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The price paradox: Decoding energy markets in a dynamic landscape

Energy Market Review Update

November 2023

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Market capacity figures

The figures quoted in this Review are obtained from individual insurers as part of an annual review conducted in January each year. They are solicited from the insurance markets on the basis of securing their maximum theoretical capacity in US$ for any one risk. Although of course this capacity is offered to all buyers and their brokers, the individual capacity figures for each insurer provided to us are confidential and remain the intellectual property of WTW.

WTW Energy Loss Database

All loss figures quoted in Part Two of the Review are from our WTW Energy Loss Database. We obtain loss figures for this database from a variety of market sources (including a range of loss adjusters), but we are unable to obtain final adjusted claims figures due to client confidentiality. The figures we therefore receive from our sources include both insured and uninsured losses in excess of US$1 million.

Style

Our Review uses a mixture of American and English spelling, depending on the nationality of the author concerned. We have used capital letters to describe various classes of insurance products and markets, but otherwise we have used lower case to describe various parts of the energy industry itself.

Abbreviations

The following abbreviations have been used throughout this Review:

BI	Business Interruption
CAR	Construction All Risks
E&P	Exploration & Production
ESG	Environmental Social Governance
LNG	Liquefied Natural Gas
LOPI	Loss of Production Income
Nat Cat	Natural Catastrophe
OEE	Operators Extra Expense
PD	Physical Damage
S&P	Standard & Poor's
WELD	WTW Energy Loss Database

Introduction

Welcome to our Energy Market Review Update for the final quarter of 2023. In this update, we share our thoughts and findings on the state of the global Upstream and Downstream markets, as well as focusing on the International Energy Liability and North American Energy Casualty markets.

The wider market environment for oil and gas companies continues to be plagued by global inflation as well as commodity price volatility and supply chain delays. These macro-economic factors have affected clients and markets alike, right across the insurance spectrum and continue to be a focus area for insurers. Over the last year we have supported many clients in carefully reviewing their asset values and Business Interruption projections underpinned by detailed engineering and risk analytics work. This work has certainly assisted clients in obtaining more favourable renewal terms from the insurance market and insurers have greatly valued this effort.

The energy transition remains at the forefront of the minds of clients and insurers alike and we have been encouraged by the number of insurers willing to actively support clients through this process rather than excluding certain business activities. We have seen markets starting to branch out from insuring traditional oil and gas activities to also cover renewables and key emerging transition technologies such as hydrogen, battery energy storage, interconnectors and carbon capture. The WTW Natural Resources Global Line of Business Model is ideally placed to bring together experts from right across the various occupancies to work flexibly with the insurance market to develop new solutions to support our clients' ongoing energy transition efforts.

As the investment market once again yields more meaningful returns for capital providers, the insurance industry is on the brink of a renewed focus on cost of capital optimisation to ensure it continues to deliver

the desired results for investors. We are already noting the first signs of this cost optimisation drive as more and more insurers are deploying at least some of their capacity through MGAs and other cost-optimised follow capacity vehicles. However, certainly for the time being, the capacity deployed through these vehicles is largely accretive to existing open market capacity and as a result market capacity right across the energy sector remains abundant.

This is particularly surprising considering the significant loss activity across the sector in the last two to three years. We view this continued commitment by capital providers and the market as a whole as a sign that they view this increased loss activity as a momentary blip rather than a long term trend and that they are willing to continue supporting energy clients in the foreseeable future.

As always in the latter part of the year, a degree of uncertainty remains as insurers' 2024 reinsurance treaties are in the process of being finalised. Whilst we do not expect a season as punitive as last year, the market is likely to remain more disciplined towards the end of the year as many insurers have already made budget and will seek to hold out committing to 2024 renewals until they have a clearer view of their reinsurance treaty terms going forward.

Looking forward to 2024, the continued abundant capacity, when combined with the increased risk selection now deployed by insurers, is set to increase competitive pressures on the most desirable business and we believe that we are on the cusp of a return to the softening phase of the market cycle in 2024.

We hope you enjoy reading the Energy Market Review Update and, as always, we appreciate any feedback or questions you may have.

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Global Upstream

Increased activity levels are bolstering the premium pool

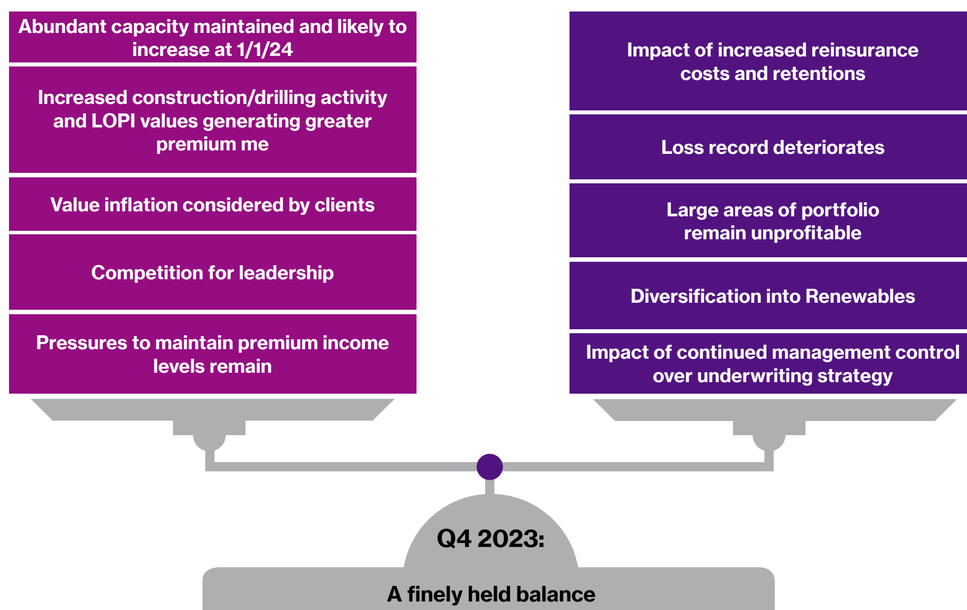
The premium base has increased due to the influx of constructions this year compared to the previous four or five years. This is due to a more stable oil price at US$80-90 levels, compared to the COVID-19 level of US$30-35. During the preceding low oil price environment, many projects were delayed but we have seen project activity restart over the last year, as governments are increasingly focussing on domestic energy security. Countries such as Norway offered meaningful tax incentives to new oil and gas projects, which have encouraged operators to dust off many temporarily shelved projects. The focus on energy security has also resulted in a temporary relaxation of local ESG requirements which had started to impact projects and insurance markets are supporting these placements.

In years to come these projects will likely cause a bump in upstream construction losses at a point in time when future ESG restrictions, both at governmental and insurer level, may result in considerably less incoming construction premium to balance these losses.

In the U.S., onshore we continue to see steady drilling as majors and large independents are sticking to their commitments of operating within cash flow, repurchasing shares and distributing cash back to their investor base. Their growth is steady, generally limited to about 5%, while the smaller public and private companies continue to increase their activity in light of the higher oil pricing. We have seen recent announcements in the U.S. of upstream consolidation and suspect there will be more to come in 2024 as buyers look to replace and supplement their drilling inventory.

Figure 1:

A fine balance — the Upstream underwriting environment, November 2023



A market in a finely balanced equilibrium waiting for what 2024 will hold.

Source: WTW

Offshore U.S. activity remains bifurcated, with significant drilling and completion operations in the deepwater Gulf of Mexico and a lesser volume of activity on the Gulf of Mexico shelf. There are generally fewer and smaller construction projects in the U.S. Gulf of Mexico at this time as operators focus on hub and spoke asset strategies by using tie backs to existing facilities as their preferred development concept.

There are other regions such as the UK North Sea, where project and drilling activity has significantly slowed as a result of the government windfall tax. Smaller independent companies are especially seeing their bottom line hit by this and are holding back from drilling wells, uncertain whether they will get a good return on their investment.

Imbalance in underwriting portfolios: A problem for next year

The uptick in construction activity means that most insurers have already made their 2023 budgets, resulting in less management pressure to write business towards the end of the year and likely some reticence by the market to being overly competitive to win business. Some insurers are likely to close their book to further construction business for Q4, having exceeded income targets.

However, the large amount of new construction business could well imbalance portfolios with many markets now writing a book that is more heavily weighted towards construction income than in previous years. This will cause a knock-on problem next year if fewer projects come in as insurers will need to replace this non-recurring income — a difficult position for markets to maintain. Looking back to the last time drilling and construction activity fell away, we saw insurers seeking to increase their lines on operating programmes to make up the shortfall in income, and if history repeats itself, this could result in a significant softening of operating rates as competition for these programmes increases.

> **"Project activity restarted over the last year, as governments are increasingly focusing on domestic energy security and this uptick in construction activity has bolstered the insurance premium pool."**

