AON

2025 Transaction Solutions Global Claims Study

Managing Deal Risk to Secure Investments and Enhance Returns



Table of Contents

Executive Summary

- Author's Note 3
- Foreword 4

North America

- Highlights 5
- Claim Severity and Payment Trends 6
- Claim Frequency 9
- Breach Type and Notification Trends 10
- General Industry Sector Trends 12
  - Healthcare & Life Sciences 14
  - Technology 16
  - Energy, Oil & Gas 18
  - Retail & Consumer 20
  - Construction & Infrastructure 22
  - Manufacturing 24
  - Transportation & Logistics 26
- Tax Insurance 28

EMEA

- Highlights 30
- Introduction 31
- The Rise of W&I and claims across European M&A 32
- Claim Frequency 33
- Claims Metrics by Deal Size 35
- Claims Metrics by Deal Size 35
- Notifications by Target Location 37
- Breach Types 41
- Top Breach by Industry 43
- Timing for Discovery of a Breach 45
- Trends Based on Parties to Transaction 47
- Case Law 49
- Insurer Survey and Claims Handling 50
- Tax Liability Policies 51

APAC

- Highlights 52
- Asia 53
  - Claims Trends 53
  - Spotlight on India 54
- Pacific 55
  - Market Insights and Trends 55
  - Claims Frequency and Key Trends 55
  - Long-Term Trends in Claims Notifications 57
  - Case Law: Australia 58
  - Spotlight on Claims Service 59



Author's Note

We are excited to present the sixth annual edition of the Aon Transaction Solutions Global Claims Study.

In this year's claims study we are shifting the focus of our data analysis to highlight how Aon's historical claims data can assist clients, advisors, and insurers on their next deal. This means leveraging our vast experience and continuous years of data tracking to help our clients better predict future risks and secure deal value.

Aon has handled over 1,600 global claims and achieved an industry-leading $1.75 billion in recovery for our clients. Realizing the important role that claims performance holds in the transaction solutions industry, Aon has continued to invest heavily in its claims team and data-tracking capabilities. The Aon claims team boasts extensive experience in litigation and insurance claims, spanning several decades. This expertise offers a distinct advantage, enabling the team to deliver tailored solutions by leveraging both real-time data and insights from historical claims. This approach enhances our ability to advise clients effectively on their M&A insurance policies and due diligence strategies. Lastly, the claims team is an integral part of Aon's Transaction Solutions team, which plays a crucial role in mitigating potential risks, optimizing terms, and crafting customized solutions to minimize the likelihood of post-deal disputes.

After years of claims and payments, we can conclude that whether large or small, valid claims are being paid, insurers are accepting multiplied damages where appropriate, and the policies are effectively allowing our clients to mitigate their deal risk exposure.

We trust you will find our analysis informative and thought-provoking. Your questions, feedback, and challenges for potential new angles of analysis in the future are always welcome.

Sincerely,
Aon Transaction Solutions Global Claims Team

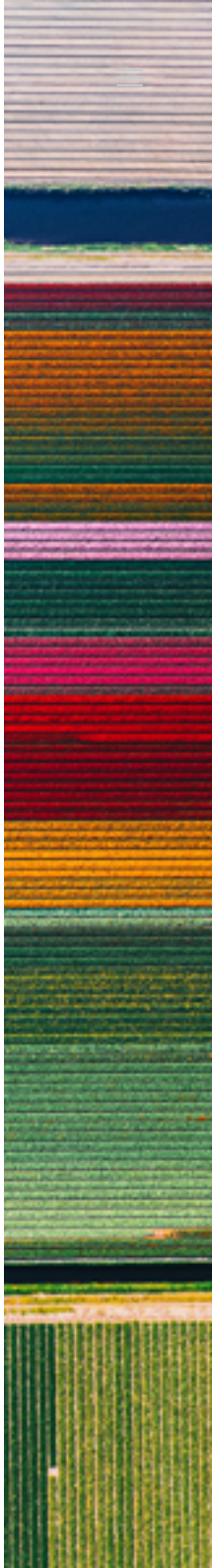
Foreword

Aon has been involved in over 1,600 notified representations and warranties (R&W), warranties and indemnities (W&I), and tax insurance claims and helped its clients secure more than $1.75 billion in payments globally. Our team comprises professionals in North America, Europe, and Asia Pacific (APAC), and is ideally positioned to apply our considerable depth of knowledge to help clients realize the value of transactional risk policies. To demonstrate our global expertise, this year we are providing more in-depth data than ever before, including industry-specific data across North America, regional data across EMEA, and developing trends across APAC. We believe Aon's data provides a unique opportunity for the M&A market to learn from claims made on past transactions to help anticipate how a deal's risk profile might change based on the target company industry, the jurisdiction, or other variables discussed herein.

In North America, 2024 was an active year for claim resolutions. Aon clients received over $300 million in total payments, with a median payment of $5.5 million; both numbers are the highest on record for a single calendar year. While the North American data in this year's study continues to review overall R&W claim frequency and severity trends, we are excited to present new data analysis that examines multiple industries and how claim frequency, severity, and other risk transfer considerations change based on the target industry. While our general industry data section indicates that there is no one industry that is particularly "high risk," there are clearly differences in the nature of the risk exposure illustrated in the individual industry sections. The North American overview of tax insurance illustrates that our clients are being reimbursed for valid claims for both contest costs and assessed amounts, and have successfully negotiated tax authority settlements with insurer contribution where appropriate.

In Europe, the Middle East, and Africa (EMEA) in 2024, we saw insurers pay a markedly larger amount in W&I claims, more than 35% of the total amount secured for all years prior. This indicates that the use of the W&I product is well and truly established as a key deal tool and that substantial claim resolutions are being achieved. This year, the EMEA data has also been reviewed through a new lens, with a focus on jurisdictional differences using the target company region as a common denominator. Both Aon and the EMEA insurer data provide insight into the differences in the frequency and severity of claims across UK & Ireland, France, Italy, Nordics, Benelux, DACH, Iberia, and other regions.

APAC continues to build on its claims experience and data from past years. In the Pacific region, claim notifications continue to come in on approximately 20% of policies placed, often related to compliance with laws, tax, and financial statements breaches. Asia notes that there was an increase in the volume and value of M&A transactions in 2024, with a corresponding rise in the use of W&I insurance. The APAC section of the claims study examines the breach frequency for certain countries in the region, the representations that are driving claims, and other notable W&I claim trends and insights.



The information contained in this document is intended to assist readers and is for general guidance only.

North America

Highlights

01 Through Q4 2024, North American clients have now recovered over $1.4 billion on R&W claims, with over $300 million being paid in 2024.

02 The median R&W claim payment in 2024 was $5.5 million, the highest on record for a single calendar year.

03 An in-depth look at claim frequency and severity across industries indicates that no one industry has proved to be particularly “high risk” for R&W breaches.

04 Compliance with laws, financial statements, and material contracts breaches remain the top drivers of loss in R&W claims.

05 8% of paid claims have received a payment equal to the full policy limit.



Claim Severity and Payment Trends

Aon North American clients were paid over $300 million on R&W claims in 2024, with a median payment of $5.5 million. Both figures are the largest Aon has seen to date in a single calendar year.

> **Key Takeaway:** Aon clients are consistently receiving material payments on R&W policies.

The North American claims team has helped facilitate over 100 claim payments in the last three years, including 39 in 2024. Figure 1 illustrates the fluctuation of annual median and average claim payment size since 2019, with 2024 seeing an increase in both median and average payment size compared with 2023. The slim margin between average and median payment size in 2024, along with a historic median payment amount, confirms that material payments were consistently made to Aon clients last year.

Looking at the same data by year of policy inception (Figure 2), while median payment size has been relatively stable, average payment size has been increasing since 2020, with 2022 at the highest average payment size ($10 million). There isn't enough payment data to provide insights on policy years 2023 and 2024 yet, but initial claim amounts for active claims on these policies suggest that this trend may continue.

Overall, **32% of paid claims were greater than 40% of the policy limit, and 14% of paid claims were greater than 80% of the policy limit** (see Figure 3). Further, 8% of payments were policy limit payments, with a number of those claims resulting in a situation where a client suffered a loss well in excess of the policy limits. The significant percentage of claims being paid in excess of 40% of the policy limit reinforces the fact that insureds are likely buying adequate insurance, and the increase in losses that we have seen clients suffer in excess of policy limits would suggest that the purchase of more than 10% of enterprise value may be warranted in certain circumstances. This is further supported by Figure 5, which indicates that multiplied damages claims are becoming more frequent.

Figure 1: Aon Data: Average and Median Payment Size by Settlement Year

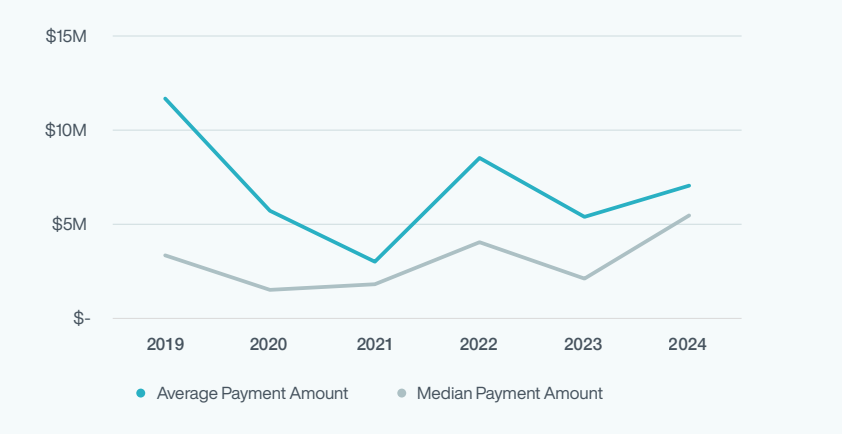
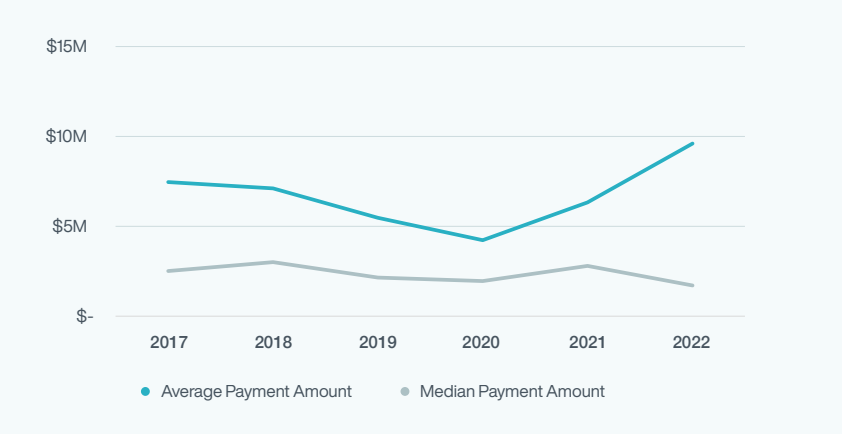


Figure 2: Aon Data: Average and Median Payment Size by Policy Inception Year



Most claim payments are the result of a negotiated resolution between the insurer and insured, with the overwhelming majority getting done without alternative dispute resolution. **Aon data shows that less than 1% of claims are going to binding alternative dispute resolution.** This is consistent with the data from Aon's North America Insurer Survey (Insurer Survey), which showed that approximately 1% of R&W claims are going to arbitration or litigation. Having an experienced claims team that advocates for the insured is vital in the R&W market, and the comparisons between Aon data and the insurer data reinforce that conclusion. As you can see in Figure 4, **Aon clients are receiving a higher percentage of claim payments above $5 million than the rest of the market**. Overall, 19% of Aon claims have been paid, only 4% have been denied, 54% have settled within the retention or are dormant, and 23% are still active.

