M&A activity in Korea and China (both traditionally active M&A markets that have been quieter in 2024 and 2025).

In anticipation of these trends continuing in the region, we have recently expanded our M&A advisory capabilities in Singapore and India.

The growing team in Asia is working in full coordination with US colleagues to provide our clients with consistent advice on deals within Asia, as well as cross-border deals involving Asian-based acquirers or targets.

WE ANTICIPATE SIGNIFICANT CONTINUED INTERNATIONAL EXPANSION OF OUR PLATFORM IN 2026 IN OTHER KEY M&A MARKETS, INCLUDING THE UK, CONTINENTAL EUROPE, MENA AND LATIN AMERICA.





SECONDARIES

As noted in our 2024 market update, the secondaries market does not seem to be counter-cyclical to the broader M&A market, and 2025 seems to validate this notion, as 2025 reflected a record secondaries pace for Lockton, just like the rest of the market.

There also appears to be a consistently high utilization rate of RWI for secondaries transactions based on Lockton's estimates; we believe approximately 60% of GP-led secondaries used RWI in 2024 and 2025.

THROUGHOUT THE PAST 12 MONTHS, WE'VE OBSERVED SEVERAL THEMES WITH RESPECT TO THE USE OF RWI FOR SECONDARIES TRANSACTIONS:

1. adoption and use of LP trade RWI products was primarily focused on claw back risk;
2. similarly, end of fund life insurance interest was focused on claw back risk (both GP and LP); and
3. the prototypical single or multi-asset continuation vehicle transaction shared space with all the deals under the umbrella of secondaries – for instance, bespoke structures such as public-to-private transactions, credit portfolio CVs, “reverse CVs” (recapitalizations of existing funds) and subsequent flagship funds of the same manager leading a syndicate in the investment into a CV.

Lockton also observed a notable increase in credit secondaries in 2025, just as the market predicted.

Utilizing RWI for such transactions is a bit nuanced relative to RWI used by a CV for an operating portfolio company—in particular, underwriters are focusing on transferability of assets when underwriting credit portfolios, which is not typically relevant for operating portfolio companies. Additionally, when a credit portfolio has hundreds of line items, carriers have needed to adapt their underwriting focus and methodologies to reflect the different structure of such transactions, as well as varying client approaches to contract diligence, ranging from reviewing deviations from form credit documents (e.g., LMA or LSTA forms) to individual document review.

The universe of carriers seeking to be the primary insurer in a secondaries transaction stabilized throughout 2025, and those carriers dedicated to the space have become more sophisticated.

While buyout RWI pricing increased throughout 2025, secondaries RWI pricing generally remained flat year-over-year. Credit secondaries, however, typically price 50-60 bps higher than equivalently-sized operating company secondary transactions. Time will tell whether premium rates for these transactions compress, as carriers get more comfortable underwriting credit secondaries RWI and adjust to the risk calculus of a diversified credit portfolio (sometimes containing hundreds of loans or other financial products).

LOOKING AHEAD

Looking ahead to 2026, we anticipate continued adoption of RWI on GP-led secondaries broadly, increased utilization of RWI in geographies where both the RWI and the secondaries market is still developing (namely, Latin America and Asia) and increased activity in specialized secondary transactions (namely, real estate, infrastructure, growth and, in particular, credit).



CLAIMS

Lockton insureds have officially crossed the billion-dollar milestone, recovering more than **\$1.4 billion** in losses through RWI claims to date, with more than **\$725 million** recovered in the last twelve months alone. When accounting for retentions, RWI carriers have recognized more than **\$1.6 billion** in total loss. These figures are a testament to the product's value: **RWI claims are being made – and they're being paid.**

The RWI claims landscape continues to evolve, with more than 750 claims having been submitted to date, 228 of which remain active. Among those resolved claims, approximately 36% resulted in a payment in excess of the retention. Only 2% of claims submitted by Lockton clients have been denied.

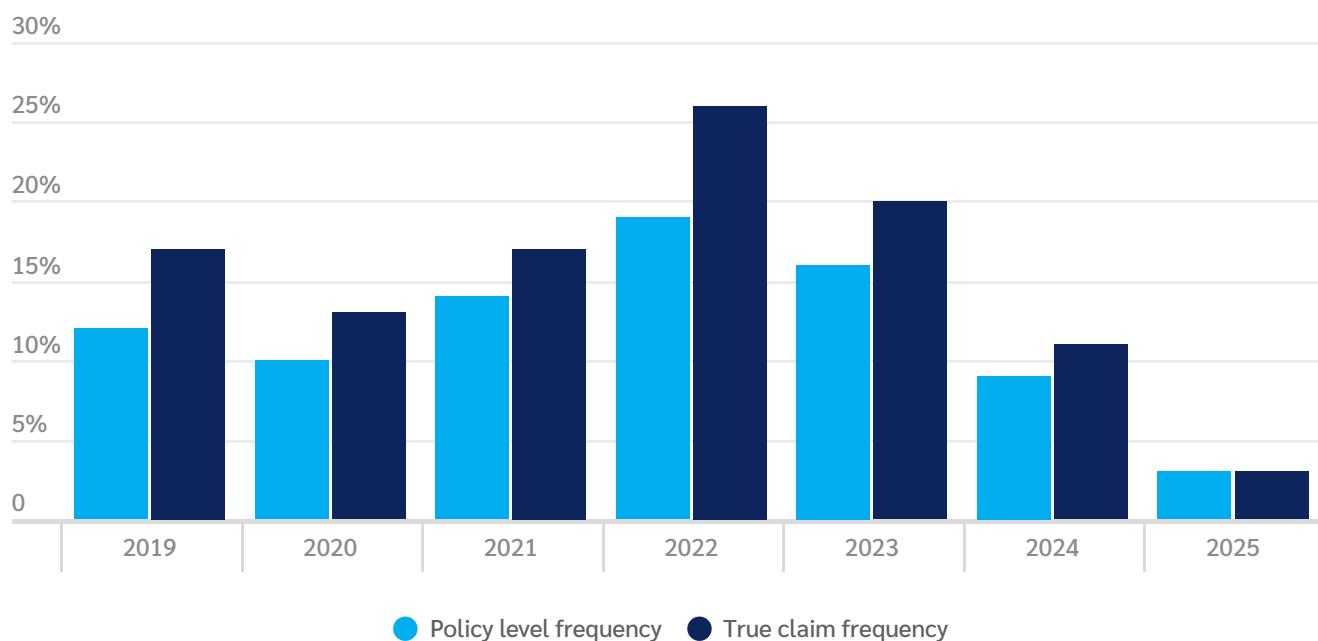
PRACTICE TIP

Our claim advocates encourage insureds to notify carriers promptly once they become aware of a potential breach, even when the facts are still developing. In such cases, and even when loss appears to be well within the retention, we often suggest that the parties agree to defer further investigation and adjustment subject to a full and mutual reservation of rights. This approach ensures compliance with the insured's notification obligations, while also avoiding unnecessary expenditure of time and resources on claims that have not fully materialized or where loss is relatively modest (as compared to the retention).

Frequency

When analyzing RWI claims data, frequency can be measured in two distinct ways – each offering a different lens on claim activity. The first approach looks at policy-level frequency, which reflects the percentage of policies placed in a given year for which at least one claim has been submitted. This method highlights how prevalent claims activity is across all policies placed but does not account for multiple claims under a single policy. The second approach measures true claim frequency, calculated by dividing the total number of claims submitted for policies issued in a given year by the total number of policies placed that year. This metric provides a more granular view of overall claims volume.