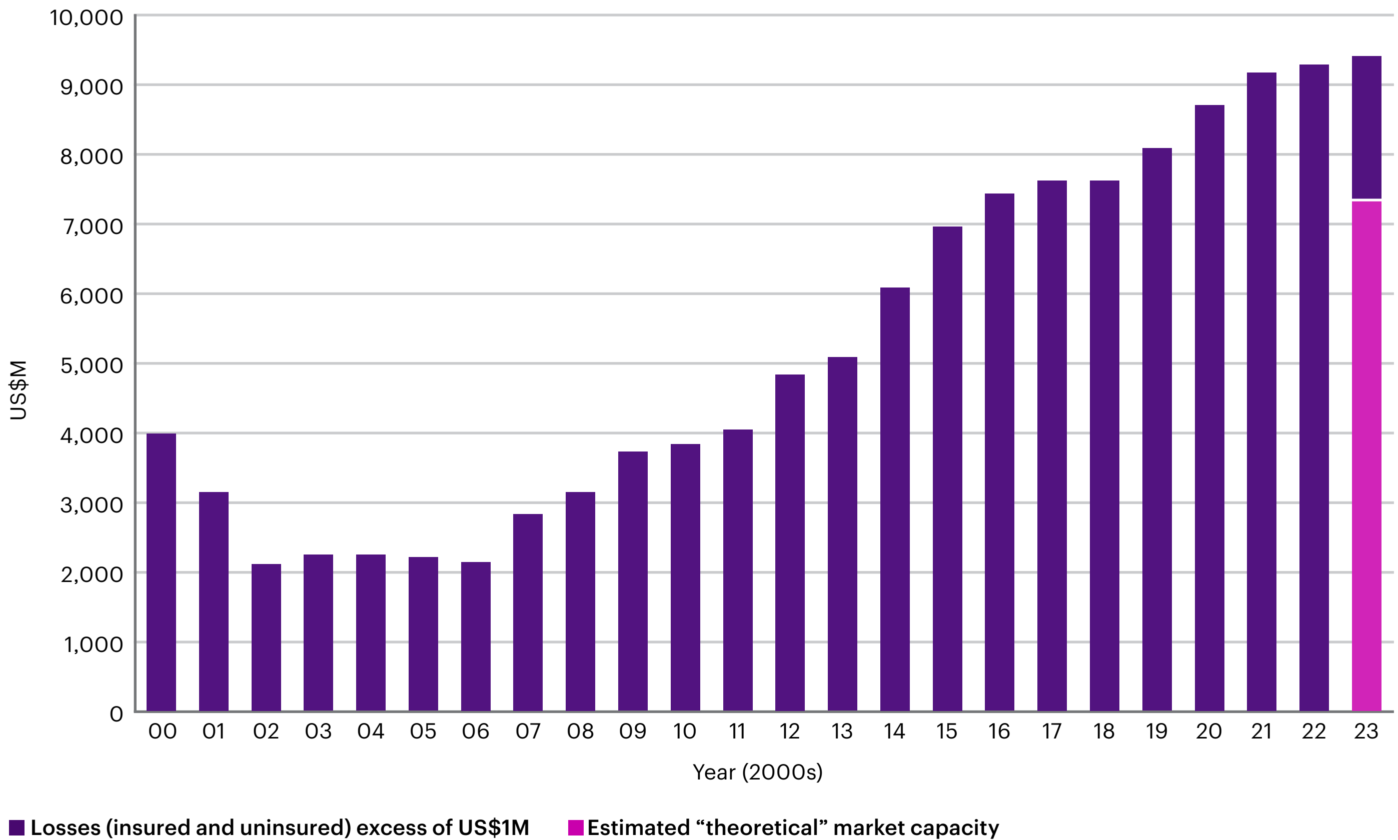
Capacity: Some things don't change

Plenty of capacity continues to be available for most good risks that markets want to write and capacity has in fact gone up slightly during the year. A few insurers have increased their lines, particularly for large North Sea clash assets and we are expecting further increases from existing players at 1st January 2024.

Gulf of Mexico Named Windstorm coverage has seen significant reductions in capacity over the past two years, but similar limits have generally been able to be purchased through increased take up from other incumbent insurers. Going forward we expect Gulf of Mexico Named Windstorm capacity to remain constrained alongside U.S. Business Interruption and/or Loss of Production capacity.

Figure 2:

Upstream Operating insurer capacities 2000-2023 (excluding Gulf of Mexico Windstorm)



Both theoretical and realistic capacity levels have increased in recent years — thwarting the efforts of insurers to accelerate the hardening process

Source: WTW

Chinese market

Interestingly, we have seen a retrenchment in the Chinese market, which had in the past been a key enabler of competitive pricing for those placements with a Chinese interest. However, over the course of 2023, Chinese insurers have scaled back on the international business they write. This is a result of some significant non-domestic losses now coming through into their book from accounts where they wrote disproportionately large lines. Many Chinese insurers are now taking a stricter view on what qualifies for a "Chinese interest" on international business and are focussing more on technical underwriting to ensure that they are partnering with the right insureds.

For domestic Chinese clients, local markets continue to have meaningful appetite to support with large lines but appetite is more measured on construction where they are a scaling back on line sizes.

Figure 3:

2023 loss record appears more favourable...but there is more to come

Upstream losses excess of US$10 million, 2023 (to date)

Type	Cause	Region	PD US$	OEE US$	BI US$	Total US$
Platform	Unknown	Asia Pacific	0	54,890,000	0	54,890,000
Platform	Unknown	Asia Pacific	0	31,000,000	0	31,000,000
Well	Mechanical failure	North America	0	22,600,000	0	22,600,000
MOPU	Unknown	Europe	0	0	21,390,000	21,390,000
Well	Unknown	Asia Pacific	18,800,000	0	0	18,800,000
Well	Fire no explosion	North America	0	12,500,000	0	12,500,000
Platform	Anchor/jacking/trawl	Middle East	0	10,000,000	0	10,000,000

No losses above US$100 million have been recorded so far, but we expect several large losses to be added to the database following reserving later in the year

Source: WTW Energy Loss Database as of October 3rd, 2023 (figures include both insured and uninsured losses)

Losses: Was 2023 really as good as it looks?

Our WTW Energy Loss Database only tracks losses once they have been reserved and currently shows a total of US$225 million losses for 2023. However, we know of further, not yet recorded losses including a significant platform fire in Latin America likely to add US$600 — 750 million, two further Gulf of Mexico blowouts at around US$200 million each, a US$200m construction incident and another loss at circa US$250 million.

2022 was profitable for most underwriters with no significant loss activity, apart from a large construction loss which impacted some portfolios (as foreseen in the April update) and a major midstream BI loss in Europe. Insurers who avoided large lines on these losses generally fared well in 2022. Most upstream underwriters still sit on profitable portfolios and management are likely to want them to maintain or increase this further next year, adding to competitive pressures.

Figure 4:

2022 loss record has deteriorated as expected

Upstream losses excess of US$20 million, 2022 (to date)

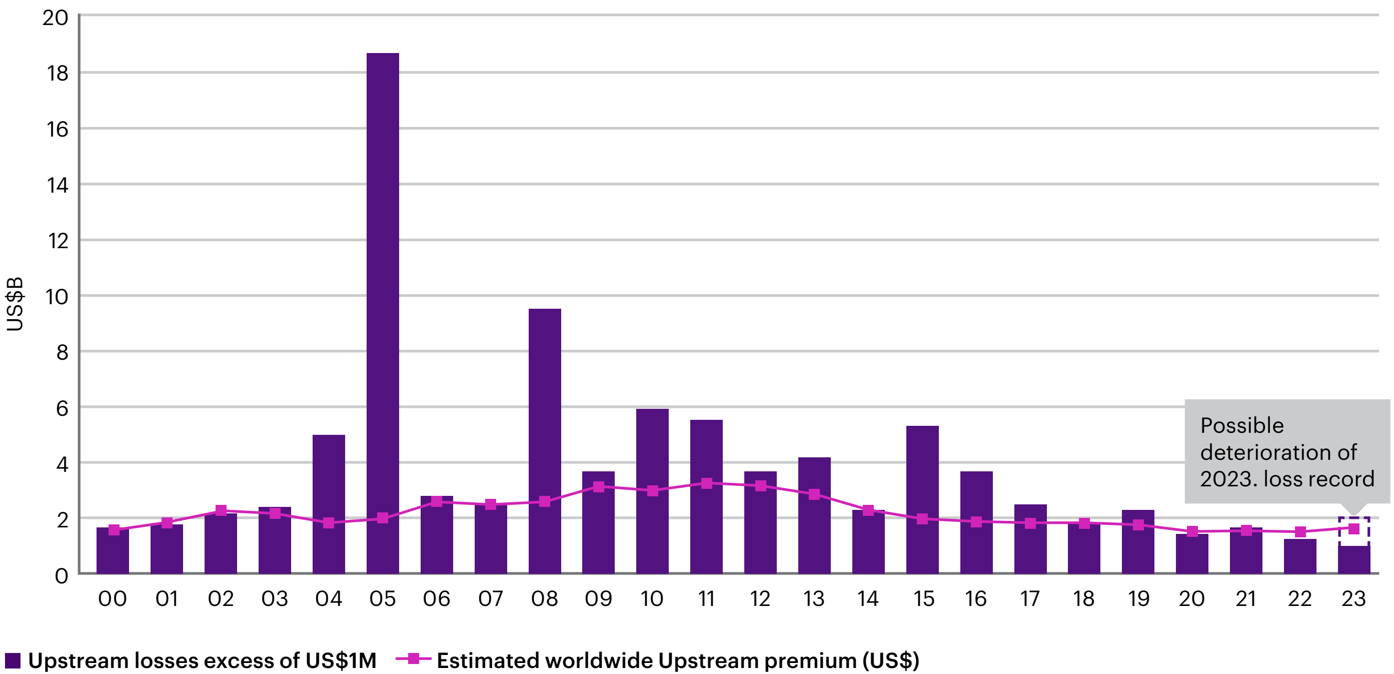
Type	Cause	Region	PD US$	OEE US$	BI US$	Total US$
Platform	Faulty work/op error	Europe	0	0	400,000,000	400,000,000
Rig	Mechanical failure	Latin America	0	92,000,000	0	92,000,000
SSCS	Corrosion	Europe	0	19,000,000	56,250,000	75,250,000
Well	Unknown	Africa	0	60,000,000	0	60,000,000
Well	Blowout no fire	North America	57,000,000	0	0	57,000,000
Plant	Fire no explosion	Middle East	0	45,000,000	0	45,000,000
Vessel	Mechanical failure	Europe	0	37,000,000	0	37,000,000
Platform	Mechanical failure	Europe	0	14,200,000	20,000,000	34,200,000
Well	Blowout no fire	Europe	21,300,000	0	10,600,000	31,900,000
Pipeline	Anchor/jacking/trawl	Asia Pacific	0	30,000,000	0	30,000,000
SSCS	Anchor/jacking/trawl	Africa	0	30,000,000	0	30,000,000
Well	Blowout no fire	Latin America	29,000,000	0	0	29,000,000
Platform	Unknown	Asia Pacific	0	27,000,000	0	27,000,000
Well	Blowout + fire	North America	20,000,000	6,000,000	0	26,000,000
MOPU	Impact	Asia Pacific	0	24,500,000	0	24,500,000
Rig	Fire no explosion	North America	0	20,100,000	0	20,100,000
MOPU	Faulty work/op error	Asia Pacific	0	20,000,000	0	20,000,000

Major loss now included and further deterioration on other incidents

Source: WTW Energy Loss Database as of October 3rd, 2023 (figures include both insured and uninsured losses)

Figure 5:

2023 loss record will deteriorate making it an unprofitable year

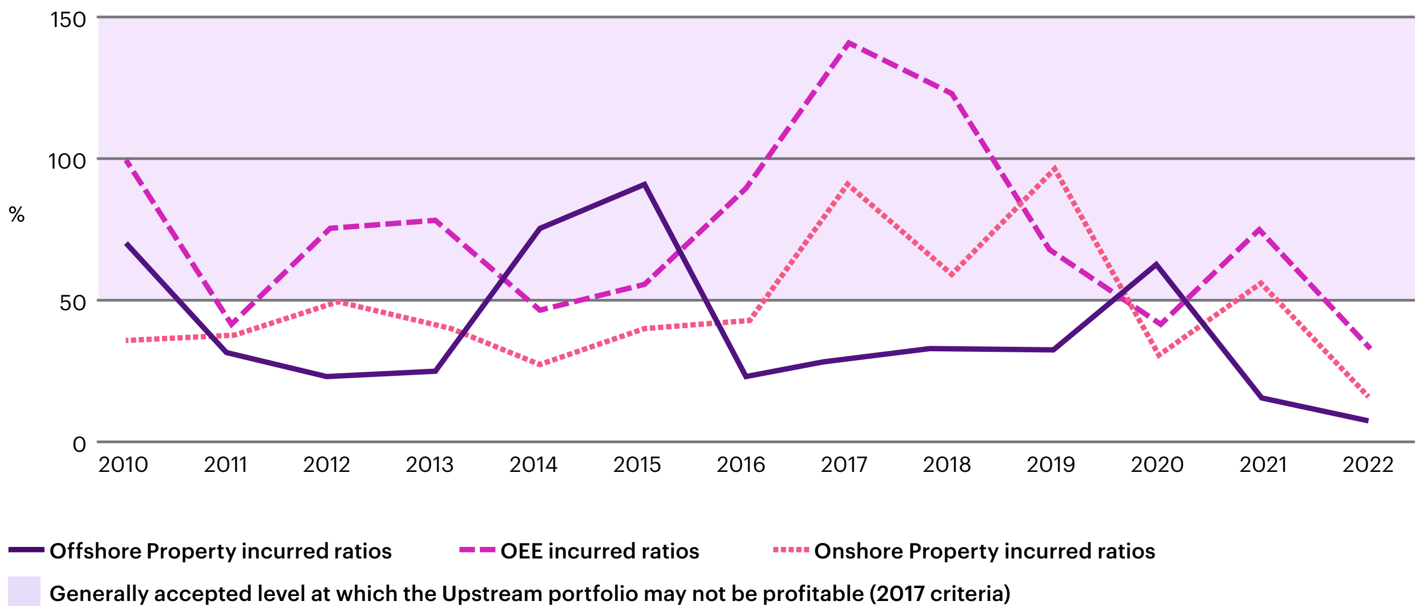


Greater incidence of large losses but also more attritional exposure in underwriting portfolios

Source: WTW/WTW Energy Loss Database as of October 16th, 2023 (figures include both insured and uninsured losses)

Figure 6:

Lloyd's Upstream portfolio profitable for all subsectors



Positive Lloyd's data for all upstream portfolio sectors but further deterioration still expected

Source: Lloyd's Market Association Quarterly Loss Report Q2 2023. "Offshore Property" — combination of ET/EC/EM/EN Audit Codes "OEE" — combination of EW, EY and EZ Audit Codes. "Onshore Property" — EF audit code.

Inflation: An inconsistent picture

The upstream market is still somewhat behind its downstream and power counterparts in reacting quickly enough to the increase in global inflation and supply chain timeframes. Whilst other markets are tightening conditions and adjusting rates accordingly, most upstream underwriters are purely asking whether clients have considered inflationary factors with only a few applying related restrictions or rating loads. This may be because many clients voluntarily revise their values in line with inflation, particularly on the contractor book where we routinely see increases of 15-20% in insured values. However, few valuations are independently verified, and the market does not tend to request this.

In regions such as the North Sea, we are not seeing the same increase in asset values because of older infrastructure, which is unlikely to be replaced like for like, especially in view of the regions' ambitious net zero targets and the complications this may bring on the sanctioning of replacement infrastructure. If clients insure lower values for these assets, it is important that they sufficiently cover any partial losses such as the replacement costs on compressors.

We are also seeing a wide variance in the asset values submitted by different joint venture partners for the same assets based on their internal view of Estimated Maximum Loss scenarios and the likely rebuild scenario and field/asset life expectancy. If markets believe a client has undervalued assets, they may apply higher rate rise at renewal to reflect this perceived underinsurance.

Whilst we expected more focus from the market on deductible levels and waiting period adequacy in the inflationary environment, this has not materialised.

Reinsurance market impact has not been fully passed on to direct clients

At the time of our Energy Market Review in April, insurers were reeling from quite severe treaty renewals and the market was talking up the conditions and the amount of money that they were going to have to spend on increased reinsurance.

As Q1 progressed, we saw a divergence in how different markets reacted. The insurers with a multi-class reinsurance program that covered downstream and upstream were probably hit the hardest. Also hard hit were those markets with a whole account program that included aviation, due to the Ukraine crisis and political violence losses. However, those insurers that had energy specific treaties were treated more leniently except for on Gulf of Mexico Windstorm. Gulf of Mexico Windstorm coverage was the hardest hit area of the1st January treaty renewals, with increases in treaty costs passed onto direct clients.

Overall, reinsurance treaty renewals were not as bad as many markets expected from a cost increase point of view, but many had to accept significantly increased retentions.

Due to the timing of these reinsurance treaty renewals, many of the large 1st January renewing accounts were quoted and placed before treaties were finalised and so missed out on any adjustments made in view of treaty increases. It may only be at the end of 2023, when underwriters see their full year numbers including increased retention levels, that the direct market will fully react to the impact the 1st January 2023 treaty renewals. This may result in some very different rating conditions in 2024.

2024 treaty renewal discussions are just commencing but we do not expect upstream energy portfolios to be treated differentially at this renewal. In fact, reinsurers may feel that they have adequately addressed concerns with the upstream portfolio through last year's adjustment in retention levels, which results in more attritional losses remaining with direct insurers.

Facultative reinsurance

In the April Energy Market Review, we said that facultative reinsurance might fill the gap of the increased reinsurance retention, but this has not transpired as the reinsurance cost uplift in premium has not been passed on to direct clients. Insurers have not been able to achieve a significant uptick in rates which would have generated the money for them to buy facultative reinsurance to compensate for the increased treaty retention levels.

Conversely, appetite for purchasing facultative reinsurance has actually slowed down and more deals are now being done on the renewables book where the market is significantly growing.

Offshore renewables firmly established in the upstream portfolio

During 2023 we have seen more upstream insurers diversifying into offshore renewables to support their clients through the energy transition and take advantage of the premium volume generated by the sector. For most markets offshore renewables sits within the upstream reinsurance treaty, so they are able to write these exposures within existing treaty structures.

Upstream underwriters are keen to write operational risks, but most risks are placed on a project basis with the construction policy including a number of years of operating exposure post completion. If the upstream market is serious about broadening out into these risks, they will need to move away from focussing solely on operational risks and get comfortable with writing these construction projects with operational bolt-ons with 4 or 5 year policy periods.

This diversification into renewables allows insurers to remain firmer on rating expectations going forward as they will have the benefit of the renewables premium to offset any business they lose due to inadequate rating or risk selection.

However, we have seen this story before when markets moved to diversify into the midstream book a few years ago, but losses soon came to haunt them and capacity retrenched once again from the sector. So, it remains to be seen whether upstream markets have greater longevity in writing renewables risks.

Leadership and markets

We are finding that markets with a less diversified book, which do not write renewables or downstream are more dependent on the large premium volume upstream accounts and simply cannot afford to walk away from these large accounts even if rating levels do not meet their expectations.

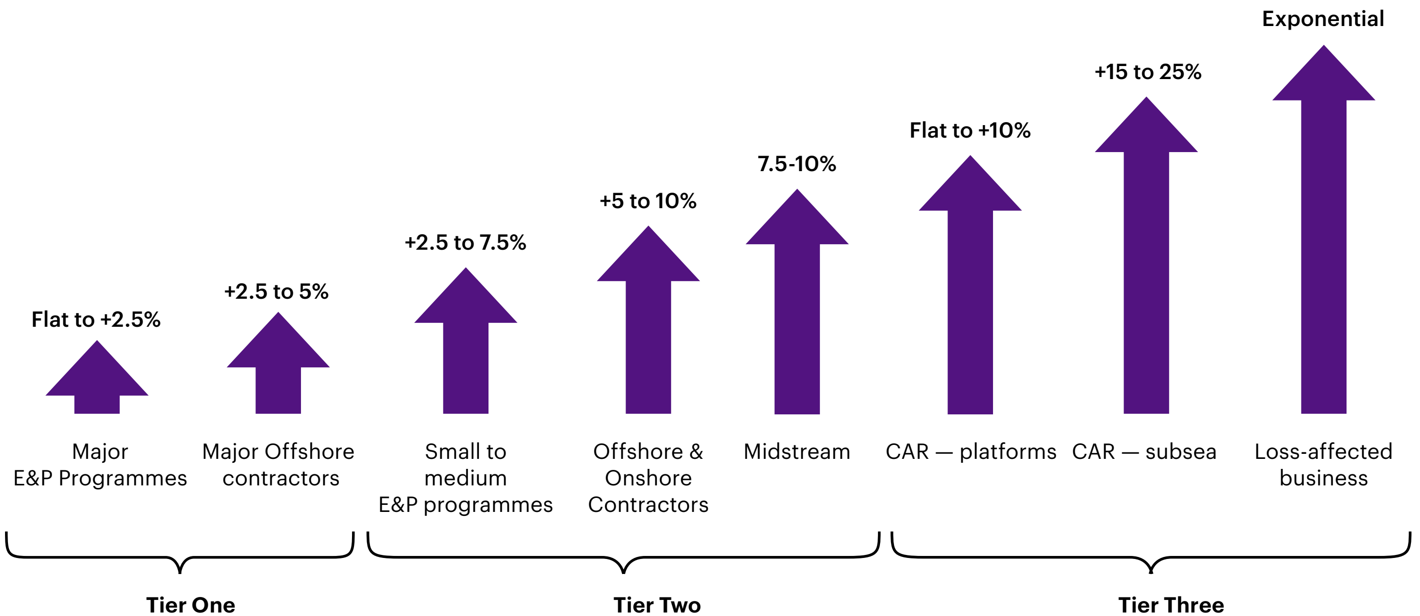
Conversely for some of the traditional leaders, who are writing multi-class in natural resources, upstream is the sector not delivering the desired returns on capital. Whilst the loss ratios over the last few years have been favourable, it is evident that it will not take many losses to push the portfolio into unprofitable territory. These diversified markets are getting far better rates on line on power and downstream and as a result are not aggressively quoting to grow their upstream position. Despite this, we are seeing these markets continue to honour long-standing client relationships and quote competitively to maintain their leadership position on existing good quality business.

There are still markets that are hungry for premium, particularly those that do not have a strong position on the Tier one business and those that are looking to grow their portfolios. Some markets have significant growth targets for 2023 and others are trying to offset the losses paid over the last two years.

"There are still markets that are hungry for premium, particularly those that do not have a strong position on the Tier one business and those that are looking to grow their portfolios."

Figure 7:

Three-tier market differentials, November 2023



The range of rating increases across the three tiers is narrowing

Source: WTW

Pricing: Have we reached the top of the market?