Looking ahead to predict how active claims may resolve, a key indicator is whether the alleged loss calculations are greater than dollar-for-dollar. Figure 5 shows that the percentage of these claims is increasing. **For Aon policies that incepted between 2021 and 2024, 23% of claims alleged greater than dollar-for-dollar loss**. In comparison, policy inception years 2016–2019 saw 14% of claims alleging loss that is greater than dollar-for-dollar. The exception is 2020, which has been an outlier year in terms of claim severity, and the lack of claims alleging greater than dollar-for-dollar loss is a key reason why.

While we expect the percentage to drop for policy years still on risk (a higher percentage of multiplied damages claims are submitted in the first 12 months of the policy period), the difference in loss calculations between 2016–2019 and 2021–2024 will likely remain significant. For example, policies incepted in 2021 had 20% of claims allege loss that is greater than dollar-for-dollar, which is more than any other year between 2016 and 2019. In the Insurer Survey, 41% of insurers similarly reported that claims alleging a multiple of damages are increasing and 0% reported a decrease.

Figure 3: Aon Data: Paid Losses as a Percentage of Policy Limit

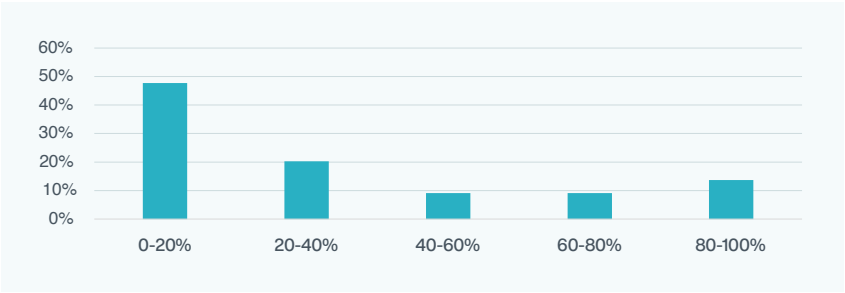


Figure 4: Percentage of Total Claim Payouts by Amount Paid

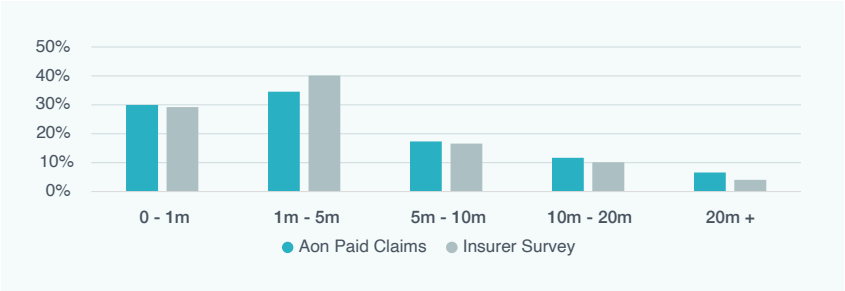
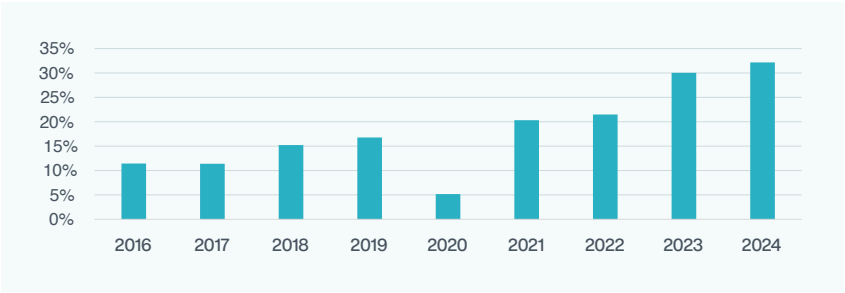
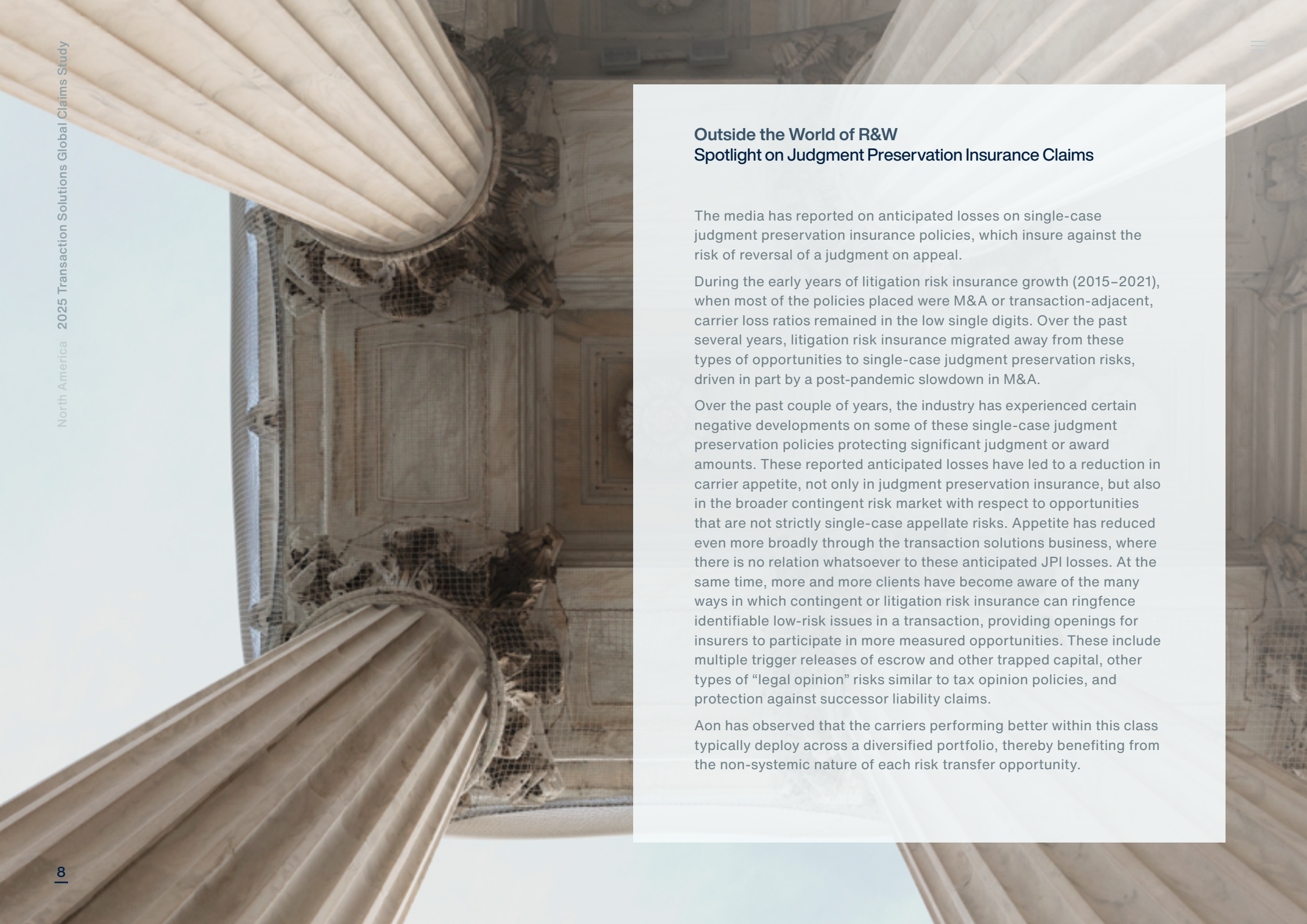


Figure 5: Aon Data: Percentage of Claims Alleging Greater Than Dollar-for-Dollar Loss by Policy Inception Year





Outside the World of R&W
Spotlight on Judgment Preservation Insurance Claims

The media has reported on anticipated losses on single-case judgment preservation insurance policies, which insure against the risk of reversal of a judgment on appeal.

During the early years of litigation risk insurance growth (2015–2021), when most of the policies placed were M&A or transaction-adjacent, carrier loss ratios remained in the low single digits. Over the past several years, litigation risk insurance migrated away from these types of opportunities to single-case judgment preservation risks, driven in part by a post-pandemic slowdown in M&A.

Over the past couple of years, the industry has experienced certain negative developments on some of these single-case judgment preservation policies protecting significant judgment or award amounts. These reported anticipated losses have led to a reduction in carrier appetite, not only in judgment preservation insurance, but also in the broader contingent risk market with respect to opportunities that are not strictly single-case appellate risks. Appetite has reduced even more broadly through the transaction solutions business, where there is no relation whatsoever to these anticipated JPI losses. At the same time, more and more clients have become aware of the many ways in which contingent or litigation risk insurance can ringfence identifiable low-risk issues in a transaction, providing openings for insurers to participate in more measured opportunities. These include multiple trigger releases of escrow and other trapped capital, other types of “legal opinion” risks similar to tax opinion policies, and protection against successor liability claims.

Aon has observed that the carriers performing better within this class typically deploy across a diversified portfolio, thereby benefiting from the non-systemic nature of each risk transfer opportunity.

Claim Frequency

2021 was not the high claim frequency year insurers in North America were anticipating.

Key Takeaway: The downward trend in Aon claim frequency data bottomed out in 2020 at 15%, with more recent policy years trending upward toward historical levels.

Figure 6 compares Aon claim frequency data with results from this year's Insurer Survey. The vertical black line in the center of the graph separates policy years that are still on risk for general representations from those that are now off-risk for general representations. 2021 is the most recent policy year to come off risk and one of particular interest. Industry experts have tracked 2021 closely due to its higher enterprise values and inflated multiples, as well as the fast-paced environment in which diligence and underwriting took place. **Given these market conditions, the industry anticipated higher claim rates on 2021 policies, yet only 16.3% of Aon policies placed in 2021 were notified of a claim and insurers reported only 15% of their 2021 policies received one or more claim notices**. This is the lowest frequency year reported to date in the Insurer Survey. While claim frequency is down, we cannot yet make conclusions on the severity of claims on 2021 policies, as 33% of claims are still active.