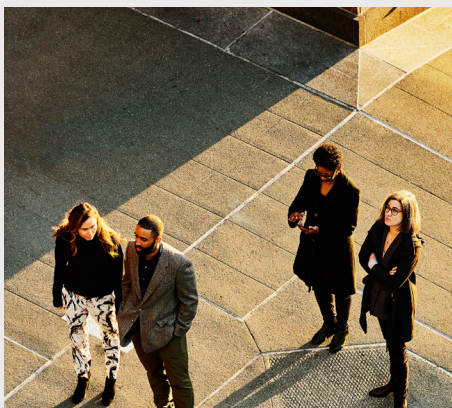
POLICY LEVEL VS. TRUE CLAIM FREQUENCY



The chart above illustrates both the policy-level frequency and true claim frequency for policies Lockton placed each year from 2019 through 2025. For policies placed in 2019-2022, coverage for general representations – typically three years – has expired. As such, we assume that the vast majority of claims that will be made under those policies have already been submitted.

In contrast, data for policies placed from 2023 onward remains less mature, as there is still time for additional claims to be filed. Accordingly, we expect that the percentage of policies with submitted claims for those years will increase over time.





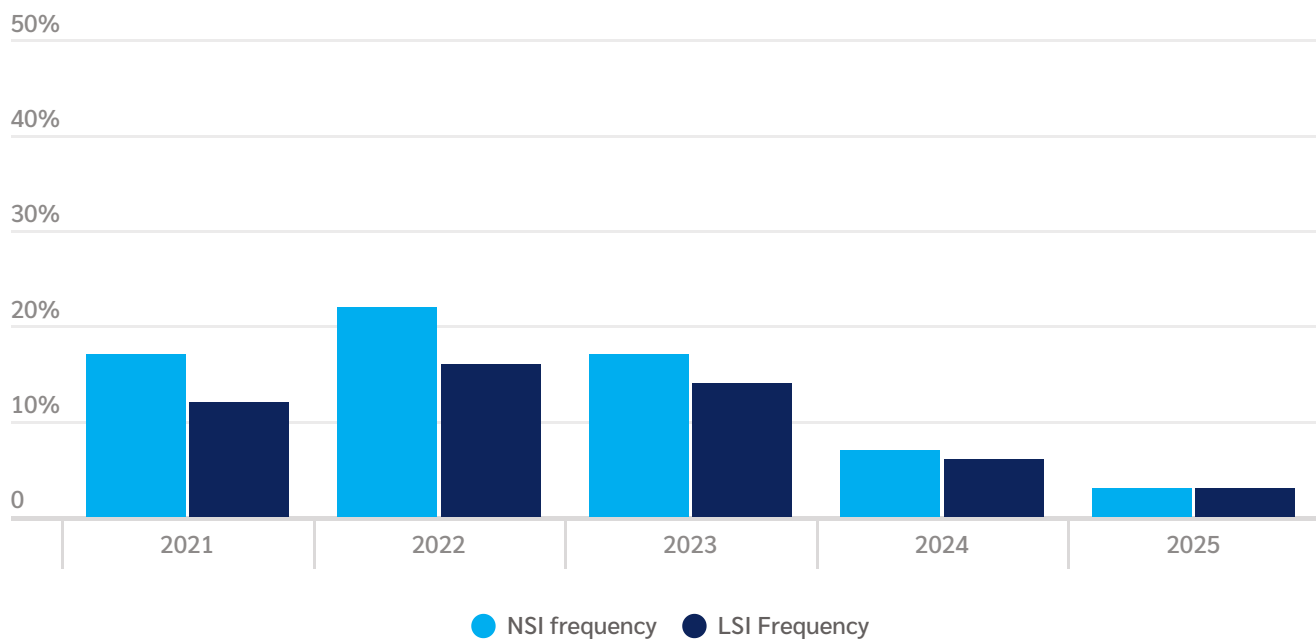
CLAIM FREQUENCY FOR THE MORE MATURE POLICY YEARS SHOWS A FAIRLY STARK INCREASE FROM 2020 TO 2022.

Specifically, policy-level frequency increased from 10% in 2020 to 14% in 2021 to 19% in 2022, while the trend for true claim frequency is even more pronounced: 13% in 2020 to 17% in 2021 to 26% in 2022. While early indicators suggest that the 2023 policy year is on track to sustain the upward trend with policy-level frequency and true claim frequency already at elevated levels of 16% and 20%, respectively, it is too early to ascertain whether the 2024 or 2025 policy years will sustain or break the trend.

No Seller Indemnity vs. Limited Seller Indemnity Transactions

As noted above, **NSI transaction structures have continued to grow in popularity**, with carriers increasingly placing less emphasis on the presence of a seller-backed indemnity as a meaningful risk mitigant.

POLICY LEVEL CLAIM FREQUENCY - NSI VS. LSI



The chart above illustrates the policy-level claim frequency for policies Lockton placed each year from 2021-2025 in connection with LSI versus NSI transaction structures. While NSI transactions have shown slightly higher frequency than LSI transactions, the difference is marginal, especially in the more recent underwriting years. For the 2024 policy year, policy level frequency was 7% for NSI deals and 6% for LSI deals, and in 2025, the policy-level frequency was 3% for both. These figures suggest that while structural differences may have some influence on claim frequency, the impact is relatively minor and does not appear to be a significant driver of overall claims experience. As noted elsewhere, claim frequency data matures over time so it's possible that the frequency differential for the 2024 and 2025 underwriting years will grow as more claims are submitted. We will continue to monitor this situation and will update our findings in future reports.