At the beginning of the year, insurers stated that they needed a 10% overall increase in premium levels across their book in order to stand still and pay their reinsurance costs. However, with much of the 1st January business missing these rate increases and renewing at a much lower level, many insurers would have been significantly below this target. We have not seen any particular evidence that other parts of the book and accounts renewing later in the year are meaningfully hardening to meet this overall rating expectation.

As the year progressed, the market moved to a position of flat renewals to minor rate increases of circa 2.5%, particularly for the most sought-after and sizeable business. Third party liability sections are still seeing larger increases of 5-10% but the premium for this coverage is usually minor compared to the overall placement and does not significantly shift overall rate change. The less desirable business such as construction, onshore contractors and standalone control well accounts are still seeing more significant upward rate movement.

Gulf of Mexico Named Windstorm was generally flat for deepwater in 2023 while shelf wind saw double digit increases.

Growth

For clients that can evidence significant growth, markets have been more commercial than in the past. They offer attractive growth credits for acquisitions as increased premium generated from this growth give them more flexibility on rate.

Order

Markets are proving to be significantly more competitive on placements with small commercial marketed orders, either because large swathes of the risk are retained in local markets such as China, or because there is meaningful self-insured participation. Such accounts face stiffer competition from insurers who all want to write a share of the small commercial order, where only a few markets can participate. Into 2024, these accounts will continue to see the best terms. Larger orders, which require more subscribing markets to complete, will be harder to place at the most competitive terms. The size of the commercial market order alone can be sufficient to move an account from Tier one to Tier two.

Competitive Pressures

In the current market environment, it is important for brokers to test the pricing provided by incumbent leaders to ensure that clients' terms remain competitive. Regular benchmark quoting and programme structure reviews should form part of account renewal strategies, even for clients with long standing market relationships. For programmes that do not have large capacity requirements, this market evaluation exercise may well yield favourable terms and give the broker greater negotiation leverage with existing insurers.

The outlook for 2024: A buoyant market ahead

The latter months of the year, ahead of the treaty renewals, have often been the softer part of the year. But with many markets having achieved their budget, we may see some reticence to be competitive during Q4, especially for less desirable parts of the book such as construction.

The market is more selective on construction business than we have seen for a long time. If markets are now presented with a pure subsea project where they have no existing relationship with the operator, they are more likely to decline. We anticipate that this enhanced risk selection will continue into next year.

For operational business, with potential capacity increases at 1st January 2024 for several insurers, we may see a further drive for market share as insurers are seeking to fully utilise their new increased capacity and this could further soften pricing levels.

Significant additional portfolio losses and increased reinsurance retention levels in 2023 will mean that insurers will carefully evaluate the requirements for a profitable book of upstream business going forward. They may find it nonetheless difficult to achieve the required rate increases. If markets cannot achieve the rate movements needed, they may instead explore more cost-effective ways to write the business.

This could see a rise in the use of managing general agents (MGAs), which insurers can use to enter new markets or segments in a more economical way, without incurring the costs of setting up a business line or regional office. We have seen a number of specialist MGAs set up to address this need, be it regional, sectoral or broader with a technology flavour. In addition, we may also see increased participation in and / or establishment of "Follow-Only" insurers to provide markets with a cost-effective way to increase market share.

Whilst the specific use of MGAs can be highly effective, caution should be exercised as these arrangements often do not provide clients with the same level of longevity as direct underwriter relationships.

As we move to the end of year renewal season, clients should be encouraged by the buoyant market in the upstream sector. Although there is much variation in approach depending on the sub-sector, insurers are taking account of client differentiation, whether in size, nature of activities, location, loss record or longevity of their market relationships. This highlights the importance of engaging early with insurers and your broker to ensure that the placement can be presented in the best possible light.

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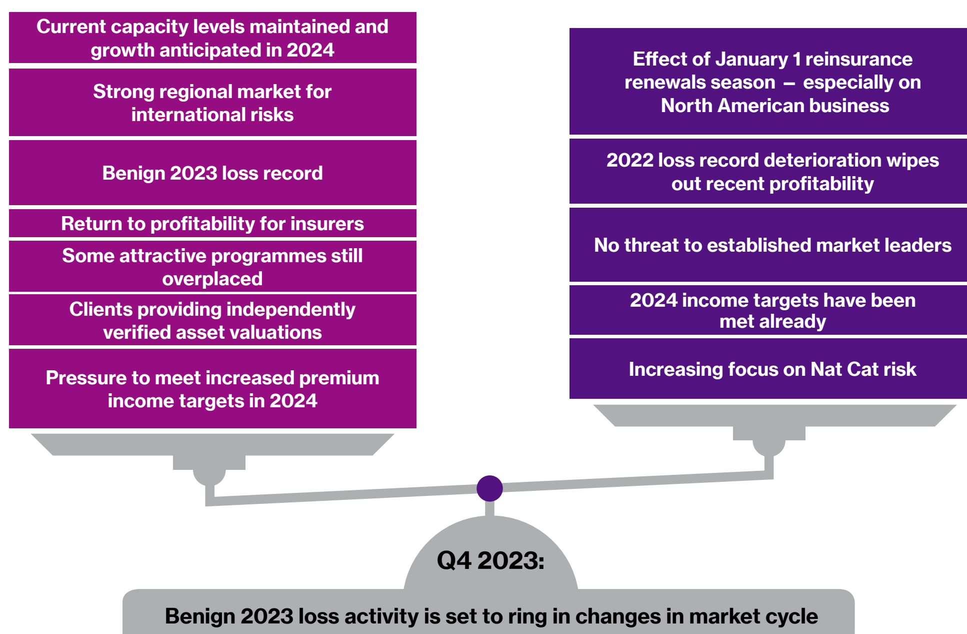
Global Downstream

Significant deterioration of 2022 loss figures but there is light on the horizon

As reported in our April Energy Market Review, in 2021 and 2022, we saw major losses in the market, mainly in oil and gas but also in the chemical and midstream space. This ultimately affected both the downstream market and those upstream insurers who write midstream risks. Over the course of this year, 2022 loss reserves have deteriorated significantly and our database now records in excess of US$8 billion in losses for 2022. This deterioration is primarily due to the reduced or delayed access to sites for loss adjustors, either due to a knock-on effect of COVID-19 or because local authorities shut down sites immediately following a loss. As a result, loss adjustors cannot access sites to fully quantify losses until after the location is released by local authorities, which is causing meaningful delays in loss quantification and consequently less accuracy in insurer's initial reserves. This has been a key factor in the increase in reserves, particularly for the North American losses shown overleaf.

Figure 1:

The Downstream underwriting environment, Q4 2023



Meaningful underwriting profits in 2023 will soften the market going forward.

Source: WTW

Figure 2:

2022 loss record shows significant deterioration

Downstream losses excess of US$75 million, 2022

Category	Cause	Country	PD US$	BI US$	Total US$
Gas plant	Fire + explosion/VCE	North America	225,000,000	1,231,200,000	1,456,200,000
Gas plant	Fire + explosion/VCE	North America	456,750,000	890,250,000	1,347,000,000
Refinery	Mechanical failure	Europe	40,000,000	639,800,000	679,800,000
Refinery	Fire + explosion/VCE	North America	75,000,000	495,500,000	570,500,000
Refinery	Fire + explosion/VCE	Europe	55,000,000	440,000,000	495,000,000
Gas plant	Fire no explosion	Middle East	13,600,000	228,440,000	242,040,000
Gas plant	Fire + explosion/VCE	North America	160,000,000	45,000,000	205,000,000
Tank farm/terminal	Unknown	Latin America	119,000,000	72,000,000	191,000,000
Petrochemical	Mechanical failure	Middle East	34,200,000	150,000,000	184,200,000
Refinery	Fire + explosion/VCE	Asia Pacific	28,000,000	122,500,000	150,500,000
Tank farm/terminal	Lightning + fire	Latin America	138,000,000	0	138,000,000
Chemical	Mechanical failure	North America	50,000,000	78,558,800	128,558,800
Gas plant	Heavy weather	North America	8,438,835	118,000,000	126,438,835
Pipeline	Impact	Asia Pacific	2,000,000	109,000,000	111,000,000
Petrochemical	Mechanical failure	Asia Pacific	59,500,000	43,800,000	103,300,000
Refinery	Fire no explosion	Europe	4,238,000	90,000,000	94,238,000
Pipeline	Ruptured pipeline	North America	11,000,000	80,000,000	91,000,000
Refinery	Fire no explosion	Europe	18,700,000	69,800,000	88,500,000
Chemical	Contamination	North America	8,300,000	80,000,000	88,300,000
Chemical	Mechanical failure	North America	13,000,000	65,000,000	78,000,000
Refinery	Mechanical failure	Europe	1,500,000	76,400,000	77,900,000
Petrochemical	Supply interruption	Middle East	8,000,000	69,000,000	77,000,000

Some very extensive catastrophe losses in 2022 with BI in insurers' focus

Source: WTW Energy Loss Database as of October 3rd, 2023 (figures include both insured and uninsured losses)

But why were losses so much more prevalent in 2021 and 2022? COVID-19 and the resulting low oil price environment have certainly led to fewer fully trained and experienced personnel on site. When this is combined with the excellent refining margins in 2021 and 2022, which have led clients to push out turnarounds and run assets at full capacity, it is clear why a greater incidence of loss events has emerged in these years.

"Over the course of this year, 2022 loss reserves have deteriorated significantly and our database now records in excess of US$8 billion in losses for 2022."

In 2023 some green shoots are appearing. So far there have only been two major losses in the downstream market as well as some smaller attritional losses. The total loss record for 2023 stands at just over US$1.8 billion so far and we expect reserves for the largest of these losses to reduce, further improving insurers' position. If loss trends continue to be this benign for the remainder of 2023, we expect a very profitable year for downstream underwriters, which we believe will create a softer pricing environment going forward.

Figure 3:

2023 loss record is already showing two major losses

Downstream losses excess of US$20 million, 2023 (to date)

Category	Cause	Country	PD US$	BI US$	Total US$
Refinery	Fire + explosion/VCE	North America	35,000,000	862,296,000	897,296,000
Petrochemical	Fire + explosion/VCE	North America	275,000,000	275,000,000	550,000,000
Refinery	Fire no explosion	Europe	25,000,000	66,000,000	91,000,000
Refinery	Impact	Asia Pacific	4,550,000	68,640,000	73,190,000
Chemical	Fire + explosion/VCE	North America	11,500,000	26,000,000	37,500,000
Chemical	Collapse	Asia Pacific	10,000,000	24,600,000	34,600,000
Refinery	Impact	North America	14,765,000	12,000,000	26,765,000
Chemical	Mechanical failure	North America	10,000,000	16,500,000	26,500,000
Gas plant	Mechanical failure	Middle East	20,000,000	3,000,000	23,000,000

Two major losses over US$500 million so far but fewer small losses

Source: WTW Energy Loss Database as of October 3rd, 2023 (figures include both insured and uninsured losses)

Increased capacity expected for 2024

Capacity levels have been generally stable throughout 2023, with some slight increases from less mature insurers who are now more comfortable to deploy slightly larger line sizes. Looking forward to 2024, we already know of some new entrants coming into the market and we expect a number of existing insurers to push for incremental capacity increases during their reinsurance treaty renewals, on the back of strong and profitable underwriting results for 2023. MGAs are also becoming more popular, further helping to increase capacity, and that should create more competition going forward, which is of course good news for buyers.