Figure 7 compares how claim frequency for each policy year has developed over time by measuring the time from the close of the transaction to the claim notice submission in six-month increments. 2023 is significantly outpacing claim frequency compared with years prior, with an 11% claim frequency just one year into the policy period. 2022 was similarly outpacing prior years during the first 12 months of the policy period; however, frequency of claims for that policy year tapered off significantly during year two.

Figure 6: R&W Claim Frequency by Policy Inception Year

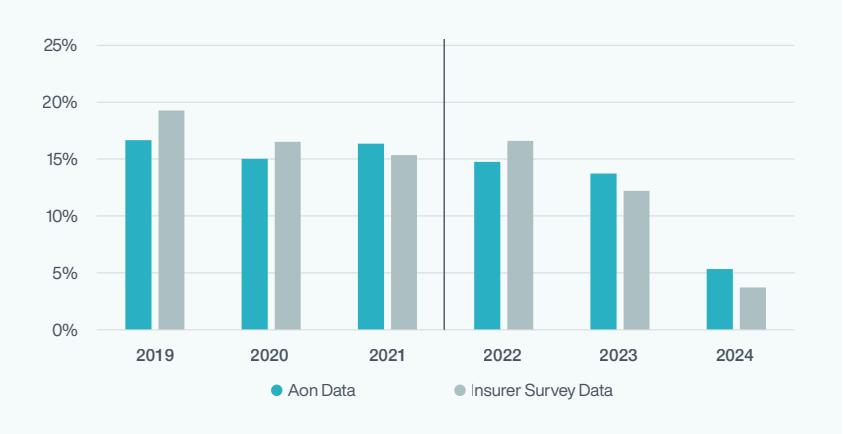
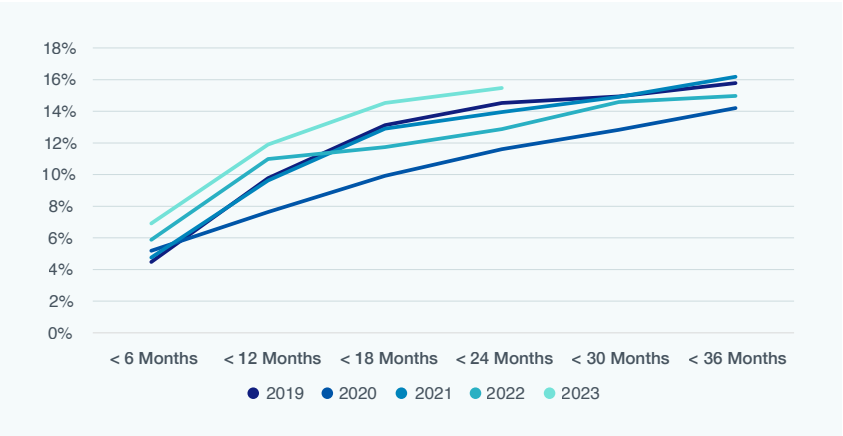


Figure 7: Aon Data: R&W Claim Frequency from Deal Closing to Claim Notification by Policy Year



Breach Type and Notification Trends

Financial statements and material contracts breaches continue to drive severity.

Key Takeaway: We are starting to see some changes in the representations that are cited most frequently. Notably, compliance with laws and tax breaches have become more prevalent; however, the main drivers of loss remain financial statements and material contracts.

Figure 8 shows the frequency with which R&W breaches were cited on policies placed since 2019, as well as the losses attributable to each breach type. **Compliance with laws is still the most frequent breach type at 20%, followed by tax, which jumped up to 17%, and financial statements and material contracts at 13%.** Notably, product liability is becoming a more severe breach type, with an outsized percentage of total loss compared with its frequency.

M&A Perspective: The associated costs of potentially defective products such as warranty issues, product recalls, and lost contracts with retail distributors are all contributing factors to a possible diminution in value of the target.

While interim breaches still occur less frequently, we have seen a number of notifications this year submitted on Aon's proprietary IBEX insurance policy. The large majority of these claims are still active and have not yet resulted in a resolution.

One breach type that we are watching closely is intellectual property representation. **While neither frequency nor severity has shown major increases in our data, 36% of insurers have reported an increased frequency of intellectual property breaches and only 12% reported a decrease.** Of claims that come in more than 12 months post-closing, intellectual property is the second-most-severe breach type, behind only financial statements (see Figure 9).

We continue to provide updated data on claims coming in more than 12 months post-closing because this is the typical survival period for a seller escrow. Any recoveries on claims submitted more than 12 months post-closing demonstrate the clear benefit to the buyer of an R&W policy, as those losses would not typically be recoverable from the seller escrow. The most frequent breaches being cited within 12 months post-close remain compliance with laws, tax, and financial statements.

Figure 8: Aon Data: Frequency and Percentage of Total Loss Paid by Primary Type of Breach

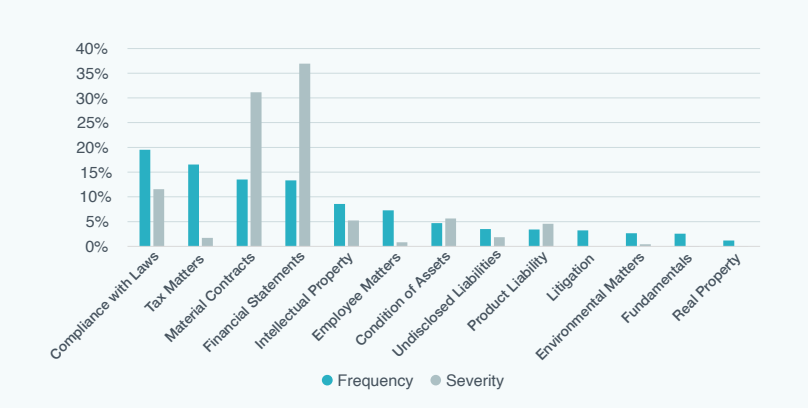
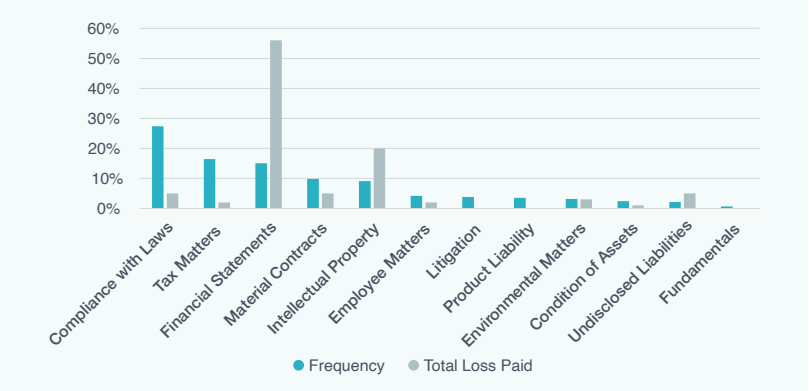


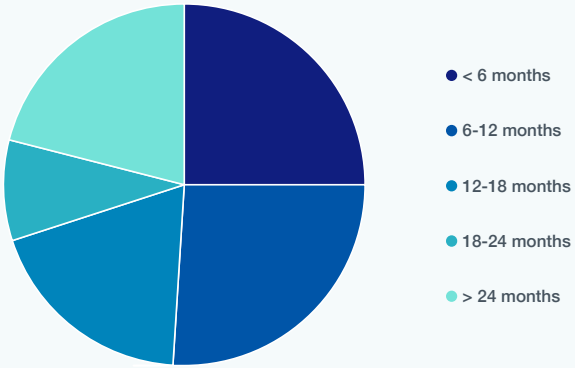
Figure 9: Aon Data: Frequency and Percentage of Total Loss Paid by Primary Type of Breach (Notices Submitted > 12 Months Post Closing)

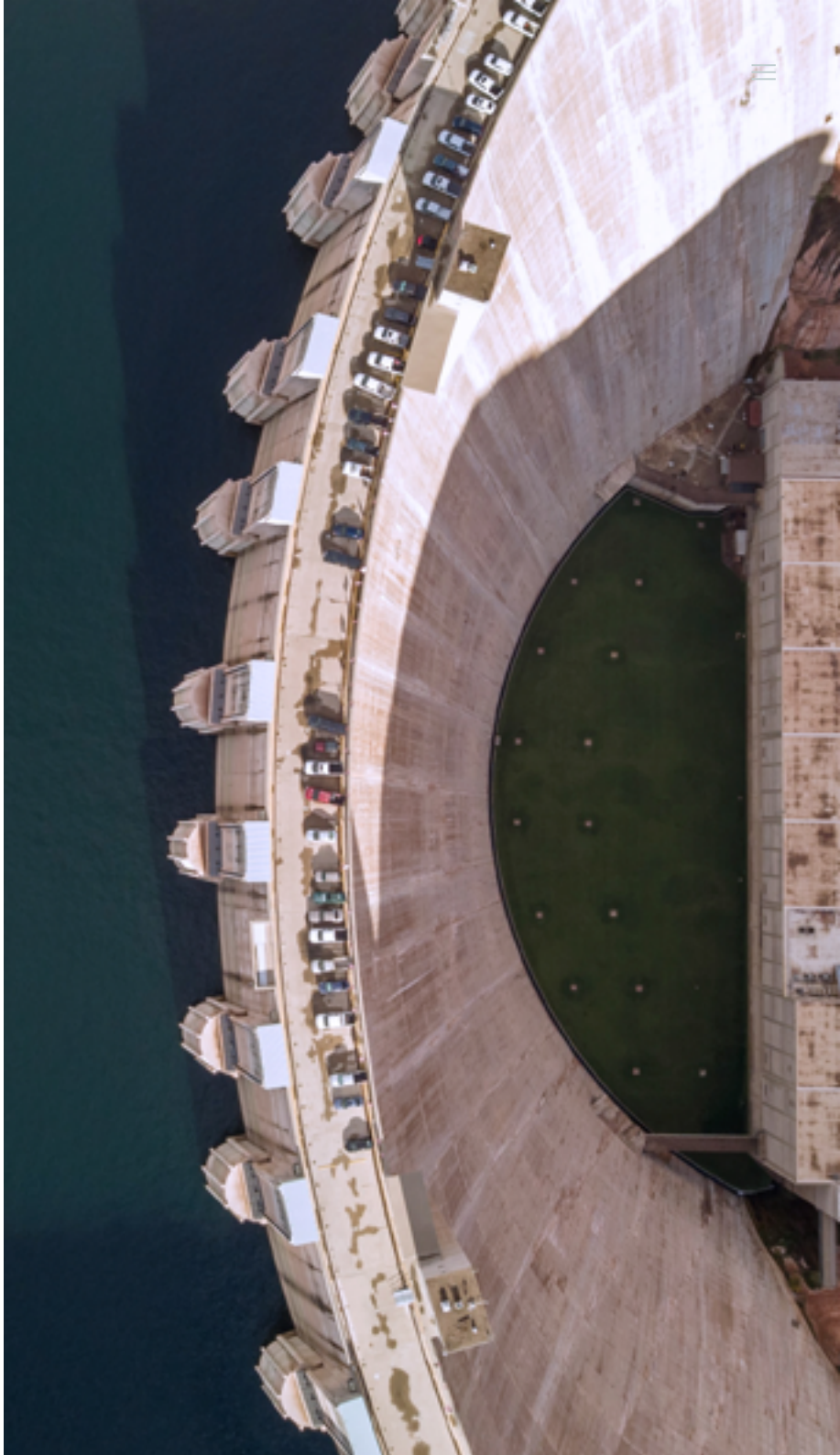


Overall, 49% of claims are coming in more than 12 months post-closing (see Figure 10) and over $400 million has been paid to Aon clients on notices submitted more than 12 months post-closing.

