

Food, Agriculture, & Beverage

Executive Risk State of the Market

Midyear 2025

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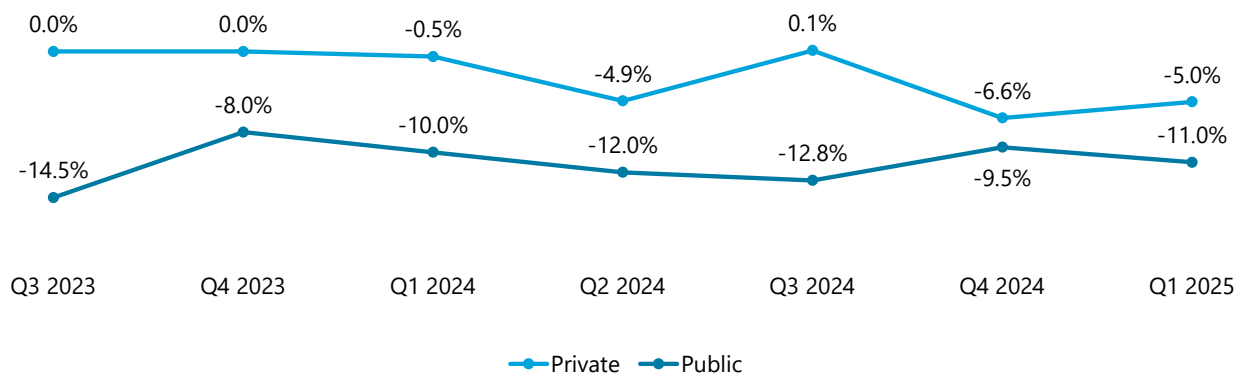
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Stable environment: Competition remains strong, with insurers eager to offer favorable pricing and terms for both new and renewal business.



Source: Lockton P&C Edge Benchmarking Report, Q1 2025; Median total D&O program rate change for food, agriculture, and beverage companies.

Many insureds are exploring higher limits and dedicated side A/DIC policies to strengthen their programs. Policy language remains broad. Underwriters are open to considering coverage enhancements to differentiate their terms in the softer market conditions. Food, Agriculture, and Beverage companies should pay close attention to antitrust coverage as insurers have begun offering sublimits, and in some cases full limits are available.

While conditions are generally favorable, the food, agriculture, and beverage sector, faces unique challenges such as supply chain disruptions, evolving food safety regulations, ESG-related scrutiny, and labor shortages. These factors can increase underwriting complexity and influence pricing. While conditions are favorable, some insureds may face premium pressure due to rising revenues and exposure bases. Underwriters remain disciplined, with close attention to debt levels, interest rates, and operational sustainability.



Securities class action (SCA) loss trends

Federal securities class action (SCA) filings increased for the second consecutive year, with 229 cases filed in 2024, matching the total from 2023. This follows 206 filings in 2022, 212 in 2021, and 317 in 2020, bringing the five-year average to approximately 239 filings per year. The most prominent trend categories in 2024 were COVID-19 (19 filings), AI (13 filings), and SPAC (9 filings), which together represented more than 18% of total filings. A significant 61% of these actions were filed in courts within California and New York.

IPO-related filings have also reflected broader market shifts. After a high of 50 IPO-related SCAs in 2022, the number dropped to 17 in 2023 and 13 in 2024, paralleling muted IPO activity. Of the 2024 filings, only nine involved IPO companies, accounting for 4% of the total. Although the D&O insurance market for IPOs, SPACs, and de-SPACs has softened, it remains less competitive than the broader public D&O space.

Emerging risks

Insurers are closely monitoring loss portfolios and emerging risks, as the breadth of public/private company D&O policies makes insurers vulnerable to claim activity resulting from new trends. Areas of scrutiny include:

- Artificial intelligence
- Cybersecurity/privacy topics
- Pricing practices and market consolidation
- Supply chain disruptions
- Changing regulatory environment

Strong corporate governance is necessary with shifting regulatory priorities, implementation and monitoring of new technologies, and use of artificial intelligence. Potential regulatory concerns also exist over stricter regulations around food safety and sustainability.



Fiduciary liability

The **fiduciary liability** market continues to stabilize following several years of hard market conditions.

Although premiums remain higher than pre-2020 levels, rate increases have moderated, with renewals commonly seeing a flat to 5% increase. Most insurers remain cautious, typically offering no more than

\$5 million in primary limit capacity. However, excess capacity is more readily available, and pricing is becoming more competitive as the market stabilizes.

Retention levels remain a key focus for underwriters. For defined contribution plans with over \$250 million in plan assets, specific excessive fee retentions of \$250,000 are common and can exceed \$5 million for large asset plans. Insurers are increasingly shifting away from excessive fee-specific retentions and moving toward broader mass/class-action retentions to better manage aggregate exposure.