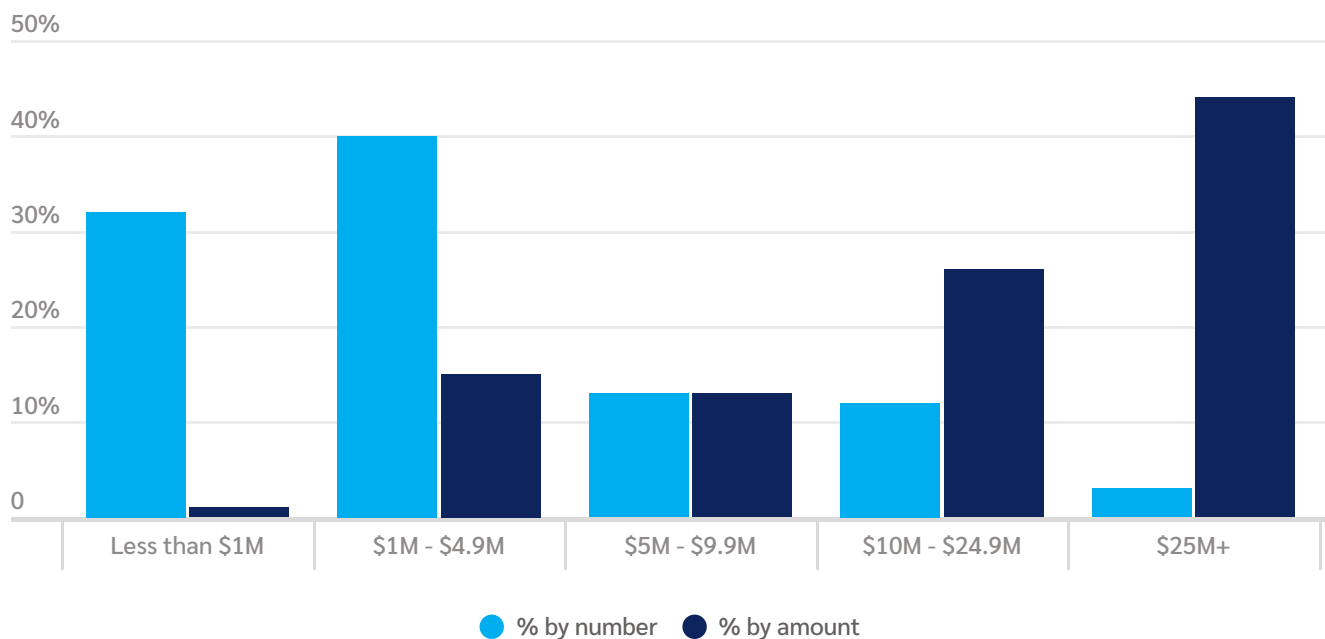
Claim Severity

As the use of RWI continues to grow across M&A transactions, understanding the nature and severity of claim payments becomes increasingly important for insurers and insureds alike. While the frequency of claims provides a snapshot of how often issues arise post-close, it is claim severity that reveals the true financial implications. The following analysis explores how payments are distributed by the number of claims paid, as well as the total amount of those payments, providing insight into where the most significant exposures tend to occur. The chart below illustrates the striking contrast between the frequency of RWI claim payments and their financial impact, segmented by severity bands:

UNDERSTANDING THIS CHART

This chart shows, for example, that while nearly **30%** of all claim payments were for less than **\$1 million**, that band resulted in less than **2%** of total amounts paid to Lockton insureds.

CLAIM SEVERITY



While the vast majority of Lockton's claims – more than 70% – fall in the lower severity bands (less than \$5 million) when measured by the number of payments, the distribution shifts dramatically when viewed through the lens of amounts paid. High-severity claims, particularly those exceeding \$25 million, represent a small fraction of the total number of Lockton's claim payments – around 3% – but account for the largest share – 44% – of total losses. Nearly all the payments in excess of \$25 million arise from claims against insurance towers, where separate payments are made by the primary carrier and one or more excess carriers participating on the risk.

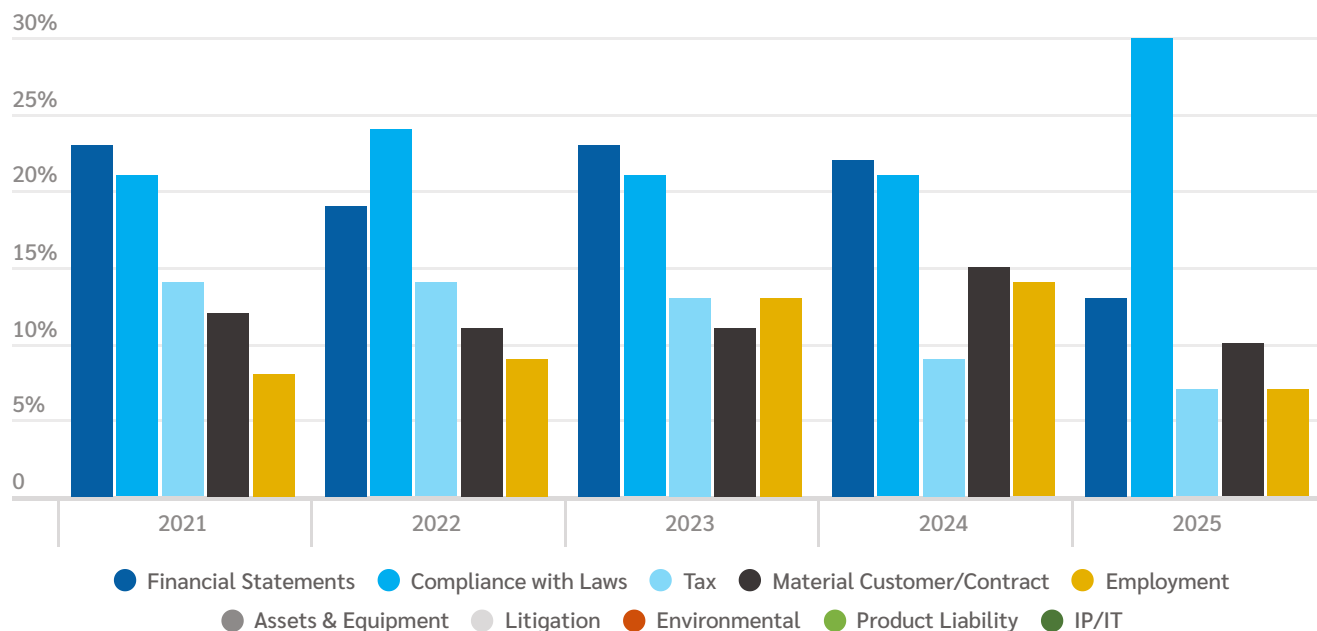
The data thus supports the conclusion that while the majority of RWI claim payments are for relatively modest sums, those claims, in the aggregate, do not represent a significant portion of total dollars paid. The real financial exposure lies in infrequent but high-severity claims, which often stem from core issues that materially affect the value of a business and impact the financial health of a company. When such issues surface post-close, they can fundamentally undermine the rationale for the deal and trigger claims that exhaust the full limits of coverage.

Breach Type

In the analysis below, we examine Lockton’s RWI claim data through the lens of breach type to highlight which representations are most frequently cited in claim submissions and, more importantly, which types of breaches result in the greatest loss. Our analysis includes a breakdown of breach categories by the number of claims submitted, the number of claims paid, and the total amount paid across those categories.

The chart below displays only the top five breach types for each year.