> **Key Takeaway:** The three-year policy period on R&W policies provides a clear benefit to buyers compared with the traditional one-year seller escrow. Double the number of breaches are being reviewed for coverage, given the extended reporting period on R&W policies compared with traditional escrows.

Figure 10: Aon Data: Time from Closing to Notice (Policies Where Coverage for the General Representations Has Expired)





General Industry Sector Trends

Aon's proprietary industry data provides valuable insights to dealmakers.

As of Q4 2024, the North American transaction solutions claims team has handled over 1100 claims and over 200 claim payments. After surpassing these milestones, we now possess the volume of data required to provide deeper insights into the industries in which our clients frequently operate. The following industry sections draw comparisons with the general data provided earlier in the study and expand on the claims being seen in each industry and the issues driving loss.

> **Key Takeaway:** While each industry may have a different risk profile, our data shows there is no particular industry that stands out as having significantly higher risk.

The data shown in Figure 11 displays a remarkably even distribution across all industries for claim frequency and severity compared with the percentage of deals they comprise in Aon's pipeline. It should bring comfort to dealmakers that there does not appear to be one "high-risk" industry for R&W breaches. However, the data also shows that there is still significant deal risk across sectors and meaningful differences with respect to type of R&W breaches being identified.

Figure 11: Aon Data: Respective Percentage of Deals, Claim Notifications and Claim Payments by Industry Sector (2019–2024)

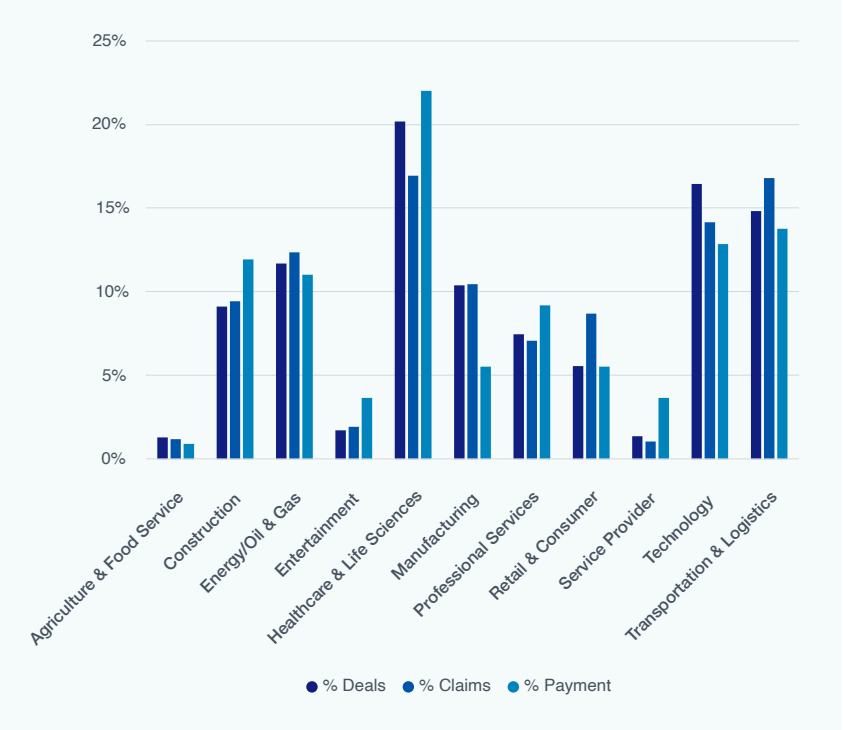
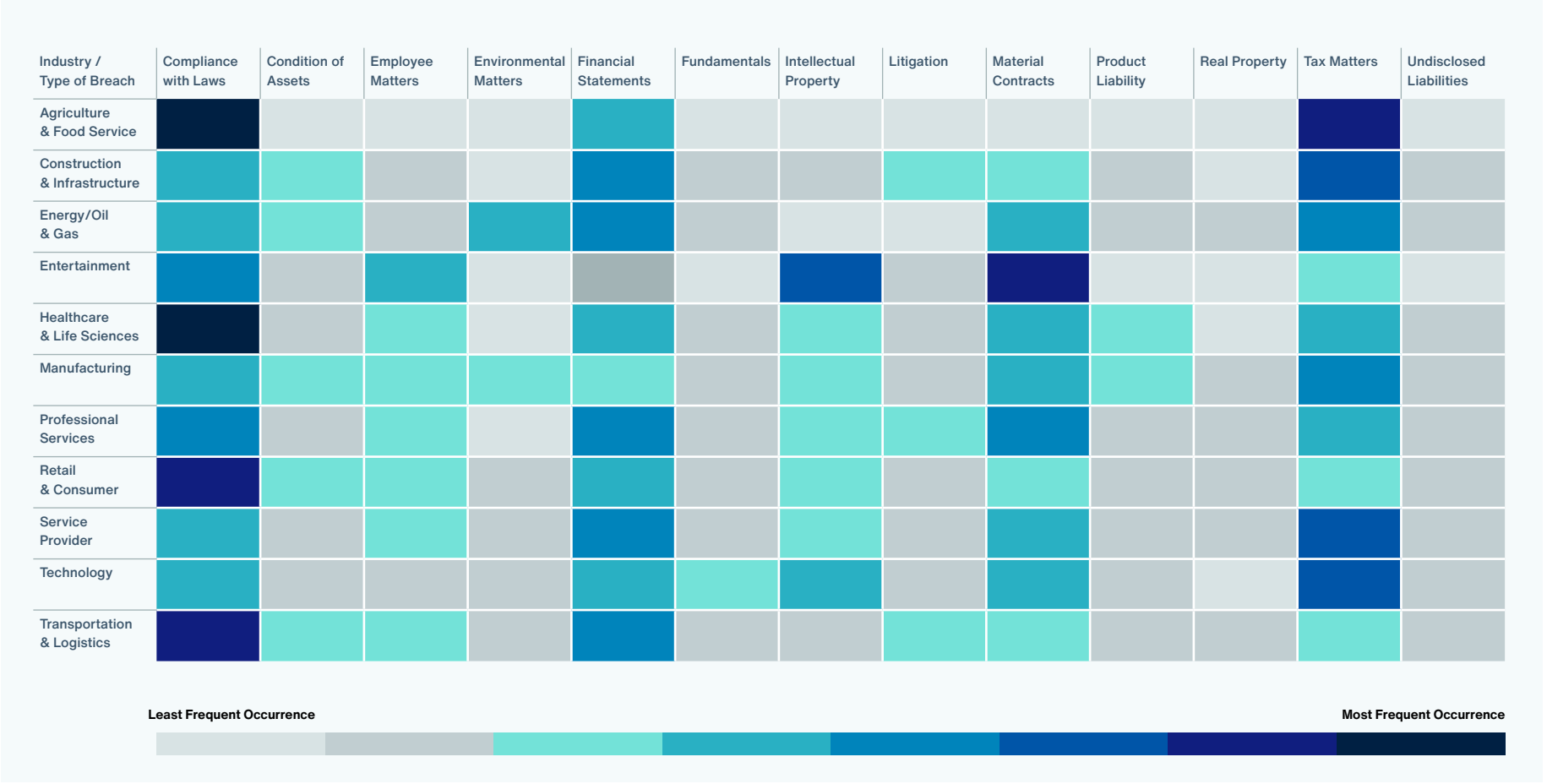


Figure 12: Aon Data: Industry Heat Map



The industry heat map shown in Figure 12 provides an overview of the most frequent breaches across sectors and illustrates that breach frequency can vary by industry, making this information valuable to deal professionals when evaluating risk.[1]

In the following sections, we have provided an in-depth examination of seven industries and the underlying fact patterns most commonly driving claims and payments.

[1] Looking for historical R&W claim information related to general trends? Click here for access to Aon's 2024 claims study, which provides additional insights based on Deal Size, Breach Frequency and Timing, Claim Process Advice, and in-depth claim studies.

Healthcare & Life Sciences

Billing and Coding Issues Remain a Key Focus in Healthcare Deals and Intellectual Property a Key Focus in Life Sciences Deals

As of Q4 2024, Aon clients have recovered $122.6 million in payments on healthcare claims. Including the retention, $185.8 million in loss has been recognized. Aon clients have 35 active claims in the sector.

> **Key Takeaway:** Heightened due diligence around potential billing and coding issues is likely contributing to the lower frequency of financial statements claims.

The compliance with laws representation is cited most often on healthcare claims at 32%, which is notably higher than the 19% average across all industries (see Figures 8 and 13). Figure 14 shows the breakdown behind what is causing the compliance with laws breaches; billing and coding makes up only 26% of the industry's compliance with laws claims.

While billing and coding issues contribute to the severity of compliance with laws breaches, the severity is also attributable to violations of non-healthcare-specific laws and regulations (see Figure 14). These include alleged violations of wage and hour laws, anti-discrimination legislation, anti-spam legislation, and privacy laws.

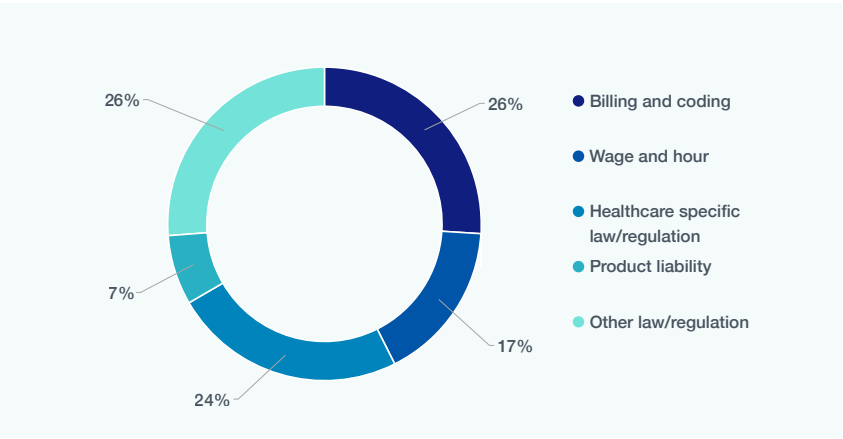
Financial statements breaches have a slightly lower frequency in the healthcare industry (10%) compared with the average across all industries (13%) but remain the representation that has seen the greatest percentage of total loss paid. This is primarily driven by issues with accounts receivable (due to aging/inability to collect) and billing and coding issues that also impact the financials.