Regional capacity still plays a key role and in the Middle East in particular, there continues to be plentiful capacity and strong appetite for local business. This local market is buoyant, fuelled by significant levels of construction in both the downstream and upstream sectors.

Elsewhere in the world, we are seeing some local capacity being brought back into London in a move to "deregionalise" and we will continue to monitor whether this recentralising of underwriting authority is a trend that will gather momentum with other (re)insurers across the Downstream Energy market.

The market is still fragmented in their ESG positions, with some of the European insurers taking the strongest stances and we will continue to monitor how insurers' evolving ESG positions could affect future underwriting capacity.

Business Interruption coverage remains a key focus

Business Interruption coverage remains an ongoing focus for markets, especially in view of the significant BI element to losses in 2022 and 2023, particularly in the US.

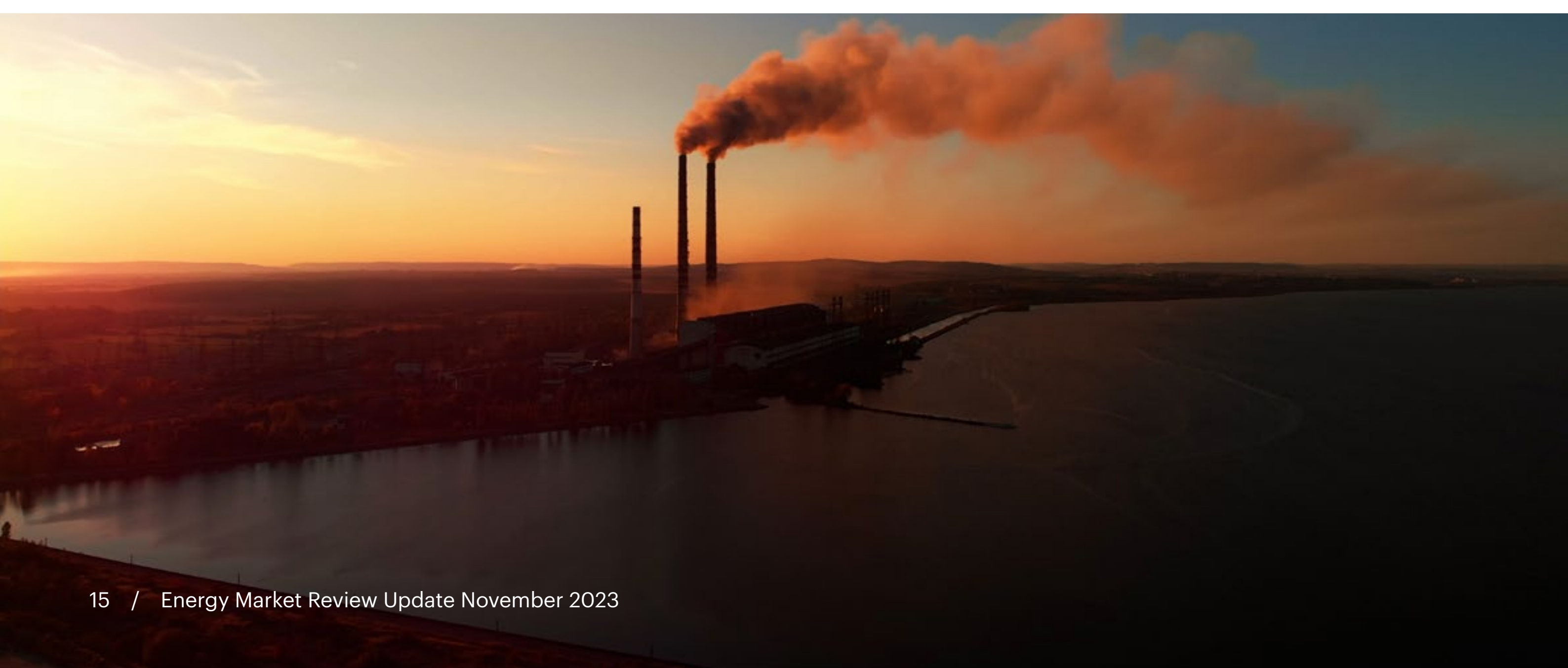
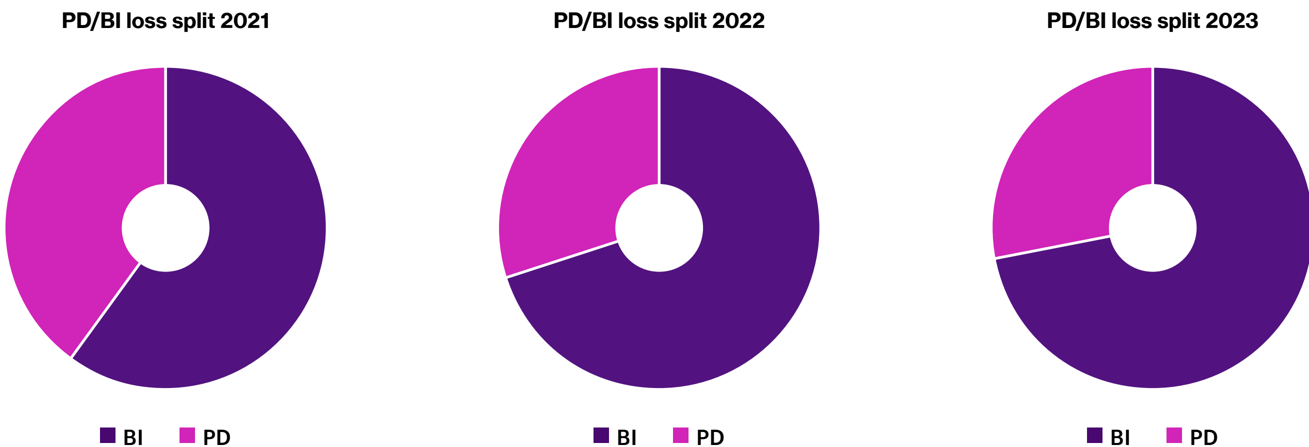


Figure 4:

PD / BI loss split, 2021-23



Source: WTW/WTW Energy Loss Database as at October 3rd, 2023

Insurers are continuing to normalise and scale down volatility factors within Business Interruption volatility clauses to reduce the uncertainty in potential claims amounts. One way for clients to combat this direction is to provide full, up-to-date business interruption worksheets, however we do find many clients continue to be reluctant to do this due to their boardroom directives to risk managers.

Another key area of focus in the 1st January 2024 reinsurance treaty renewals, which we will be keeping a close eye on, will be coverage for Strikes, Riots and Civil Commotion (SRCC) will be impacted. Reinsurers have been impacted by SRCC losses unrelated to natural resources clients. Whilst some treaties already exclude SRCC, we expect reinsurers to further tighten existing SRCC exclusions at 1st January 2024 for insurers who have not yet been impacted on their all risk policies to date. Over the course of 2023, we have increasingly seen direct insurers become more selective on the areas of the world where they are willing to offer SRCC coverage as well as imposing reduced sub-limits where they do offer the cover. If this trend continues, we could envisage SRCC cover following on the path of Political Violence and Terrorism to become a standalone placement in a specialist market.

Insurers are watching closely for how the impact of the current regional instability in the Middle East will affect the market. With large concentrations of downstream assets in the area, any escalation outside of the immediate conflict region, could potentially be very unsettling for the market and affect future market dynamics.

Asset Values now independently verified

Many clients are now using the major valuation companies to independently verify their asset schedules and this has been well received by the market. However, the valuation reports can take a long time to produce and in some cases the results have shocked clients with the sizes of suggested increases. This does of course have a knock-on effect on premium and brokers need to be diligent to ensure that any rating loads applied by insurers for perceived underinsurance over the last few years are now stripped back out of the rating, so clients are not penalised by being double charged for value inflation.

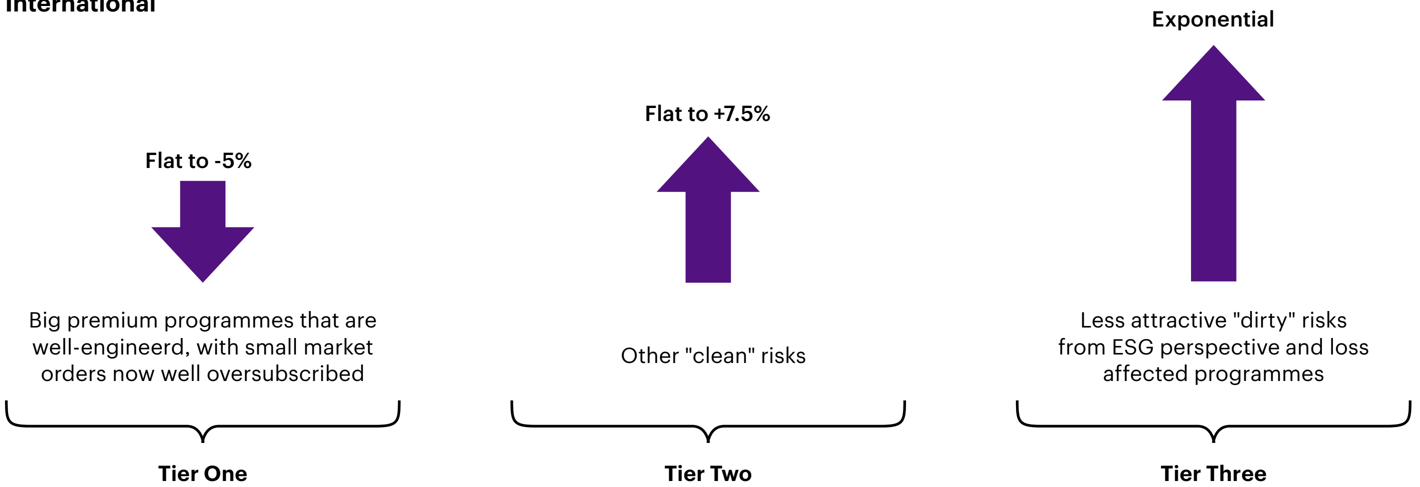
Pricing: The market is ready to turn

In the past, insurers were often entering the fourth quarter significantly under budget and were chasing business to reach their full year targets. As a result, December was historically one of the best parts of the year to renew, however recently this has become the worst renewal date as many insurers have already reached their year-end budget targets. Whilst we are hearing from some insurers that they do not need to write any new business this year that could affect their current profitable portfolios, there will be some markets that will try to overwrite budget to make up for the claims in 2021 and 2022, which could neutralise the year-end dampening in competitiveness.