BREACH TYPE BY NUMBER OF CLAIMS SUBMITTED



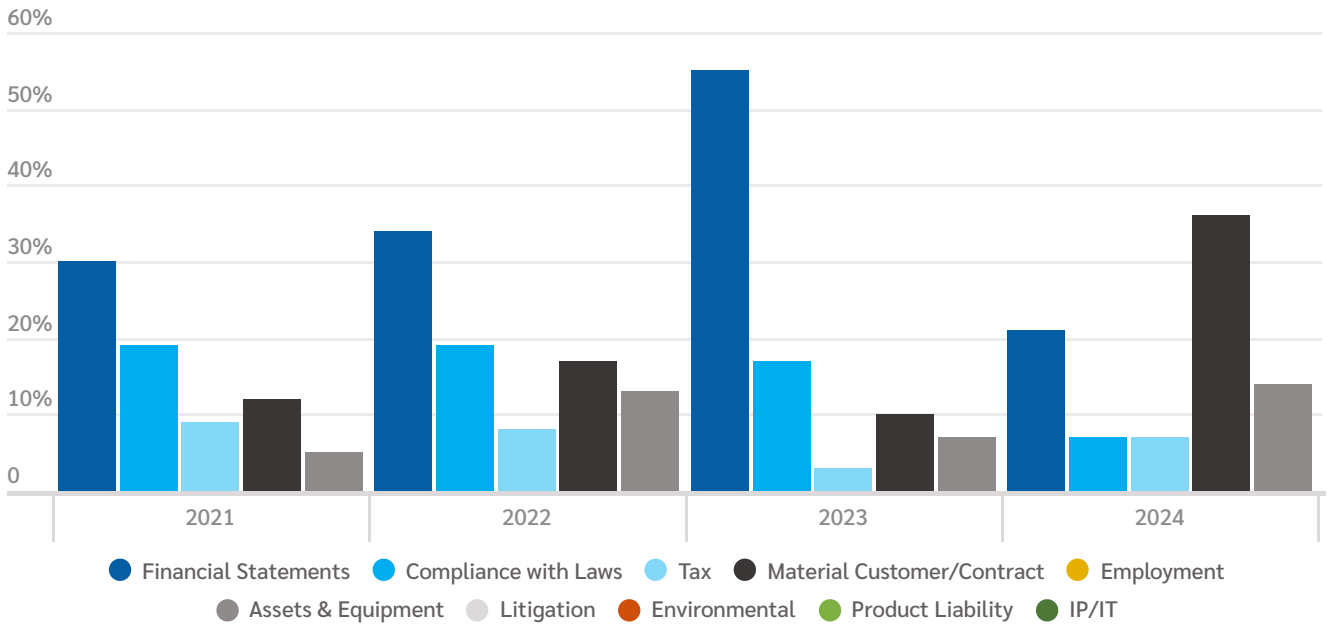
THERE REMAINS A GENERAL LEVEL OF CONSISTENCY IN THE FREQUENCY OF CLAIMED BREACHES BY BREACH TYPE YEAR OVER YEAR, BUT A HANDFUL OF CATEGORIES HAVE SHOWN NOTABLE SHIFTS THAT MERIT CLOSER ATTENTION.

It is important to note, however, that claim data relating to the 2025 policy year (and, to a lesser extent, the 2024 policy year) is still in its early stages, and the limited dataset has the potential to skew the figures. With that caveat in mind, early data reveals a sharp increase in breaches related to compliance with laws, rising from 21% in 2024 to 30% in 2025.

OTHER BREACH TYPES SHOW MORE GRADUAL MOVEMENTS.

Financial statement breaches, for example, are now the second most frequently cited breaches, which represents a slight downward trend from prior years. Tax breaches also have declined in the past several years, with consistent year-over-year decreases since 2023. Meanwhile, condition of assets and environmental breaches have shown modest increases, with the former trending upward since 2023 and the latter rising steadily since 2022. Interestingly, IP/IT breaches, which had been declining from 2021 through 2024, show signs of a renewed uptick in 2025.

BREACH TYPE BY NUMBER OF CLAIMS PAID



While certain breach types – particularly financial statements and compliance with laws – have shown relative stability over the years in terms of percentage of claims paid, there are noteworthy fluctuations in other areas. Most strikingly, material customer and material contract breaches saw a significant spike with respect to the percentage of the number of claims paid on Lockton policies placed in 2024. This breach type alone accounted for 36% of all policies with a claim payment in 2024, a sharp increase from the prior three years, which averaged 13%.

The chart above displays only the top five breach types for each year.

When combined with policies where a payment was made in connection with financial statement breaches, these two breach types represent a combined 57% of all policies that had claim payments for policies incepting in 2024. It is important to interpret this data point with some caution, however, as approximately 80% of claims submitted on policies incepting in 2024 remain open and unresolved, and there is still additional time during which additional claims will undoubtedly be filed. Accordingly, future claims will likely reshape the current picture.





A NUMBER OF ADDITIONAL TRENDS ARE ALSO WORTH HIGHLIGHTING.

Payments for tax breaches have shown a steady decline over the past several years, dropping from 9% of the number of policies with paid claims arising out of 2021 policies, to 3% of paid claims from 2023 policies. However, note that tax claims have a longer tail than some other breach types (and, in addition, typically benefit from a six-year policy term vs. three years for most other operational representations), so what we're seeing as the beginning of a trend could reverse itself as data matures. Breach types such as employment, litigation, and environmental, each consistently account for less than 5% of the total number of claims paid, and in several years, these categories saw no payments at all, highlighting a somewhat recurring differential between percentages of submitted claims versus percentages of paid claims.

Employment breaches are reported with notable consistency, yet account for a disproportionately small share of the number of claim payments.

This disconnect may be explained, in part, by the nature of these breach claims. Often, such claims stem from third-party allegations by current or former employees concerning pre-closing employment issues, such as discrimination or harassment. While these claims may trigger a breach of the employment or labor representations, they are typically covered under other insurance policies – such as Employment Practices Liability (EPL) coverage – and frequently resolve below the self-insured retention (SIR) threshold.

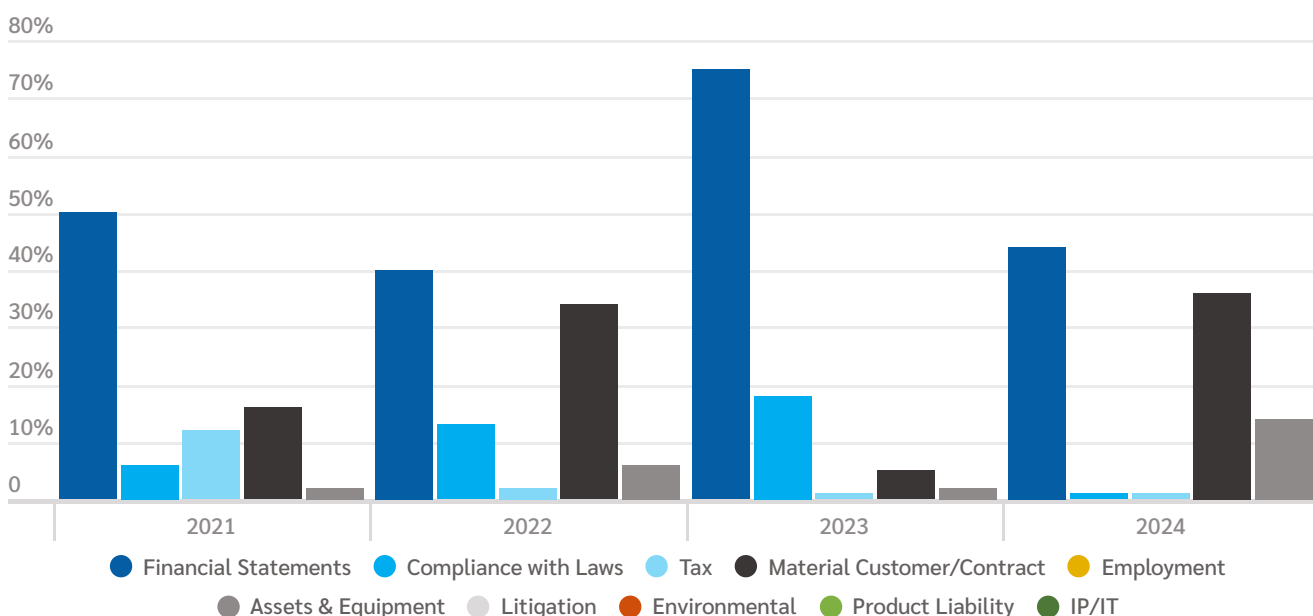
A similar takeaway can apply to environmental breaches, which are often triggered by notices of violation (NOVs), inquiries, or investigations initiated by environmental agencies, such as the EPA. Investigations typically begin with inspections or reviews of facility records and may include sampling, testing, and interviews. While some investigations result in enforcement actions, many conclude with either a finding of no violation or an agreement to implement corrective actions going forward. In such cases, the covered loss is often limited to the expenses incurred in responding to the investigation – such as legal and consultant fees – which frequently fall below the SIR.