> **M&A Perspective:** However, it appears that a focus on financial statements issues during diligence has been effective in keeping down the overall frequency of these claims. They are the fourth-most-common breach type for the healthcare industry after compliance with laws, material contracts, and tax matters.

Figure 13: Aon Data: Healthcare Frequency and Percentage of Total Loss Paid by Type of Breach



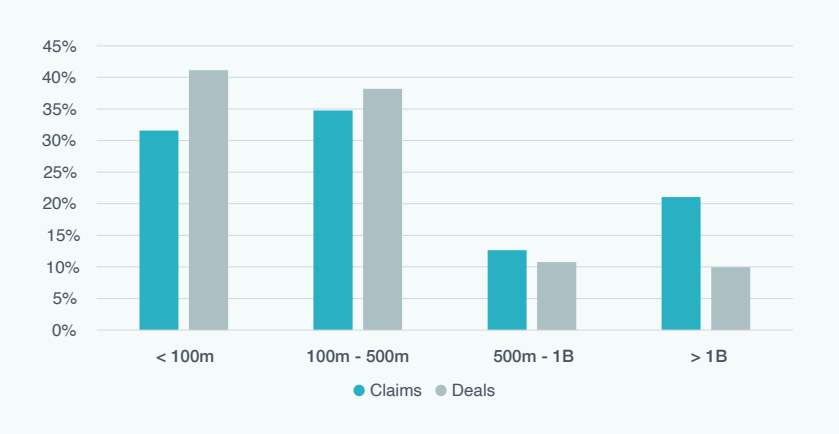
Figure 14: Aon Data: Issues Underlying Healthcare Compliance with Laws Breaches

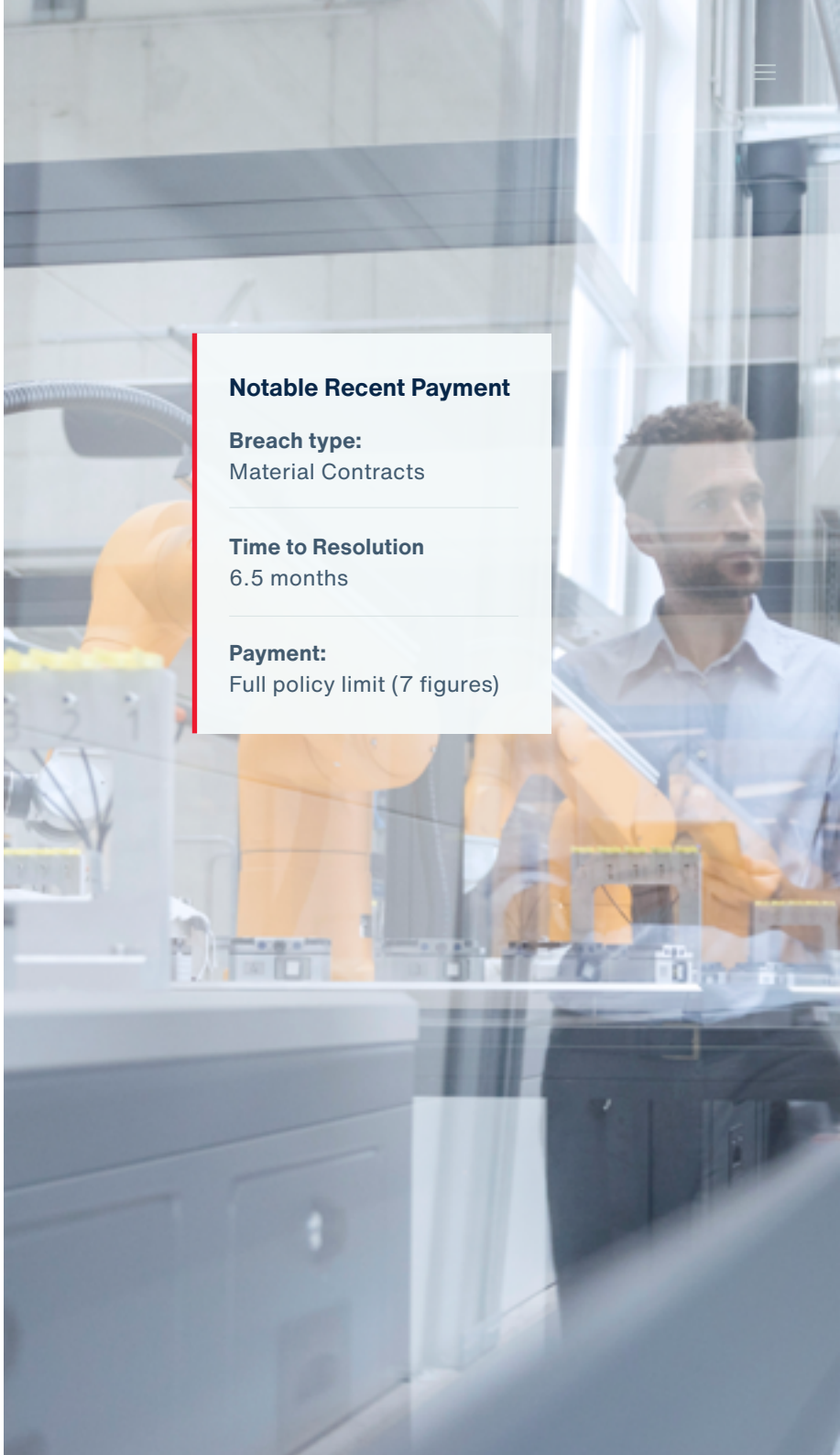


Breaches of intellectual property (IP) representation remain an area of focus for life sciences deals. While currently low in frequency and severity in Aon data, loss of drug or product exclusivity, or a reduction in the time that a company will have exclusivity, can have meaningful consequences for a company in this industry. Currently, there are active claims alleging significant loss arising from an IP breach that are being evaluated by R&W insurers.

With respect to claim variation in these industries based on deal size, smaller deals (enterprise value of $500 million or less) constitute more than 65% of the claims submitted by policyholders (see Figure 15). Deals with an enterprise value in excess of $500 million have a claim frequency that is higher than the proportion of Aon's book attributable to deals of that size. This is particularly notable for deals with a value in excess of $1 billion, which make up 21% of the claims but only 10% of healthcare and life sciences deals insured by Aon.

Figure 15: Aon Data: Percentage of Aon Healthcare Claims and Deals by Deal Size (2019–2024)





Notable Recent Payment

Breach type:
Material Contracts

Time to Resolution
6.5 months

Payment:
Full policy limit (7 figures)

Technology
Intellectual Property Comes into Focus for Tech Deals

As of Q4 2024, Aon clients have recovered $183.3 million in payments on technology claims. Including the retention, $265.6 million in loss has been recognized. Aon clients have 27 active claims in the sector.

> **Key Takeaway:** The creation, implementation, and use of technology products creates exposure for buyers across financial statements, material contracts, and intellectual property representations, making diligence around these disclosures paramount.

Figure 16 shows that in the tech sector, the most frequent breach types are tax matters (21.7%), material contracts (18.4%), and intellectual property (15.8%). These three breach types are each above the all-industry averages (16.6%, 13.5%, and 8.6% respectively). Though tax is the most-cited breach type, these claims tend to be low in severity. **The main causes of tax claims are sales and use tax audits, which often result in no assessment or only a minor tax adjustment.**

While the financial statements breach is not among the most common breach types, like many industries, financial statements claims make up the highest percentage of recovered loss across the tech sector. **The common financial statements breaches in this sector are accounts receivable issues; improper tracking of billing/services provided; or, like other industries, more run-of-the-mill accounting errors that have an impact on EBITDA.**

Another source of loss across the tech industry is related to the implementation of contracts. This typically relates to material contracts representations but can also trigger breaches of the financial statements representations. One example we have seen is when a contract to implement a tech product is made pre-closing, but the date to complete the implementation is in the post-closing period. When the buyer receives control of the company, they realize that the implementation date cannot be met, as the project is behind schedule. This can result in loss related to having to renegotiate the contract, termination of the contract, or loss of additional services that were scheduled to be provided post-implementation.

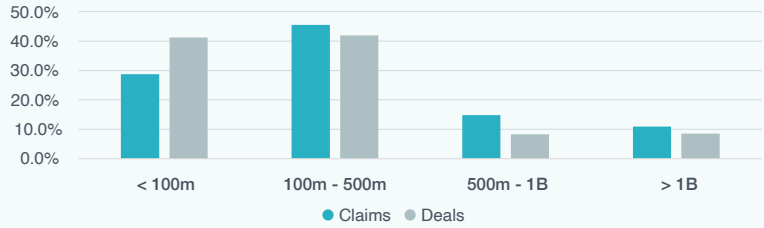
Figure 16: Aon Data: Technology Frequency and Percentage of Total Loss Paid by Type of Breach