Whilst the brakes have certainly been applied to the hardening market, we are seeing clear differentiation between clients with each risk assessed separately on a case-by-case basis and rate movement varying by region and by exposure.

Figure 5:

Current Downstream market rating movements, November 2023



The international market is starting to bottom out, but North America still sees increases

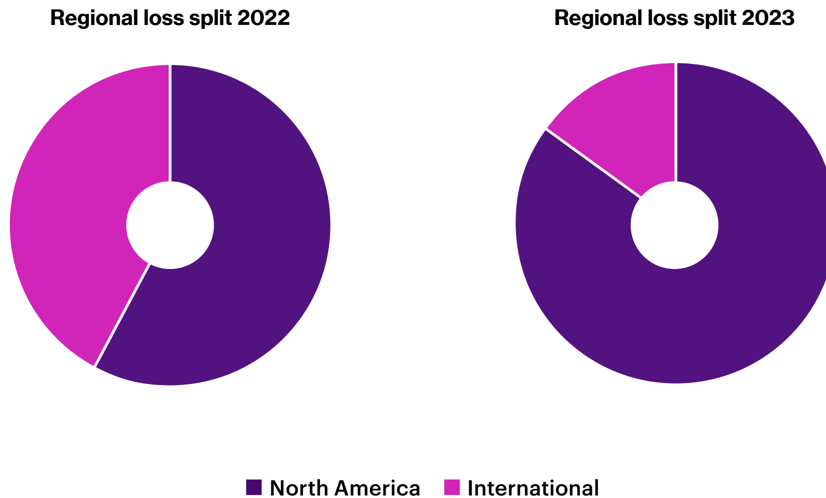
Source: WTW

The trifurcation of the market persists. Tier one clients with well-engineered risks, small open market orders, a clean loss record and regular physical damage and business interruption valuations are seeing renewals of between flat and -5%. For Tier two clients, we anticipate flat rating to increases of +7.5%. However, we have noted that the differences between Tier one and Tier two clients are reducing and we have seen exemplary clients being classed as Tier two simply because they present a large commercial market order to be placed. For Tier three clients, who have had claims and have less exemplary engineering, rates continue to rise exponentially and we see an increasing trend of these placements not being fully completed due to lack of insurer appetite.

The market for North American risk is still showing fewer signs of softening, likely due to the significant proportion of loss activity in this part of the world, however insurers are now moving to flat rating to small increases of up to 5% for the most favoured business.

Figure 6:

Regional loss split, 2022-23



Source: WTW/WTW Energy Loss Database as at October 3rd, 2023

Regional risk differentiation

It is evident from the chart above, that the majority of the loss activity attributes to the North American market segment. And as a result of this and the less litigious nature of some other areas of the world, we have seen clear rating differentiation between the International and North American market segments. This is further exacerbated by the presence of a strong regional market in both Asia and the Middle East with insurers keen to support local risks. This additional local capacity drives competitive pricing for regional placements, but these markets are not willing or able (due to treaty restrictions) to write risks in Western Europe or North America.

> **Looking forward to 2024, we believe there will be more management pressure on underwriters to show growth in their portfolios, especially if markets close out 2023 as profitably as it appears so far.**

Natural catastrophe continues to be a focus

Compared to the past 18 months, natural catastrophe (Nat Cat) rates have increased three to four-fold in certain areas, driven by regional risk accumulation for example in the US state of Texas. This accumulation is resulting in many insurers having fully deployed their available aggregate and as a result rating levels are higher for the remainder of this finite capacity.

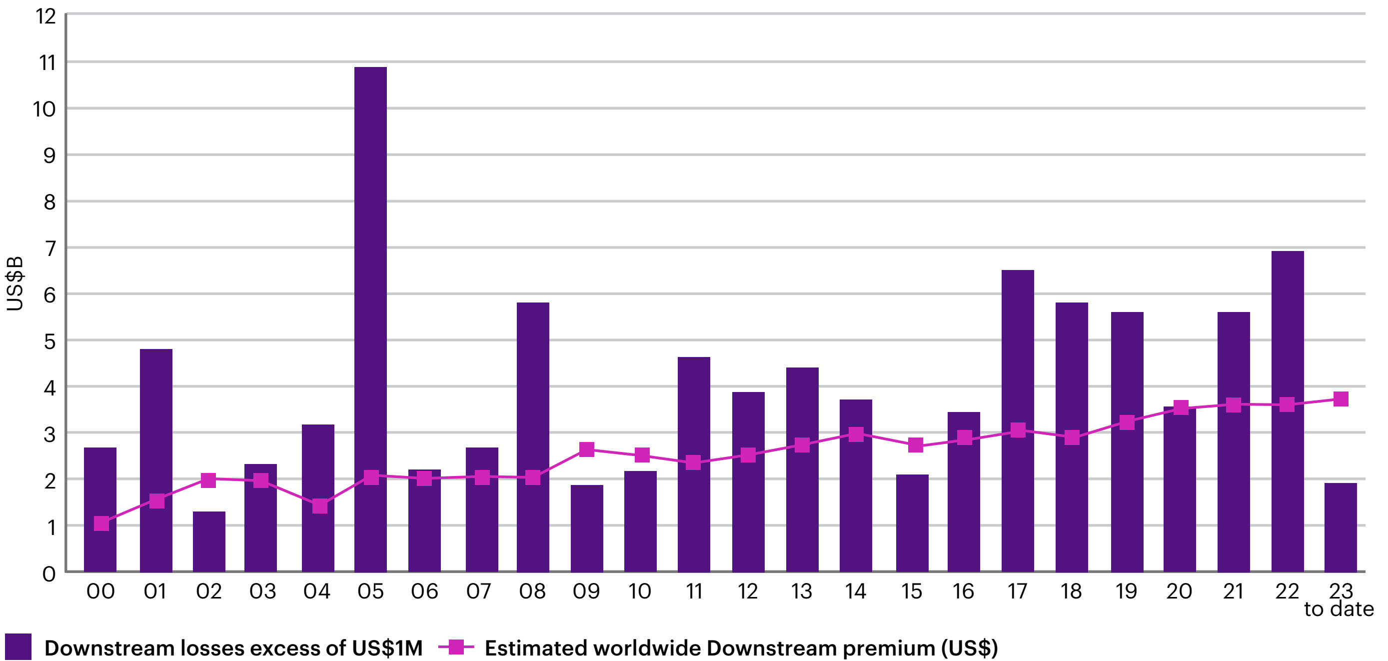
We are increasingly seeing natural catastrophe related losses in unexpected areas of the world as previously benign areas are showing signs of being affected by climate change. We have seen floods in Thailand, cyclones and flooding in Oman and even a windstorm loss in Malta. Markets are concerned by how these increasing incidences of unexpected, and more importantly unpriced, natural catastrophe exposure may impact their portfolios going forward.

It is important for clients to remain on the front foot, and they can help markets accurately assess their risk and offer suitable products through the use of analytics and risk modelling to support their underwriting submissions.

Figure 7:

Losses and premium income

WELD Downstream losses 2000 — 2023 (excess of US$1M) versus estimated global Downstream premium income



Recent loss record destroying portfolio profitability as premium income levels flatten

Source: Willis Towers Watson/WTW Energy Loss Database as of October 16th, 2023 (figures include both insured and uninsured losses)

Green shoots for 2024

Looking at the chart above, despite poor portfolio performance over the last couple of years, all signs are positive for 2023 and downstream insurers will likely close the year out with low combined ratios and excellent profit margins. Looking forward to 2024, we believe there will be more management pressure on underwriters to show growth in their portfolios, especially if markets close out 2023 as profitably as it appears so far.

Over the last few months, we have increasingly seen an appetite from insurers to offer long term agreements to their most favoured clients, a sure sign that insurers believe we are at the top of the market and are looking to lock in current pricing levels.

In a new development for the downstream market, we have even seen some non-cancellable long-term agreements offered to well-engineered blue-chip clients including with rate reductions in subsequent years in recognition of the likely change in the market cycle. Insurers are seeking to secure their position on preferred business over a longer time horizon and this development could in fact serve to soften the market even further.

Overall, all signs are positive for a shift in the market cycle in buyers' favour as we look forward to 2024.

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International liability

Sunlit uplands or false dawn: Where to now for International Energy Liability?

2023 has seen a relative stabilisation in capacity, a lack of major Liability Energy catastrophe claims and a moderation in rate increases. Is the market now finally heading back to the promised land of rate neutrality or even (whisper quietly) towards that long-forgotten territory of rate reductions?

Whilst the dynamics are directionally positive for the insurance buyer, there are some underlying concerns that caution against too early a celebration. In short: trends are broadly positive and cautious optimism is justified but some negative drivers give continued cause for thought.

Back in the black: Casualty underwriting results

The most recent set of annual results announced by Lloyds in March 2023 shows that Casualty, as a class, finally returned to an underwriting profit — the first time in eight years.

Whilst the Lloyds results represent only a part of the global Casualty market, albeit a very significant one, and include all Casualty lines (including D&O and Financial Lines, Cyber and Accident & Health), they are nevertheless a good barometer of the overall health of the General Liability sector.