Across all policy years, breaches of the financial statements representation have consistently accounted for the largest share of total claim payments by amount. This is not surprising, given the foundational role financial statements representations play in the M&A process. A breach of the financial statements representation can undermine the buyer’s entire investment thesis, leading to complex claims and large payouts.

Material customer and material contract breaches also represent a meaningful portion of claim payments. While their contribution fluctuates somewhat year over year, their consistent presence among the highest categories of paid claim amounts underscores their importance. These types of breaches often involve issues with key customer relationships or significant contractual obligations, which can materially impact the value or stability of the acquired business. As such, they continue to be a source of considerable financial exposure.

The chart below displays only the top five breach types for each year.

BREACH TYPE BY AMOUNT OF CLAIMS PAID



The chart above reflects data from Lockton’s 2021 policy-year forward, marking the period when we began consistently tracking these breach-related metrics. Notably, we were recently involved in an RWI claim relating to a tower of policies that were placed prior to 2021 that related principally to a breach of a condition of assets representation. That claim resulted in a substantial settlement, with payments made by 21 separate carriers. Such payment is not captured in the above given that it predates the 2021 policy period, but its significance to the market – with nearly every carrier participating – warrants mention.

While condition of assets breaches are asserted less frequently than most other breach types, this record-setting claim shows that they carry the potential for significant financial exposure, particularly in transactions where deal value is closely tied to specific physical assets – such as machinery, equipment or other operational infrastructure. In such cases, the buyer’s investment thesis often hinges on the integrity, usability, and strategic importance of these assets. If a systemic issue is uncovered post-close, it can fundamentally disrupt the valuation model and result in a disproportionately large and complex claim.





NOTABLY, LOSSES ARISING OUT OF BOTH FINANCIAL STATEMENTS AND MATERIAL CUSTOMER/CONTRACT CLAIMS ARE OFTEN CALCULATED BY INSUREDS AS A FUNCTION OF A DEAL MULTIPLE.

For example, when recurring revenue is overstated, recurring expenses are understated, or the “stickiness” of a material customer relationship is misstated, the buyer/insured can often establish that its loss is not just the equivalent of a one-time hit to the income statement, but a loss that it will suffer for years into the future. The out-sized percentage of payments arising out of financial statement and material customer/contract representation breaches demonstrates that insurers will pay loss “on a multiple” where insureds properly support such claims and accounts for the disproportionately large claims payment percentages relative to other breach types.

IN CONTRAST, TAX BREACHES, THOUGH FREQUENTLY ASSERTED, HAVE SHOWN A STEADILY DECLINING SHARE OF OVERALL CLAIM PAYMENTS BY AMOUNT.

This suggests that although tax-related issues are commonly flagged during post-closing periods – often due to audits, notices, or legacy liabilities – the financial impact of these breaches is increasingly limited and, in many cases, tax claims may be resolved with minimal financial consequence or fall within the retention.

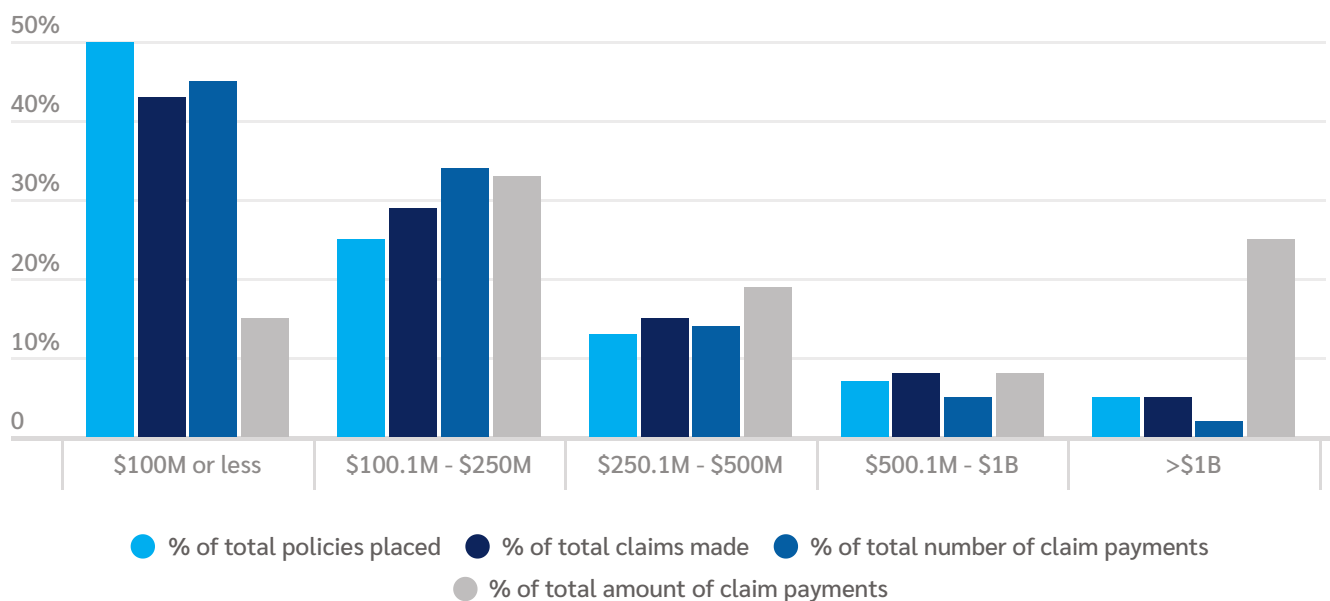
Enterprise Value

For Lockton’s RWI placements for the 2021 to 2025 policy years, we analyzed claim frequency and severity across enterprise value (EV) bands to better understand how these metrics vary by deal size.

The chart below compares four key metrics for each EV band:

- Percentage of total policies placed
- Percentage of total claims made
- Percentage of total number of claim payments
- Percentage of total amount of claim payments

ENTERPRISE VALUE



BOTH THE PERCENTAGE OF TOTAL CLAIMS MADE AND PERCENTAGE OF TOTAL NUMBER OF CLAIM PAYMENTS GENERALLY TRACKS CLOSELY WITH THE PERCENTAGE OF POLICIES PLACED ACROSS ALL EV BANDS WITH MINOR VARIATIONS, such as modestly lower claim activity in the \$100 million or less range compared to its share of policies, as well as slightly higher claim activity in the \$100.1 million-\$250 million and \$250.1-\$500 million ranges compared to their share of policies. The overall pattern shows general consistency, indicating that the size of a deal has little effect on claim notice or payment frequency.