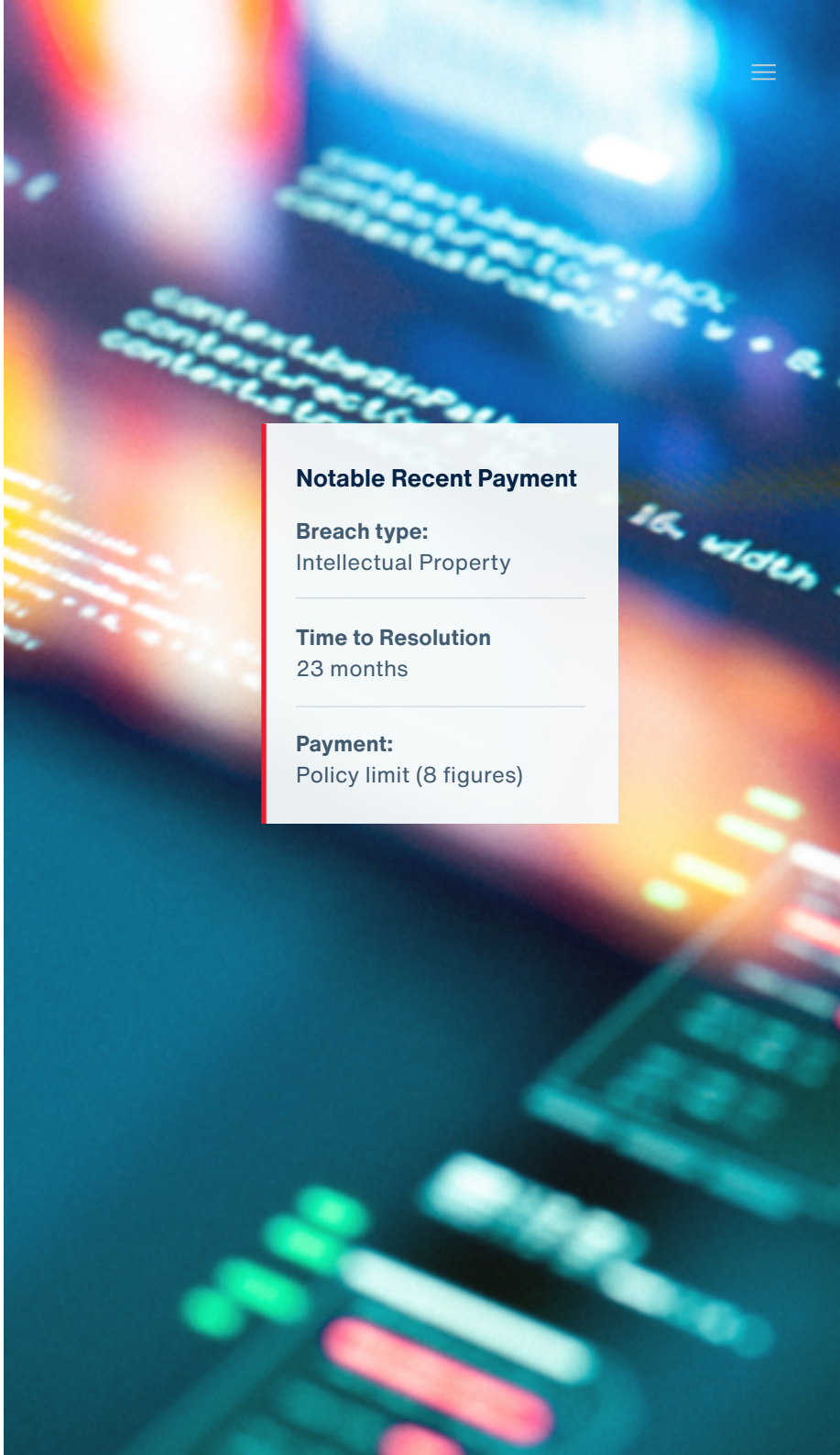


The final main cause of loss in the tech sector is related to claims that arise from a breach of the intellectual property representation. These claims can be seen in different types of businesses but are most often found in the software industry when a third party alleges that the company's software products are infringing on its IP. **IP lawsuits and associated losses under the policy can have multiple outcomes ranging from mild to severe, such as (1) defense costs only as the company defeats the lawsuit; (2) a lump-sum payment to resolve the IP dispute with the company retaining the IP; (3) an ongoing obligation to use the IP, such as a license or royalty; or (4) a determination that the company cannot use the IP and a potential complete loss of the value of the transaction.**

Lastly, Figure 17 shows that deals below $100 million in the tech sector have a lower rate of claims than deals above $100 million. In fact, while claims below $100 million make up over 40% of all deals, they only make up 29% of claims. Conversely, for deals between $100 million and $500 million, between $500 million and $1 billion, and over $1 billion the claims rate is higher than the percentage of deals. The largest discrepancy in this band is in deals between $500 million and $1 billion, where these deals make up 8.3% of all tech transactions but account for 14.9% of all claims.

Figure 17: Aon Data: Percentage of Technology Claims and Deals by Deal Size (2019–2024)





Notable Recent Payment

Breach type:
Intellectual Property

Time to Resolution
23 months

Payment:
Policy limit (8 figures)

Energy, Oil & Gas
Assets Key to Deals as Claims Move Through the Pipeline

As of Q4 2024, Aon clients have recovered $90.3 million in payments on energy, oil, and gas claims. Including the retention, $149.7 million in loss has been recognized. Aon clients have 10 active claims in the sector.

> **Key Takeaway:** The prevalence of high-value assets in this industry increases the likelihood of condition of asset claims.

One of the most relevant breach types for the energy (including renewable energy), oil, and gas industry is condition of assets, which accounts for 12% of all claim notices compared with 5% of claim notices filed for all industries (see Figures 8 and 18). **Condition of assets breaches have resulted in 24% of the total claim payments made in the energy, oil, and gas industry to date, which is among the highest for any industry**. Given these transactions often involve considerable investments in assets such as pipelines, machinery, equipment, and facilities, special attention should be given when negotiating the language of this representation along with conducting appropriate due diligence. The issues driving these claims have included a failure to properly test and maintain pipelines, repair and/or replace equipment and machinery, or maintain facilities in good operating condition. In addition, in some cases these issues can require the pipeline, equipment, or facility to be shut down for repair or replacement. In this scenario, the resulting loss can grow to where the company suffers lost profits and/or damaged customer relationships during the downtime.

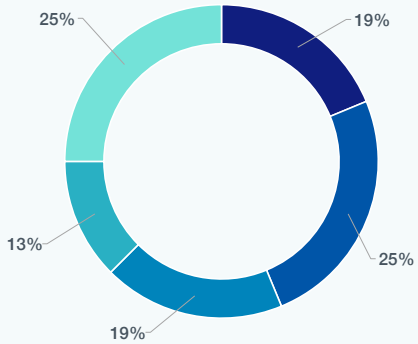
Financial statements breaches are also on the high end of frequency and severity, accounting for 43% of claim payments in the industry. Figure 19 illustrates the various matters underlying financial statements breaches, which include missing or obsolete inventory, misrepresentations of operating expenses, improper revenue recognition, and poor accounting controls or policies. **The issue of a failure to disclose or accrue for asset retirement obligations, which is a risk that is highly relevant to this industry, accounts for 12.5% of financial statements claims. This financial risk exposure has wide applicability in the energy, oil, and gas industry due to the existence of extensive infrastructure with wells, facilities, and pipelines as well as other environmental liabilities.**

Figure 18: Aon Data: Energy, Oil and Gas Frequency and Percentage of Total Loss Paid by Type of Breach

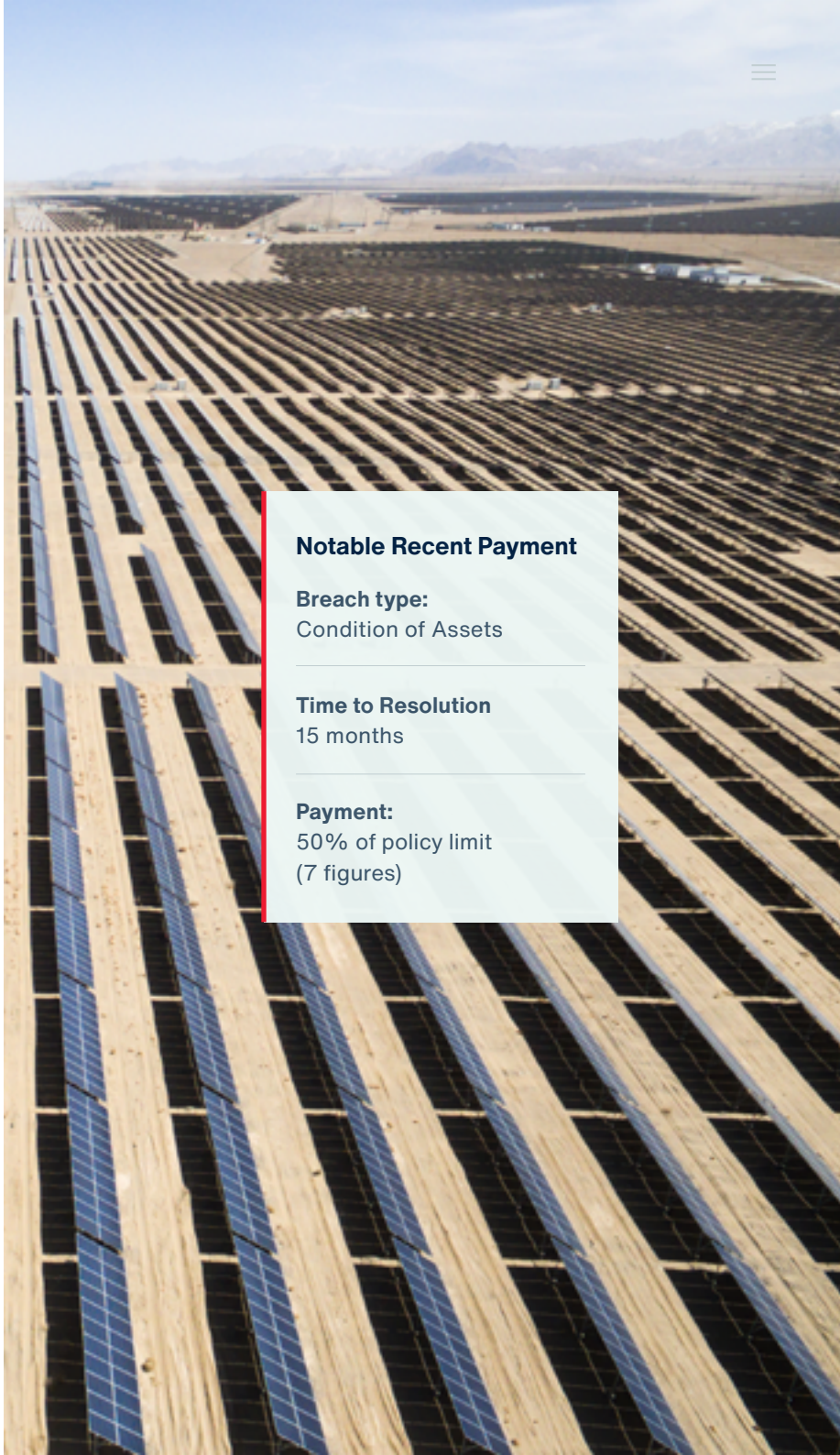


The material contracts representation is another area where we have seen claim frequency and severity. As discussed in the payment severity section, breaches related to material customer or vendor contracts drive claim severity across all industries. While it is not an industry-specific risk, due to the infrastructure or specialized equipment that is sometimes required to service customers or work with certain vendors, a material contracts breach can be more damaging to a company in this industry where the loss of a customer or vendor occurs.

Figure 19: Aon Data: Issues Underlying Energy, Oil, and Gas Financial Statements Breaches







Notable Recent Payment

Breach type:
Condition of Assets

Time to Resolution
15 months

Payment:
50% of policy limit
(7 figures)

Retail & Consumer
Product and Inventory Issues Can Lead to Large Losses

As of Q4 2024, Aon clients have recovered $215 million in payments on retail and consumer claims. Including the retention, $320 million in loss has been recognized. Aon clients have 36 active claims in the sector.

> **Key Takeaway:** The retail industry often relies on a high volume of smaller transactions, creating exposure to large claims arising from inventory management and consumer trends that negatively impact the balance sheet.