Employee stock ownership plans

Historically, insurers have shown limited appetite for companies owned through employee stock ownership plans (ESOPs), largely due to their complex ownership structures, regulatory challenges, and the potential for claims that impact both directors and officers (D&O) and fiduciary liability coverages. Since mid-2024, however, market conditions have shifted. Capacity has become more available and competitive, as insurers increasingly target ESOP-owned companies to diversify and grow their portfolios.

Despite this progress, underwriters remain cautious — particularly with **newly formed ESOPs**. Companies within four years of their ESOP transaction often face heightened underwriting scrutiny and more detailed information requests, reflecting the perceived risk associated with early-stage ownership transitions.

Excessive fee lawsuits are filed by classes of plan participants against fiduciaries, retirement plans, and plan sponsors, commonly alleging that:

- The administrative/record-keeping fees charged to participants are excessive.
- The investment fees charged to participants are excessive.
- Investment performance lags benchmarks.
- Sponsors are self-dealing/have conflicts of interest.

Excessive fee and performance lawsuits surged by **35%** in 2024, reaching 65 cases, according to

Encore Fiduciary. This follows a fluctuating trend in recent years, with 60 cases in 2021, 88 in 2022, and 48 in 2023.

In addition to excessive fee claims, there has been a noticeable rise in plan forfeiture lawsuits. These suits allege that plan sponsors misused forfeited funds — using them to offset employer contributions instead of covering legitimate plan expenses.

Emerging litigation is also targeting health and welfare plans, particularly around tobacco surcharges and pharmacy benefit manager (PBM) relationships.

Employment practices liability

The market is approaching an inflection point, as claims frequency and severity begin to outpace the favorable rate environment that has persisted over the past 24 months.

Companies that have experienced claims or significantly expanded their workforce may face changes in pricing and retentions.

In the food, agriculture, and beverage industry, EPL risks are heightened by several sector-specific challenges.

High turnover and seasonal labor create increased exposure to wage and hour disputes, especially under state-specific labor laws.

Unionization efforts are gaining momentum in food processing and distribution facilities, leading to more collective bargaining disputes and unfair labor practice claims.

Workplace safety concerns, particularly in manufacturing and agricultural settings, continue to drive claims related to unsafe conditions and inadequate training.

Discrimination and harassment claims are rising, especially in environments with diverse, multilingual workforces and limited HR infrastructure.

California remains one of the most challenging jurisdictions for EPL coverage, with its broad antidiscrimination protections, generous wage and hour laws, and the Private Attorneys General Act (PAGA), which allows employees to sue employers on behalf of the state.

Additionally, laws like Illinois' Biometric Information Privacy Act (BIPA) are expanding to other states, imposing strict rules on the collection and use of employee data — particularly relevant for food, agriculture, and beverage companies using biometric timekeeping systems in production environments.

AI & ESG risks

Food, agriculture, and beverage companies adopting **AI for hiring, scheduling, and performance evaluation** should expect heightened scrutiny from both regulators and insurers. These technologies, while offering efficiency, have led to a rise in **discrimination and privacy-related claims**, particularly when used without transparent policies or proper consent mechanisms. As the legal framework around AI continues to evolve, companies must stay aligned with the latest state and local regulations.

At the same time, **ESG (environmental, social, and governance) initiatives** are under the spotlight. In the food and beverage sector, ESG compliance is no longer optional — consumers and investors are demanding sustainable sourcing, ethical labor practices, and transparent reporting. However, shifting regulations and inconsistent standards across jurisdictions are creating compliance challenges, especially for companies operating across multiple states or internationally. Balancing innovation, compliance, and workforce expectations in this dynamic environment will be critical for food, agriculture, and beverage companies aiming to mitigate risk and maintain brand trust.

Crime

The crime insurance market remains largely stable, with insurers typically seeking flat renewals to modest increases of up to 5%. However, the threat landscape continues to evolve, particularly around **social engineering fraud**, which remains both frequent and severe.

Threat actors are employing increasingly sophisticated tactics, including **AI-powered impersonation and manipulation**, to deceive employees and exploit vulnerabilities in financial controls. These risks are especially pronounced in the food, agriculture, and beverage industry, where high-volume transactions with suppliers, distributors, and logistics partners are common.

Companies in this sector should ensure that social engineering sublimits are aligned with average ACH and wire transaction values, and that internal controls — such as dual authorization, employee training, and vendor verification protocols — are robust. Businesses engaged in large-scale procurement or capital projects are frequent targets and should regularly review their coverage and risk management practices to ensure adequate protection.



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