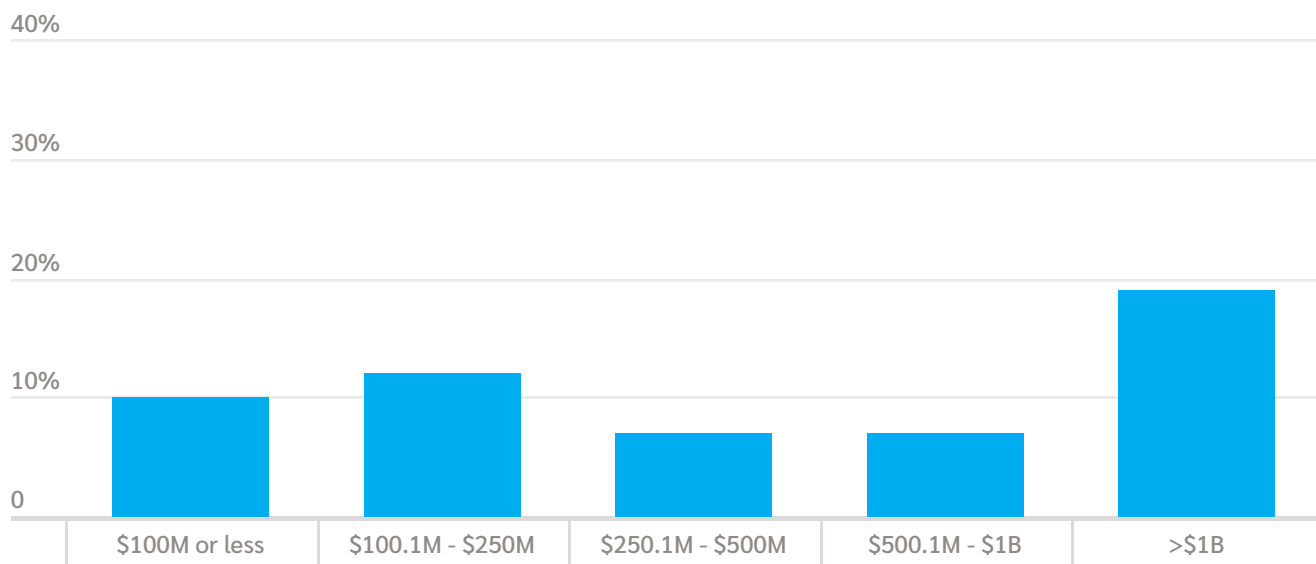
IN CONTRAST, THERE IS A FAIRLY DIRECT CORRELATION BETWEEN EV AND SEVERITY.

Policies covering acquisitions of lower-EV target companies account for a small fraction of total dollars paid, whereas policies placed for “mega” deals account for a disproportionately higher percentage of total dollars paid. For example, while policies issued to targets with EVs in the range of \$0-\$100 million represent 43% of all claims made and 45% of all claim payments by number, they account for only 15% of total amounts paid. Conversely, policies issued to target companies with higher EVs exhibit the opposite correlation – policies issued to targets with EVs over \$1 billion account for just 5% of all claims and 2% of all claim payments by number, but represent 25% of total amounts paid. This pattern is not unexpected given that higher EV deals typically involve larger policy limits, resulting in greater potential payouts.

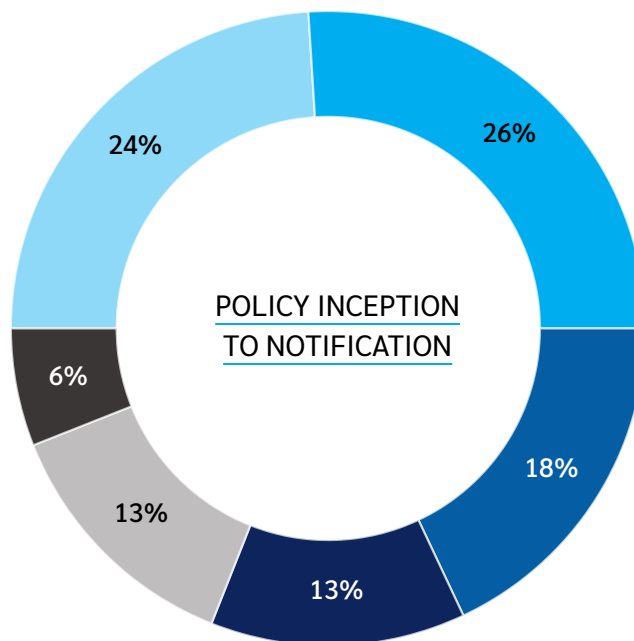


Notably, however, we did not observe a meaningful difference when analyzing the likelihood that a claim would result in a “significant payment,” which we defined as 50% or more of the respective policy limit, by EV band. As illustrated below, the percentage of claims that result in a payment of 50% or more of the policy limit range with modest variability from 7% to 19% with no real directional trend as deal size increases. This suggests that no single EV band is meaningfully more susceptible to significant payments relative to policy size and reinforces our expectation that deal size primarily influences payout magnitude.

SIGNIFICANT CLAIM PAYMENTS BY DEAL SIZE



● % of claims paid for each EV band resulting in a payment of 50% or more of the policy limit



- 0-6 months
- 7-12 months
- 13-18 months
- 19-24 months
- 25-36 months
- 36 months+

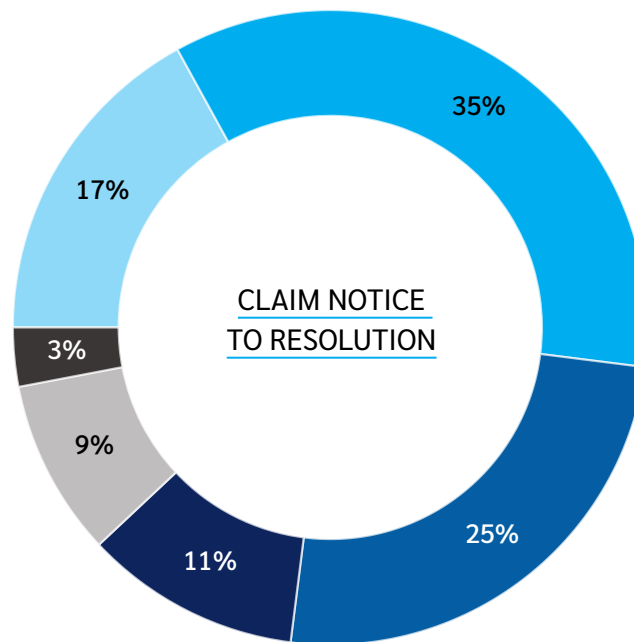
Timing Considerations

The timing between policy inception and claim notification offers valuable insight into how and when issues surface post-close. While timing can vary depending on the type of business, the nature of the breach, and management’s familiarity with RWI coverage and process, our data shows consistent patterns, with the information depicted above remaining nearly identical to the same metrics we reported in our 2024 market update.

Notably, half of all claims (50%) are reported within the first 12 months following policy inception. More than 80% of claims are notified within the first two years.

ONCE A CLAIM IS NOTIFIED, THE TIME TO RESOLUTION CAN VARY SIGNIFICANTLY DEPENDING ON SEVERAL FACTORS, INCLUDING THE COMPLEXITY OF THE BREACH, THE VOLUME AND CLARITY OF SUPPORTING DOCUMENTATION, AND THE RESPONSIVENESS OF ALL PARTIES INVOLVED.

Some claims are resolved relatively quickly, particularly when the issues are discrete and well-defined, while complex claims can take much longer. At Lockton, we place strong emphasis on working with carrier partners who appreciate and understand the importance of proactive and timely engagement throughout the claims process. A collaborative and responsive approach not only helps streamline resolution but is essential to the product's success.



● 0-6 months ● 7-12 months ● 13-18 months ● 19-24 months ● 25-36 months ● 36 months+

The chart above illustrates the timing between claim notice to resolution and generally aligns closely with trends we've observed in prior years.