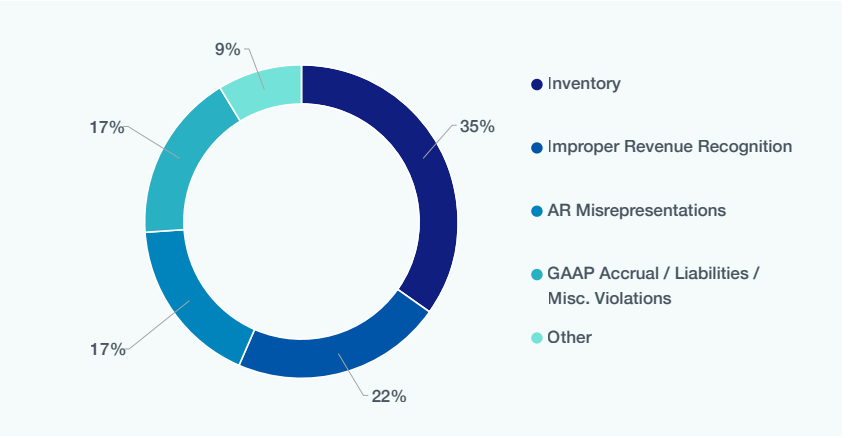
The most frequent breach type that leads to claims in the retail and consumer industry is compliance with laws and, with a relative frequency of 26.5%, it is above the all-industry average of 19% (see Figures 8 and 20). **However, the compliance with laws claims in this sector are significantly lower than the all-industry severity data, accounting for just over 2% of loss compared with the 12% market average.** Our data shows that wage and hour lawsuits make up the majority of these compliance with laws breaches. Since the retail and consumer industry has a high number of lower-wage hourly employees, these claims continue to fall at or just below retention. As retentions remain near historical lows, it will be interesting to see whether a higher percentage of these breaches will result in losses above the policy retention in the future.

Issues surrounding inventory lead to 35% of all financial statements claims (see Figure 21) and account for significant losses in this sector. **Claims are arising from issues around inventory control, which can result from poor physical counting in the warehouse; inventory management systems that are not accurately tracking warehouse operations; or even issues arising from the improper tracking of refunds, returns, and restocking.** Depending on the facts underlying these issues, they can touch on a few breach types, but most commonly large losses related to these issues show up as financial statements breaches due to the impact of this missing or unaccounted-for inventory on EBITDA. This industry is also commonly prone to other types of financial statements breaches. Channel stuffing and issues arising from inflated sales numbers because of a limited time promotion/discount have also led to large losses suffered by our clients.

Figure 20: Aon Data: Retail & Consumer Frequency and Percentage of Total Loss Paid by Type of Breach



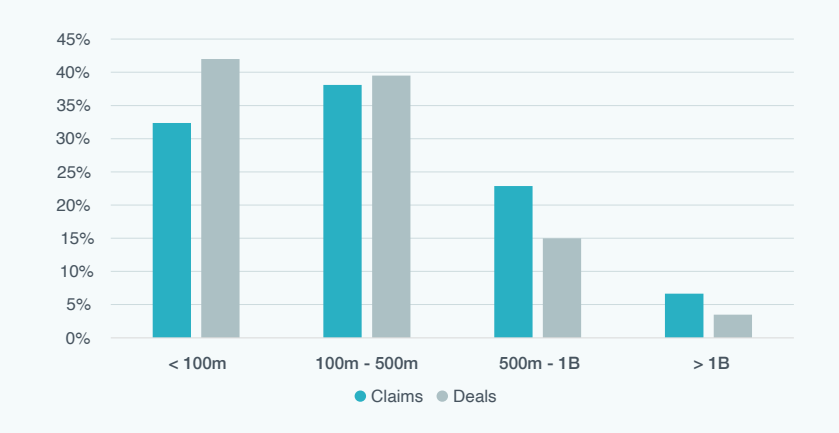
Figure 21: Aon Data: Issues Underlying Retail and Consumer Financial Statements Breaches



In addition, the business interests of consumer product companies can often be heavily tied to relationships with "big box" stores and it can result in high-value claims when this relationship becomes impaired. We are predominantly seeing issues related to customer complaints leading to a big box store no longer purchasing the product, products only valued when on promotion but not at full price, or even when a product falls out of fashion and the big box store no longer wishes to give shelf space to said product. Moreover, sometimes these issues can be challenging to diligence, as certain large outlets will not speak with potential acquirers before closing. When these impairments occur pre-close but are not adequately disclosed, our clients may be left with a company worth less than was represented.

The retail and consumer industry sees a higher percentage of claims on deals for over $500 million than for smaller deals. As Figure 22 shows, deals where the enterprise value is between $500 million and $1 billion make up 15% of all deals, but 23% percent of claims. The discrepancy on a percentage basis is even more pronounced for deals with an enterprise value greater than $1 billion, where those deals account for 3.5% of all deals but 7% of all claims.

Figure 22: Aon Data: Percentage of Aon Retail and Consumer Claims and Deals by Deal Size (2019–2024)





Notable Recent Payment

Breach type:
Product Liability, Material Contracts & Financial Statements

Time to Resolution
18 months

Payment:
Loss in excess of policy limits and full insurance tower payment

Construction & Infrastructure

Financial Statements Are Key Focus for Construction and Infrastructure Deals

As of Q4 2024, Aon clients have recovered $91.9 million in payments on construction and infrastructure claims. Including the retention, $123.2 million in loss has been recognized. Aon clients have 21 active claims in the sector.

> **Key Takeaway:** Inventory issues, WIP adjustments, and a failure to accrue for liabilities drive financial statements payments.

The construction and infrastructure sector has seen just over 50% of the payments made to companies relate to the financial statements breach type (see Figure 23). These claims have arisen out of problems with inventory (missing, overvalued, obsolete), poor accounting procedures resulting in a failure to adequately accrue for bad debt or other liabilities, issues with work-in-progress (WIP) adjustments, and the incorrect depreciation of assets.

Behind financial statements, compliance with laws breaches account for 11% of the claims made and 20% of the total amount paid. The relevant risk exposure for the construction industry is wage and hour violations. It is common for the construction industry to employ hourly workers and the nature of the job can lead to problems with adequate compensation, overtime pay, independent contractor misclassification, and union-related issues. While we see most wage and hour claims settle, Aon clients in this industry have still recovered seven-figure amounts on several claims.

For the infrastructure industry, condition of asset claims have figured meaningfully in paid losses, receiving 14% of the total amount paid to date. The cost to repair or replace major infrastructure has proved significant for clients in this industry and can often involve complicating factors, such as changes to commodities or labor markets and environmental regulations that must be considered. Diligencing large infrastructure assets can be difficult and we have seen significant claims arise out of operational issues or structural defects that were not disclosed prior to the close of the deal. It has also been the case that perceived small problems with infrastructure have, as a result of undisclosed seller actions, resulted in significantly increased post-close repairs and expenses for buyers.

Interestingly, 60% of the claims filed by companies in the construction and infrastructure industry category have been submitted more than 12 months post-close. This is higher than the average across all industries, which sees about 50% of claims submitted more than 12 months post-close. About 33% of the claims coming in post 12 months are the result of litigation or tax matters, which often are discovered and noticed later in the policy period. However, the remaining claims that have come in later in this industry include claims alleging a breach of the compliance with laws, financial statements, and material contracts representations (see Figure 24).

Figure 23: Aon Data: Construction and Infrastructure Frequency and Percentage of Total Loss Paid by Type of Breach

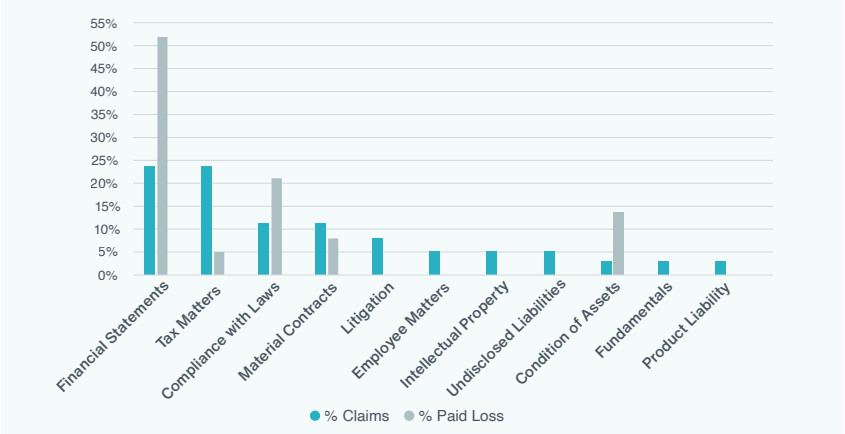


Figure 24: Aon Data: Construction and Infrastructure Frequency and Percentage of Total Loss Paid by Type of Breach (Notices Submitted > 12 Months Post Closing)

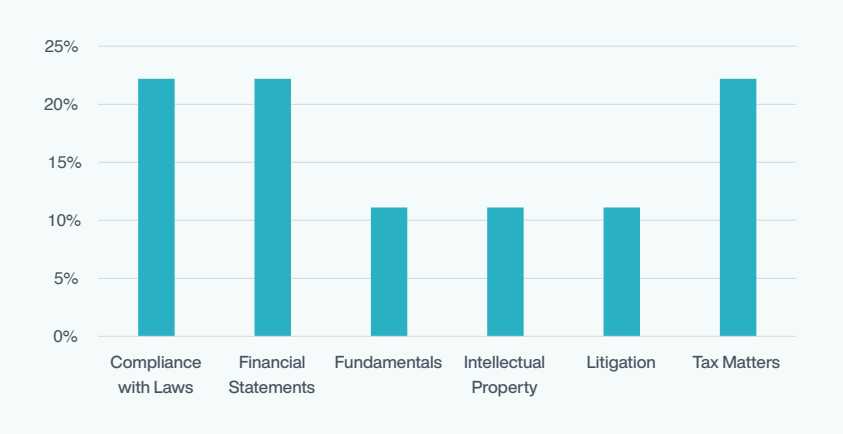
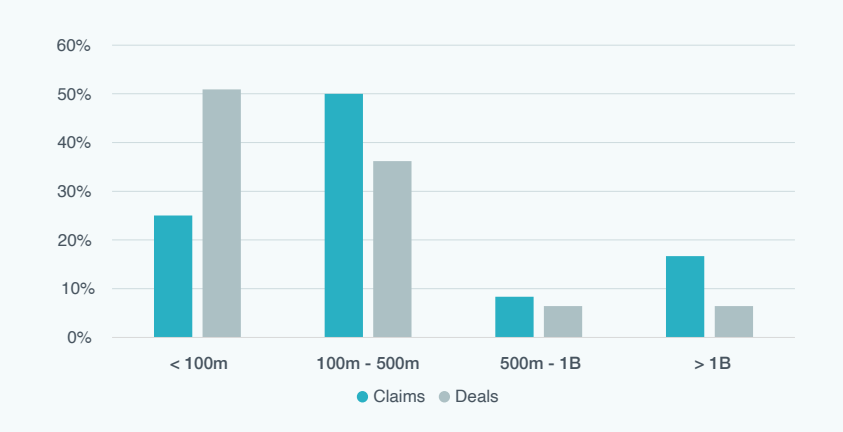
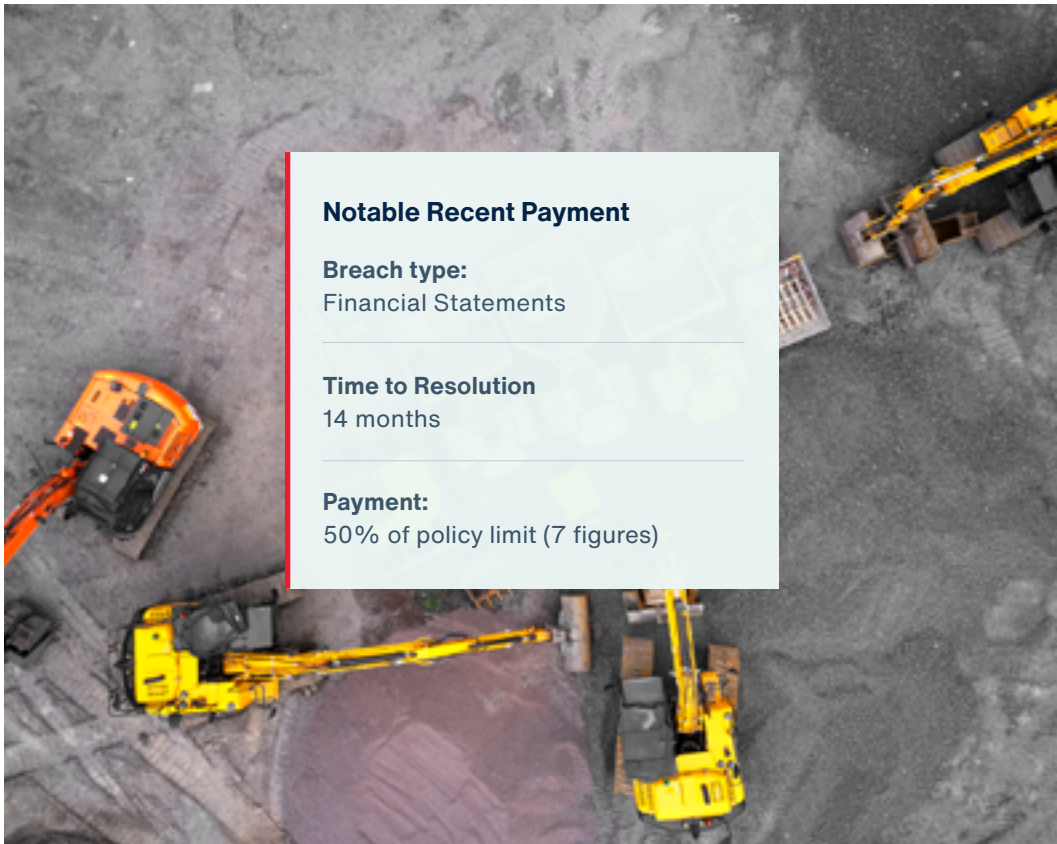