Figure 1:

Lloyds annual results for the Casualty sector:

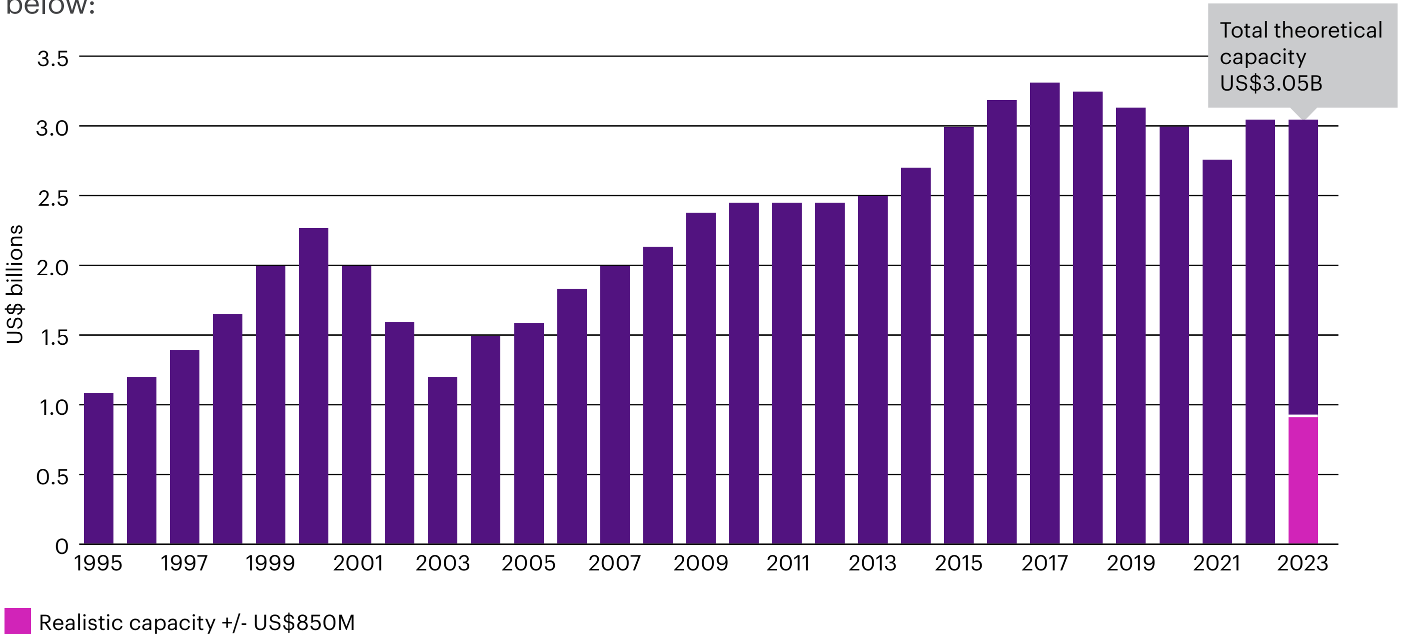
Year	Gross Written Premium £M	Combined Ratio %	Underwriting Result £M
2014	4,959	98.1	74
2015	5,764	100.1	(5)
2016	7,131	102.7	(146)
2017	8,464	103.1	(189)
2018	9,094	102.9	(183)
2019	9,459	105.7	(390)
2020	9,067	110.3	(688)
2021	10,360	100.3	(17)
2022	12,987	93.7	536

Source: WTW

Figure 2:

Market capacity: Steady as she goes...

Total published Global Liability capacity continues to track at approximately US$3.05 billion, with actual working capacity at approx. US$850 million, as illustrated in the Global Liability capacity chart below:



Source: WTW

This apparent stasis hides some underlying changes. There has actually been a measured influx of additional capacity both from increased line sizes of certain existing insurers and also from some limited additional new capacity. However, this has been balanced out by a capacity contraction from other insurers who have curtailed their purchase of Treaty Reinsurance, reducing their overall line size.

Encouragingly, an increased appetite from certain insurers and Lloyds syndicates to deploy capacity lower down on a programme, at Primary or first excess levels, is aiding competition. We also expect the entrance of one major new insurer into the International Energy Liability arena at 1st January 2024, if not before.

Treaty and Facultative Reinsurance: The power behind the throne

As insureds will be aware, most insurers rely on Treaty and occasionally Facultative reinsurance to support and augment their own net capacity. Pricing and rate changes experienced by an insurance buyer are therefore not only influenced by an insurer's own profitability but also by the back-end cost of their reinsurance purchases.

Many key treaties renewing in Q1 2023 saw increases, although not as severe as first feared. Interestingly, some insurers renewing their Treaties at 1st July 2023 were faced with meaningful rate increases. In one such example, an insurer who was quoted a 20% rate increase elected not to purchase the same level of Treaty capacity protection, because the direct market would not sustain such an increase. Increases of 10% have been more common, although insurers have often elected to change their retention levels to further mitigate the effects.

All eyes are now on the forthcoming Year End/Q1 2024 season which will strongly influence the future climate for direct liability rates in 2024.

Is Facultative Capacity starting to dry up?

Whilst Treaty capacity remains relatively abundant and reinsurance negotiations focus on attachment point, profitability and level of US exposures (an issue of particular concern for Treaty reinsurers given the losses from the region), a more concerning trend is the diminishing appetite of the Facultative Reinsurance market for Energy Liability business. Facultative Reinsurers, wary of the increasing ESG issues on the horizon for many Energy insurers, have chosen to trim their capacity, become much more selective and focus more on other industry sectors.

Energy Liability losses

Whilst the Lloyd's results inform the overall profitability of Casualty as a class, profitability varies by industry sector and by region.

Variations by region:

Our separate North American Casualty commentary considers the market conditions for what remains the most litigious and loss impacted territory. Whilst this is a separate dynamic to the international sector, it should

be noted that many of the major International Liability capacity providers also have US exposed activities in their client portfolios and remain vulnerable to and impacted by losses from the US. This is reflected by Treaty Reinsurers' increased focus on the amount of US exposure in their Insurers portfolios and the contraction of Direct Liability insurance capacity for international operations with US exposures.

Latin America remains as an area of caution for Energy underwriters in terms of jurisdictional, Nat Cat and pipeline maintenance issues. Whilst the region has several well managed quality risks, insurers are highly discerning and differentiate strongly between these and less desirable accounts in countries with less proven jurisdictions. Good information, availability of survey reports and closer insurer/client and cedant relationships remain crucial to aid differentiation and achieve the best results for insureds.

Variations by Sector:
We have commented that 2023 has been relatively free from major Energy Liability losses. Profitability has however been impacted by prior year deterioration and a series of small to mid-sized claims.

As an example, one loss in the terminal operator sector, originally estimated at US$150 million, then US$450 million is now being reserved by some insurers at over US$600 million.

There has also been a prevalence of smaller to mid-size pipeline pollution claims in the magnitude of US$10 million to US$25 million which directly impact the net retentions of many primary Energy insurers.

The areas producing the most losses to an Energy liability underwriter's portfolio are: Pipelines/Midstream, Marine Terminals, US Auto (where applicable) and Wildfire claims (most particularly from Power Utilities). Underwriters also remain more cautious about the Wet/Offshore/Marine exposures which have generated losses including excess Charterers and Terminal Operations.

Inflation: So "last year" or still an issue?

We have differentiated in the past between Social and Economic inflation, and this distinction remains particularly relevant for Liability as a class. Whilst economic inflation still persists, its impact is diminishing as inflation levels globally start to ease. As a result, the default of an automatic +5% to +7% loading inflationary factor is no longer the required norm.

Social Inflation however remains a consistent and increasing concern. As Liability is a long tail class, it also takes longer for inflationary considerations to feed through to loss results, hence the emerging impact on deterioration of prior year loss reserves.

One insurer cited a case of a Bodily Injury claims in Australia where the per person claim amount more than quadrupled This terminal operator loss is another example of back year loss deterioration, as increased claims filter through.

Regional differences persist

As ever, trends and prevailing rates vary region by region. Many territories have strong and growing local market capabilities which are imposing a downwards pressure on rate increases. This is particularly true in Australia, the Middle East and Latin America where healthy local competition is moderating rate increases and, in some instances, enabling flat renewals or even modest reductions, most particularly for insureds purchasing smaller limits and with non-complex risk profiles. Accounts requiring larger limits and or more complex coverages become subject to the prevailing wider UK/European and Bermuda global market conditions.

Prevailing rating level

So, what is the prevailing rate for Energy Liability business in the International/Global market? As ever the range is broad and depends on industry type, location, limit and exposure class (Onshore, On/Offshore, Offshore etc).

Since 1 January 2023, insurers have seen an average rate increase across their Energy Liability books of mid to high single digit increases (most in the +6% to +7% range and one at just over +10%). Those at the higher end tend to have a greater exposure to US and/or more loss heavy industry areas including Wildfire (where rate increases of +110% to +220% have been seen) and Marine/Offshore exposures. Those at the lower end often have greater exposure to Service Providers/Contractor business where prevailing rates are lower (+3% to +5%), driven by increased competition from the mainstream General Liability market.

> **Social Inflation remains a consistent and increasing concern. As Liability is a long tail class, it also takes longer for inflationary considerations to feed through to loss results.**

Coverage considerations

Whilst the heat has come out of rate increases, coverage remains a key focus for Insurers. There is a movement back to core coverages on updated industry wordings and, for example, one major insurer no longer provides professional indemnity insurance as part of its combined liability offering, following a major PI claim on a (non-Energy) Liability account. More specifically, PFAS and Climate Change are the two most commonly applied emergent restrictions.

PFAS: Out of the frying pan, into the fire?

Previously, we referred to the increasing prevalence of exclusions relating to Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) as a result of potential health concerns and their extreme persistence in the environment. Whilst only certain energy and petrochemical companies may have a direct involvement with PFAS as a product, there is still widespread use of PFAS as a constituent of fire-fighting foam, due to its highly effective fire-retardant properties. Early PFAS exclusions allowed certain buybacks in this regard but there is an increasing trend by many international insurers, often driven by Treaty restrictions, to apply broad restrictive clauses, most notably the LMA 5595. Insureds with most success in avoiding such clauses are those that can evidence their lack of PFAS products or fire-fighting foam exposure. The challenge for insureds is to ensure that, whilst limiting their exposure to PFAS they do not restrict their ability to effectively contain spread of fire, otherwise they may be swopping one potential liability exposure for another. Hopefully the continued development and improvement of fluorine-free fire-fighting foams will solve this conundrum.

Climate Change Liability Exclusions: Hot air or valid concern?

Climate Change Exclusions are also becoming increasingly prevalent. Whilst insurers argue that gradually occurring events would be excluded by virtue of sudden and accidental pollution limitations, Insurers and their Treaty Reinsurers are increasingly pushing for certainty and clarity. The concern amongst the broking community is the breadth and variation of these exclusion clauses, and the law of unintended consequences. For example, a methane gas explosion should not be inadvertently excluded because of a crudely worded "greenhouse gas liability" exclusion.

What of the future?

There are several conflicting factors that will influence International Energy market pricing and capacity in 2024.

Social Inflation remains a concern, as does the deterioration of prior loss reserves, a diminution of Facultative Reinsurance capacity and a desire by some Direct insurers to trim their exposures and line sizes in respect of Energy Liability business. In contrast we anticipate some new capacity in 2024, regional markets are increasingly competitive and there is a possibility that Treaty reinsurance renewal prices may ease.

We expect to see further easing of existing rate increases with average rate increases dropping to low single digit in 2024. Will the nirvana of flat rate or indeed price reductions be reached soon? In some limited cases and territories, it already has, but the smart money is on a forward budget approach of mid-single digit for the rest of 2023, easing to low single digit for 2024 (excluding exposure adjusted rate changes). Clearly this differs by industry sector with those risks having greater Offshore, Marine, US or Pipeline exposures expected to attract higher increases.