Notably, 52% of Lockton's claims are resolved and paid within 12 months of claim notice submission, and more than 77% are resolved and paid within 18 months. Claims that fall outside of this range typically involve highly complex issues, require extensive documentation and third-party review, and may, occasionally, be delayed due to the insured's attention being diverted to other priorities rather than actively progressing the claim.

It's also worth noting that certain claims – particularly those involving third-party actions – are subject to external timelines beyond the control of both the insurer and the insured. In these cases, the insurer must monitor the situation closely and be prepared to respond if and when an opportunity to engage arises, but the insurer and the insured lack the ability to otherwise expedite the timeline to resolution.



Lessons Learned

Throughout the 20+ year history of RWI, carriers have gained insights from RWI claims data and experiences, which has allowed them to identify patterns and refine their underwriting practices accordingly. For example, after several significant losses impacted the market arising out of breaches of the material customer representation, carriers began to apply heightened underwriting scrutiny around such representations and are now more attuned to ensuring the scope of diligence ties to the breadth of the representation.

At the same time, carriers gradually have applied less scrutiny to areas that have proven to be less risky, such as certain aspects of labor and employment matters, where inaccuracies in the related representations are unlikely to yield significant losses. By applying lessons learned from historical claims, carriers are able to shape a maturing product to reflect actual risk, and the result is a stronger, more reliable tool – one that continues to adapt, evolve and improve, ensuring RWI remains a critical resource for buyers in managing transactional risk and facilitating successful deals.

Success Stories

Lockton's team of claims advocates partners closely with insureds and their advisors throughout every stage of the RWI claim process. We often serve as gatekeepers – actively supporting valid claims, while at the same time, counseling insureds when we believe a claim needs additional support.

This process includes reviewing and providing input on claim notices prior to submission, guiding our clients in fostering a collaborative relationship with insurers (as appropriate), engaging directly with carriers who recognize that our unique vantage point provides unparalleled insight into market conduct, and vociferously advocating for, and negotiating on behalf of, our clients, throughout the entire claims process.

Since January 1, 2024, our clients recovered more than \$975 million in losses through RWI.

THE FOLLOWING IS A SUMMARY OF A FEW OF THOSE SUCCESS STORIES:



01

FINANCIAL STATEMENT REPRESENTATION

- **Our client, the insured, discovered post-closing that the financial statements of the target represented to in the purchase agreement significantly overstated revenue.** This was due to intentional manual adjustments made by senior management of the target company leading up to the consummation of the transaction. Once the discrepancies were uncovered and corrected, it became clear that the company had been in default of its credit facility, resulting in an out-of-court restructuring that eliminated the insured's entire equity stake in the business. The insured claimed loss of its entire investment.
- **Following two comprehensive in-person meetings** involving the insured's representatives, their advisors, and participants from all levels of the insurance tower, each insurer agreed to pay its respective full policy limits, for a total payment in excess of \$60 million.
- **Given the significant fraud alleged and the fact that the loss exceeded the total policy limits,** the insured and the carrier also agreed to collaborate and jointly pursue additional recovery directly from the seller in respect of such losses.

02

TAX & COMPLIANCE WITH LAWS REPRESENTATIONS

- **Historically, our client's newly acquired company (the target) sourced products through a foreign intermediary.** Post-closing, our client discovered discrepancies between recorded payments relating to those products and the related customs documentation, which resulted in unreported tariff obligations. With the insurer's consent, the acquired company self-reported to the authorities and was assessed \$1.5 million in past-due tariffs, fees and penalties. Recognizing the recurring financial impact of the increased tariff obligation to the business going forward, the insurer paid a mid-seven-figure loss based on an EBITDA multiple. An interim payment was made while a separate claim remained under investigation.
- **Post-closing, it was also discovered that certain products were mislabeled as being compliant with a recognized safety certification, despite not meeting the required standards.** This misrepresentation was found to violate consumer protection laws, and the insurer agreed to cover both the cost of achieving proper certification and the recurring increased expense of compliant production into the future.
- **The combined loss of the foregoing claims exceeded the policy limit.** However, there was evidence to suggest that the discrepancies related to the tariff issue may have been intentional and potentially fraudulent. In light of this, the insured agreed to a modest discount off the policy limit in exchange for the insurer's agreement to waive reimbursement and subrogation rights. This arrangement enabled the insured to pursue additional recovery directly from the seller without restriction.

03

MATERIAL CONTRACTS REPRESENTATION

- **Pre-closing, our client discovered that their newly acquired portfolio company had made undisclosed pricing concessions prior to the acquisition and agreed to modified sales volumes with several key customers.**
- **Following a collaborative investigation,** the insurer validated the breach and confirmed that the covered loss – based in part on a diminution in value using a multiple of EBITDA – exceeded the policy's \$5.2 million limit.
- **The claim was paid approximately four months** after the notice was submitted, demonstrating a responsive and effective claims process that delivered a strong outcome for the insured.



OVERVIEW OF THE TAX INSURANCE MARKET

Renewable energy tax credits continue to comprise a meaningful percentage of the tax insurance market. In fact, Lockton bound nearly twice as many tax credit policies in 2025 as it did in the prior year. The appetite for non-renewables tax risks also remains healthy, with continued expansion into new arenas beyond the traditional M&A-related tax issues, such as internal transactions, transfer pricing and valuations.

The complexion of buyers of tax insurance similarly continues to broaden, with policies now routinely secured not only by publicly-traded companies, private companies and private equity firms and their portfolio companies, but also real estate investors, estate planners, and individual taxpayers.



Renewable Energy Credits Continue Market Dominance

According to data collected by Lockton in connection with its [second annual renewable energy tax credit insurance survey \(the "Survey"\)](#), published in September 2025, the renewable energy credit tax insurance market continued its robust growth trajectory. **Notable trends include:**

INCREASE IN PTC POLICIES

While the investment tax credit ("ITC") market continues to lead the transferable tax credit market, there was a significant increase in the number of production tax credit ("PTC") policies bound in 2025, including a 115%+ increase in 45X policies and a 200%+ increase in 45Z policies. This reflects the maturation of the 45X Advanced Manufacturing PTC and other PTC-eligible technologies.

WIDER RANGE OF PROJECT TYPES

Insurers are now providing coverage for an increasingly diverse portfolio of renewable energy projects, including emerging technologies and hybrid generation facilities.

SHIFT IN TRANSACTION STRUCTURES

The market has seen a continued increase in transferability and hybrid transactions being insured, with a relative decline in pure tax equity transactions.

[THE SURVEY CAN BE FOUND HERE.](#)

Impact of Legislative & Regulatory Changes

On July 4, 2025, President Trump signed the One Big Beautiful Bill Act (“OBBBA”) into law. OBBBA includes a 362-page package of tax law changes. Although the enactment of OBBBA provides some visibility to US taxpayers/investors, it also reflects inherent uncertainty, and many of these changes will require Treasury or the Internal Revenue Service to issue new interpretative guidance. Tax insurance provides certainty for insureds grappling with such uncertainty today.

Outlined below are a few legislative and regulatory changes specific to tax credits, which have helped drive demand for tax insurance.

OBBBA MADE SIGNIFICANT CHANGES TO MANY TAX CREDITS

While OBBBA set earlier termination dates for solar/wind projects, a meaningful runway still exists for such credits. Separately, OBBBA extended the sunset dates of other credits (such as 45Z).

FOLLOWING IRS NOTICE 2024-41, WHICH PROVIDED A SAFE HARBOR TABLE FOR CALCULATING DOMESTIC CONTENT PERCENTAGES,

strong demand continued for Domestic Content coverage in tax insurance policies. This guidance created an additional pathway for projects to qualify for the Domestic Content adder and significantly increased the number of policies incorporating such coverage.

IN RESPONSE TO AN EXECUTIVE ORDER FROM PRESIDENT TRUMP

directing the Department of Treasury to provide comprehensive guidance on the Beginning of Construction (“BOC”) requirements for renewable energy projects, Treasury released IRS Notice 2025-42, which provided critical clarifications on the BOC safe harbors and qualification requirements. This served as a catalyst for tax insurance demand as parties seek certainty that the BOC requirements are being satisfied.

Innovation & Growth Outside of Tax Credits

Tax insurance continues to expand well beyond its traditional M&A roots.

In 2025, we saw significant growth in several specialized areas:

REAL ESTATE

The use of tax insurance in real estate transactions continued its dramatic growth that began in 2024. REIT hybrid policies have become increasingly common when sellers require buyers to purchase REIT entities rather than underlying real estate directly. Buyers are leveraging hybrid policies that incorporate both RWI and tax insurance protections to obtain certainty that REIT status will be respected and also protect against other potential breaches of seller's representations and warranties in the underlying purchase agreement.

TRANSFER PRICING

As cross-border tax scrutiny intensifies, companies are increasingly turning to tax insurance to protect against transfer pricing adjustments and disputes with tax authorities.

TREATY QUALIFICATIONS

Uncertainty around treaty eligibility and beneficial ownership requirements has created demand for insurance covering treaty-based tax positions.

Market Dynamics & Capacity Changes

Lockton's leadership in the tax insurance market has continued to expand significantly, and in 2025, Lockton bound approximately twice as many tax policies as it did in 2024.

At the same time, the tax insurance market has undergone notable changes in 2025. Several new carriers entered the market, bringing additional capacity and competitive dynamics to the space, but certain insurers also became more selective about the types of tax risks they are willing to insure, such as a weakened appetite for sales and use tax risks.

Nevertheless, in addition to the growing use of tax insurance in the US, the tax insurance market continues to develop in international jurisdictions for which underwriting appetite is available, with the most significant growth seen with respect to Indian tax risks.

LOOKING AHEAD

We expect the overall use of tax insurance to continue to increase as taxpayers seek protection against ambiguous implementation rules and evolving regulatory interpretations both in the US and abroad.



OVERVIEW OF THE INTANGIBLE ASSET & CONTINGENT RISK MARKET

The contingent risk insurance market continues to evolve as insurers, brokers, and policyholders adapt to an increasingly complex legal, regulatory, and commercial environment. Over the past year, market participants have reassessed risk appetite, underwriting approaches, and product design in response to loss experience, heightened scrutiny of single-event exposures, and growing demand for more tailored solutions.

While traditional litigation-focused products have contracted or become more selective, insurers are showing increased willingness to deploy capital against clearly defined, known risks that have not yet crystallized into formal disputes. Together, these developments reflect a maturing marketplace—one that is narrowing in certain areas while expanding in others and increasingly positioning contingent risk insurance as a strategic tool for managing downside exposure and facilitating transactions in high-stakes contexts.



Litigation Insurance

The litigation insurance marketplace evolved considerably over the past year. At its core, the mission of this product line has not changed—insurers participating in this market help policyholders use insurance to solve complex problems found at the intersection of business and legal risks. Nevertheless, the past year has seen a substantial shift away from carriers insuring active litigation towards carriers seeking to insure known legal risks that have not yet progressed to a lawsuit.

Market Updates: Judgment Preservation Insurance & Adverse Judgment Insurance

Over the past few years, the historical mainstay in contingent insurance—judgment preservation insurance, or JPI—has undergone significant transformation.

JPI policies “lock in” a portion of a trial damages award that is up on appeal. However, insurers have suffered several material (actual or projected) losses in this product line, causing most to leave the market altogether. Those that still offer JPI have become hyper-selective about which risks qualify for this coverage, reduced available limits, and restructured policies to better emphasize alignment of incentives.

The markets have incrementally more appetite for adverse judgment insurance, or AJI,

which is defense-side insurance that can limit a potential defendant’s exposure from pending or putative lawsuits. AJI policies are intended for legal risks that are potentially high-severity but have a low likelihood of resulting in a loss.

It is for this reason that the ability of adverse judgment insurance to ring-fence the downside risk of existing litigation has proven to be particularly useful in the M&A context, where the existence of a contingent litigation liability may impede consummation of the deal itself.

While AJI policies have not suffered the same levels of loss as JPI policies,

carriers have been somewhat reluctant to underwrite these products as well. Much of this reluctance stems from the fact that, like JPI, AJI policies are underwriting a single legal event, which can be perceived as a binary risk. However, more carriers currently are willing to underwrite AJI than JPI. Successful placements for AJI policies emphasize alignment of incentives and structuring an insurance program that has multiple ways to take the carriers “off risk” (e.g., a patent infringement litigation defendant should have arguments both (1) that their accused products do not infringe; and (2) that the asserted patents are invalid).



Increased Appetite: Specific Contingency Insurance

Specific contingency insurance is the catch-all insurance product for offerings that do not fit neatly into the above-referenced offerings and has been the largest growth area for the contingent insurance marketplace. Rather than focusing on active or threatened litigation like JPI or AJI policies, these placements mostly focus on legal risks revolving around potential, known, legal issues.

For example, a company developing a new product might insure the risk of a competitor filing an intellectual property infringement lawsuit in the future, alleging that the new product infringes the competitor's patents. Similarly, a company facing a regulatory issue—e.g., the issuance of a permit—can transfer the downside risk of the permit not being granted so that the insurer will indemnify the policyholder if the permit is not granted and the policyholder suffers a loss. With the aforementioned losses in the JPI markets, insurers have begun to focus extensively on underwriting and ensuring these types of alternative risks.

FUTURE DEVELOPMENTS IN CONTINGENT RISK INSURANCE

Contingent risk insurance is becoming increasingly trusted and sophisticated each year. Despite the JPI and AJI headwinds, the opportunity for growth remains limitless as new types of legal, regulatory, and credit risks continue to find their way to the contingent risk insurance marketplace. With insurers and brokers working to achieve appropriate risk selection, underwriting, and policy structuring, contingent risk insurance is poised to become a business necessity in the expensive and complex world of litigation.



LOOKING AHEAD

As we enter 2026, we remain cautiously optimistic that M&A activity will continue to accelerate. Incremental interest rate cuts, tempered inflation, continued innovation in the technology sectors, gradual easing of regulatory restrictions, and a more stable tariff environment are among several factors that should facilitate a continued rise in dealmaking activity throughout 2026.

Lockton continues to evolve alongside, and drive innovation in, the rapidly developing transaction liability industry, and we remain steadfast in our commitment to help our clients manage risk with bespoke insurance solutions.

We are proud to be our clients' certain solution for transactional risk and look forward to continuing to provide trusted expertise, everywhere in 2026.

LEADERSHIP TEAM

The Transaction Liability leadership team is comprised of **industry leaders** with **extensive experience** in **transaction liability** and **M&A transactions**.

[Visit our Transaction Liability site.](#)

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