Controversially, some insurers have suggested that this could be a fictitious or non-sustainable softening followed by an ESG related rate-bounce as future capacity exits the Energy Liability sector, driving pricing back up.

There is certainly an increased focus and selectivity by insurers on how they deploy their capacity. Coal, fracking and Arctic drilling exposed insureds have already experienced serious capacity constriction and some insurers have exited the hydrocarbon sector completely.

As competition continues to increase for the carbon insurance dollar, those insureds that can best articulate and evidence the evolution of their low carbon transition plans will continue to have access to the widest capacity and the most preferential rates.

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North American Energy Casualty

Primary Liability

The Primary Liability marketplace, covering Workers Compensation, General Liability, Auto Liability, continues to find itself in a stable position overall from both a pricing and capacity standpoint in most Natural Resources sectors. This is due to a combination of manageable limits, which have helped to reduce the impact of increased claims severity, an increased focus on risk-transfer attachment points and an abundance of available capacity.

As many Primary Liability insurers have aggressive new-business growth goals overall each year, which we suspect will continue in 2024, clients should have the ability to choose between various options provided by competing insurers, and we predict that this combination of stable market capacity and growth-focus will most likely prevent the Primary Liability market from hardening in any meaningful way in 2024.

Auto Liability

The COVID-19 pandemic had caused a significant backlog of court cases, which is now abating and, as a result, auto liability judgements and settlements continue to come in at pace trending in a troubling direction for both prior years and the 2022-23 policy years. A well-funded plaintiff's bar continues to focus on commercial auto litigation and accident frequency is increasing because of heavy activity and distracted driving. Jurisdictions that used to be considered neutral are now leaning towards being plaintiff-friendly venues for example in places like the Permian Basin. It has been reported that the 2022 Combined Ratio for Commercial Auto insurance rose to 105.4% in 2022, a clear indicator of continued social and economic inflation in the sector. As a result of these aforementioned factors, pressure remains on insurer profitability for Primary US Auto Liability insurers despite seven to eight years of steady rate increases. Incumbent insurers are still requesting mid to high single-digit rate increases on their Auto Liability renewals, with some insurers even seeking low double-digit rises, as they attempt to return to profitability in a continuously challenging environment. We have seen an increase in Hired Auto claims in which the failure of the hired insurer to maintain or certify sufficient insurance limits has resulted in large judgements against the hiring company's corporate programs and attorneys have begun targeting "deeper pockets" in recent years. Looking forward to 2024, we expect incumbent insurance companies to continue to seek rate increases on renewal programs, with an ongoing focus on risk transfer attachment points as well as efforts to "right-size" their portfolios. It is vital that insureds in all sectors highlight controls in place to differentiate their programs in a market challenging environment.

General Liability

Incumbent insurers in the Midstream and Downstream segment are currently seeking low single digit rate increases for General Liability renewals for historically profitable business and in certain cases are offering flat-rated renewals to incumbent insureds. The Offshore Operating segment was severely disrupted with the exit of the a large London-backed US wholesale facility, with many insureds moving to the London market for Primary General Liability coverage. In many cases this has resulted in large premium increases while also increasing the focus on stricter adherence to Marcel Exceptions regarding the Louisiana Oilfield Anti-Indemnity Act. Domestic Onshore Operating capacity remains plentiful, with multiple insurers in both the US and London willing to offer General Liability coverage at competitive pricing for profitable insureds with proper controls in place. The Oilfield Services sector has seen a troubling uptick in the severity of "Action Over" claims amounts and insurers are beginning to scrutinize certain classes within the sector to combat the rising claims costs for litigated workplace injuries. Whilst ample capacity remains in the sector at this time, it does bear monitoring this development as we move into 2024.

Workers' Compensation

Workers' Compensation has remained a consistently profitable line of business for Primary Liability insurers for Midstream/Downstream/Chemicals and Upstream and has subsequently remained stable from a rating standpoint, with flat renewals and potentially small rate decreases offered by incumbent insurers. Oilfield service companies and industrial contractors are receiving larger rate increases if they have negative loss records as the sector is seeing an uptick in the severity of workplace injuries. However, for most energy sectors, Workers Compensation continues to be a major driver of overall profitability which is helping to offset the challenges faced by the US Auto Liability marketplace.

As wage-inflation has been considered during the 2023 renewal cycle, we do not foresee larger payroll exposures impacting renewals again in 2024.

We expect the 2024 year to mirror the current environment, with ample capacity remaining and insurers offering flat renewals and even small decreases on profitable programs for most industry segments.

Excess Liability

Certain classes of Operators saw a somewhat challenging 2023, in many instances facing the difficulties that the other segments saw in the 2019-20 hard market due to the large loss of capacity from the withdrawal of the London-backed wholesale facility mentioned above. In addition to this we also saw the exit from the class of another key insurer, who previously covered all classes of business in the energy sector and this impacted many insureds and forced clients to replace their capacity in their Excess Liability towers. Severe litigated Auto Liability claims continued to erode profitability for both domestic and foreign insurers and an alarming uptick in severity from "Action-Over" workplace injuries has impacted the first US$25 million of Oilfield Service insurers. As mentioned in the Auto Liability section above, insurers are starting to see a concerning uptick in litigated Hired Auto Liability claims, as plaintiff's counsel have begun to focus on hiring companies when a hired auto is involved in a serious accident as they seek "deeper pockets" when filing lawsuits on behalf of injured parties.

Upstream

After a long period of relative prosperity, the Upstream Operator Excess Liability segment lost a major provider of lead capacity which impacted renewal pricing negatively in 2023. Offshore Operators felt the greatest impact, with most renewals moving to the London marketplace for Primary and Lead capacity at an increased cost. Onshore operators who were utilizing the withdrawn wholesale facility were able to find ample capacity both domestically and in London, but the loss of the US$75 million capacity provided by this facility impacted many renewals negatively in 2023. As a result, many domestic markets met their annual new-business budget goals by mid-year, allowing for Upstream insurers to be more selective in the risks they decided to write in the second half of 2023. However, as budgets will have reset in 2024, we do expect the market in both the US and London, where most capacity in the space is offered, to stabilize with the potential for new capacity to enter the market.

Oilfield services

The Oilfield Services segment has been more challenging in the last 12 months due to a large uptick in General Liability/Excess Liability claims driven by an increase in severity in both judgements and settlements for workplace injury lawsuits. An increase in activity in concentrated areas such as the Permian Basin has also led to a rise in severe Auto Liability claims, which is impacting insurers who provide Excess Liability capacity in the first US$25 million of programs. In addition to this, one of the last remaining providers in the sector to offer US$25 million Lead Umbrellas, reduced their capacity mid-year to US$10 million which increased costs for many insureds who renewed in the second half of 2023. The combination of an increase in claims in both the General Liability and Auto Liability segments of this class has put continued pressure on both attachment

points and renewal pricing as well as the limits offered. While ample capacity remains in the sector, it is vital that clients differentiate themselves and highlight workplace and auto safety practices and hiring criteria to obtain the best possible terms.

Midstream and Downstream

The Midstream and Downstream segments have both seen an uptick in third-party contracting claims, where large judgements and settlements have penetrated the agreed liability insurance limits and have impacted corporate programs. Despite an uptick in severe losses in 2023, capacity overall remains stable for Downstream and has increased for Midstream companies during the last 12 months, with risk-transfer attachment levels remaining consistent year-over-year. Certain insurers have begun to focus on third-party hauling company limits being both requested and evidenced, as claims against hiring companies have begun to increase. Despite these challenges, we do not foresee the market changing considerably in 2024 for clients with clean loss histories, as rating levels began to flatten in the second half of 2023.

Market concerns

Claims trends

While North American Energy Excess Liability pricing appears to have plateaued to an acceptable level for insurers in most segments and capacity remains stable, the underlying issues that were a direct cause of the hard market in prior years still exists.

The perceived anti-corporate sentiment of juries over the last few years remains a prevalent concern for insurers and the normalization of larger awards and settlements bears monitoring. Desensitized jury pools and a highly organized plaintiffs' bar are impacting both jury awards and settlement amounts.

Large jury verdicts for Auto Liability continue to put pressure on Excess Liability pricing and without the intervention of statutory laws to limit future liability, we expect that this trend will continue. An increase in judgements and settlements regarding workplace injury-related lawsuits is also a concern for markets as we move forward.

Continued underwriting focus on fleet safety programs

As a result of the increase in Auto Liability settlements, insurers are paying closer attention to buyers' fleet safety programs. It is strongly recommended that buyers provide details of their auto safety programs in submissions and renewal presentations to differentiate themselves from their peer companies. Clients should also continue to focus on driver criteria improvement and consistency in applying standards for company vehicle use and polices. Driver training, consistent MVR reviews, telemetric devices in vehicles as well as in-cabin cameras in heavy tractors can assist in differentiating

risks for both primary Auto and, more importantly, Excess Liability markets. However, if buyers are not actively enforcing in-force company fleet safety procedures, plaintiffs' counsel have argued that lack of enforcement can increase the company's negligence in a lawsuit.

PFAS

Much like the environmental marketplace, many Excess Liability insurers have begun to focus further attention to PFAS (Perfluoroalkyl and Polyfluoroalkyl substances), also known as "forever chemicals". PFAS exclusions have become more prevalent in the London Excess Liability market and are beginning to appear on both U.S. and Bermuda policies. While many companies do not have any PFAS exposure, insurers have been focusing their attention on fire suppression methods and associated chemical use. Buyers should expect inquiries into PFAS exposure as they head into renewals, especially those with terminal, plant or large fixed-asset exposures.

Contractual requirements for third-party on-site contractors and hired trucking firms.

While many companies in the energy sector utilize "tiered-limit requirements" for evidenced Excess Liability contractual limits, the increase in claims settlements and awards are beginning to outpace these historical limit requirements. Hiring companies' insurance programs are beginning to become more exposed to large workplace injuries or hired-trucking accidents, and clients should focus on revisiting these "tiered limit" requirements that seemed acceptable for the past 10-15 years to offset exposure to their liability programs as the hiring or partially negligent party.

Conclusion: A positive outlook

Primary Liability capacity remains extremely stable and insurers are continuously looking to expand their books of business in the energy sector. Buyers with clean loss records are seeing very favorable results when marketing efforts are conducted, and favorable early renewal negotiations can be agreed with incumbent markets. As a result, outside of Auto Liability, we do not foresee the market changing in an upwards direction for most segments and Oilfield Services clients should continue to highlight proactive risk management practices to combat rising loss severity.

Excess Liability capacity appears to have largely stabilized for most segments and while there are still underlying concerns about loss severity in all sectors, we do not expect to see the market shift in a troubling direction in 2024. Insureds should continue to differentiate their risks and proactively highlight risk management practices during the renewal process.

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