Figure 25: Aon Data: Percentage of Construction and Infrastructure Claims and Deals by Deal Size (2019–2024)



Finally, larger deals in this industry category appear to have a higher frequency of claims compared with the percentage of total deals that fall within the same deal size band. Deals with an enterprise value between $100 million and $500 million had a claim frequency of 50% but accounted for only 36% of all policies placed in this industry (see Figure 25). Deals with an enterprise value above $1 billion accounted for 17% of all claims in this industry but only 6.5% of all deals. Smaller deals with an enterprise value below $100 million saw only 25% of clams filed despite constituting just over 50% of the policies placed in this industry.



Notable Recent Payment

Breach type:
Financial Statements

Time to Resolution
14 months

Payment:
50% of policy limit (7 figures)

Manufacturing

Product Quality and Status of Key Customer Relationships Are the Primary Risk Factors

As of Q4 2024, Aon clients have recovered $228.7 million in payments on manufacturing claims. Including the retention, $325.6 million in loss has been recognized. Aon clients have 39 active claims in the sector.

> **Key Takeaway:** Severity in the manufacturing sector is tied to being able to timely fill customer orders without sacrificing quality.

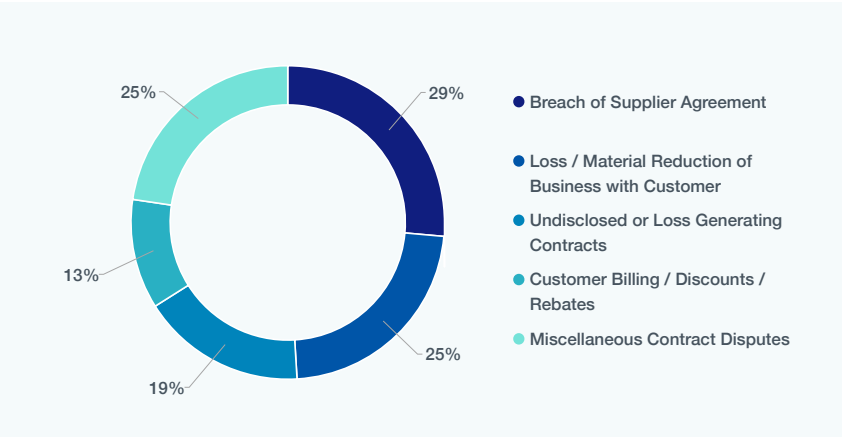
The manufacturing industry has had over 50% of losses result from material contracts breaches (see Figure 26). Underlying these breaches are the failure to meet performance/quality obligations under supplier agreements, general misrepresentations around the nature of business relationships with key customers, undisclosed or loss generating contracts, and undisclosed discounts and rebates offered to client pre-closing (see Figure 27). **While material contracts/customer claims are not much more frequent in this industry (averaging 14% of the claims in manufacturing compared with 13% in all industries), there is high customer concentration in the industry and as a result, when claims do arise, they can often be significant.**

Unsurprisingly, product liability breaches are a top driver of loss in this industry as well (20% compared with the overall average of 4.6%), along with financial statements and condition of assets breaches. While the fact patterns giving rise to these breaches may lend one representation to be more applicable than another for a given claim, the underlying cause of these breaches is related to inventory. Inaccurate warranty reserve calculations and allegations of product defects have resulted in significant costs and penalties to recall products, costs to dispose of obsolete inventory, and increased manufacturing costs to rectify the issue. Additionally, inaccurate representations about the conditions of manufacturing facilities have led to excess scrap and manufacturing costs and lost revenue, and have made existing contracts unprofitable.

Figure 26: Aon Data: Manufacturing Frequency and Percentage of Total Loss Paid by Type of Breach



Figure 27: Aon Data: Issues Underlying Manufacturing Material Contracts Breaches

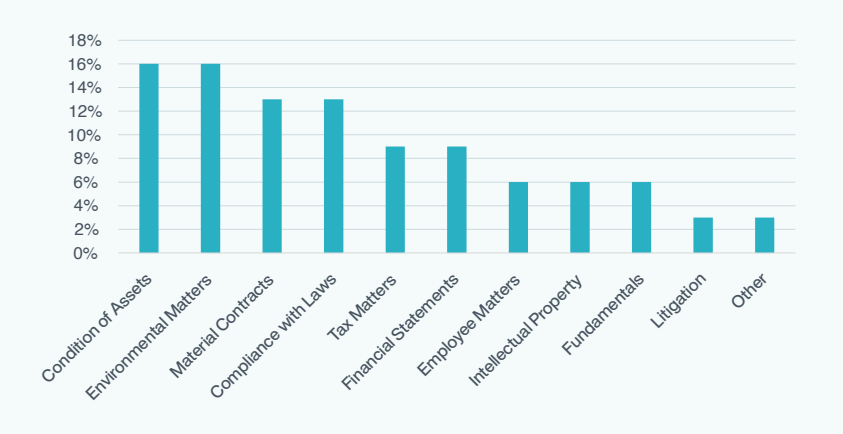


Since inventory-related issues are not always subject to a multiple of damages, financial statements breaches aren't as severe in this industry. However, when a breach impacts the underlying cost to manufacture products or revenue for existing contracts, our clients have been successful in claiming a multiple of damages for the decreased profitability of the business.

While tax has the highest claim frequency in the manufacturing sector, there has been a relatively low severity to date. Most tax claims have been the result of unpaid tariffs and U.S. Customs and Border Protection violations.

Of the claims that are currently active, condition of assets, environmental matters, and material contracts are the leading breach types (see Figure 28). While we have yet to see paid loss on environmental breaches in this industry, there are significant active claims arising from excess emissions at manufacturing facilities. Additionally, there are significant active condition of assets breaches arising from machinery operating past capacity prior to closing, as well as general shortfalls of industry operating standards for acquired facilities.

Figure 28: Aon Data: Percent of Active Manufacturing Claims by Primary Breach Type





Notable Recent Payment

Breach type:
Product Liability & Financial Statements

Time to Resolution
22 months

Payment:
Policy limit (8 figures)

Transportation & Logistics
Accounting Issues and Key Customer Contracts Drive Losses

As of Q4 2024, Aon clients have recovered $183.5 million in payments on transportation and logistics claims. Including the retention, $214.5 million in loss has been recognized. Aon clients have 16 active claims in the sector.

> **Key Takeaway:** While not all issues are industry specific, over three-quarters of all loss arises from financial statements and material contracts breaches.

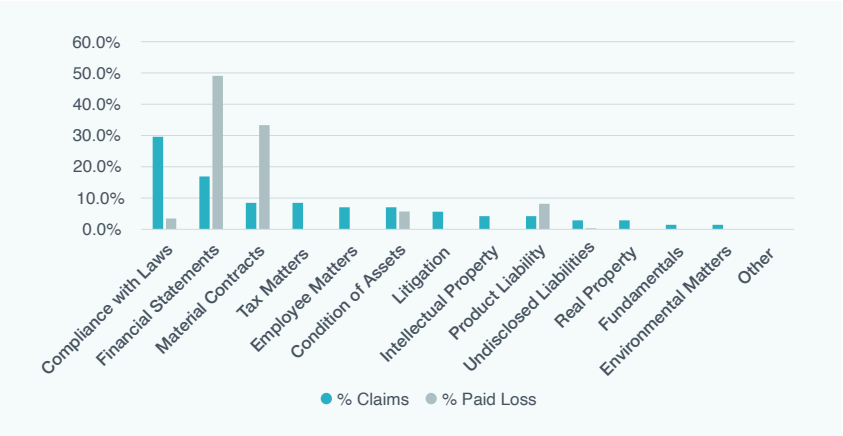
As Figure 29 shows, **nearly 30% of all claims** within the transportation and logistics industry arise from breaches of the compliance with laws representation. However, much like the retail and consumer section covered earlier, these claims typically do not result in severe loss; this industry has an outsize number of hourly employees and as such, the most common type of compliance with laws claim is related to a third-party wage and hour complaint. Ultimately, the exposure here is driven by the number of employees, the time frame of the alleged wrongful conduct, and the hourly wage being paid. Loss typically exceeds the retention when a few of these variables are significant.

Instead, over 75% of all loss in this sector comes from just two representations: (1) financial statements and (2) material contracts. Interestingly, the claims that arise from these two breach types are very different in how industry specific they are.

The financial statements breaches that make up most of the claims within this sector are not specific to transportation and logistics. They primarily comprise the typical accounting mistakes and errors that we see across a wide variety of industries. These include improper booking of accounts payable/receivables, improperly noting recurring expenses, and customer overbilling issues.

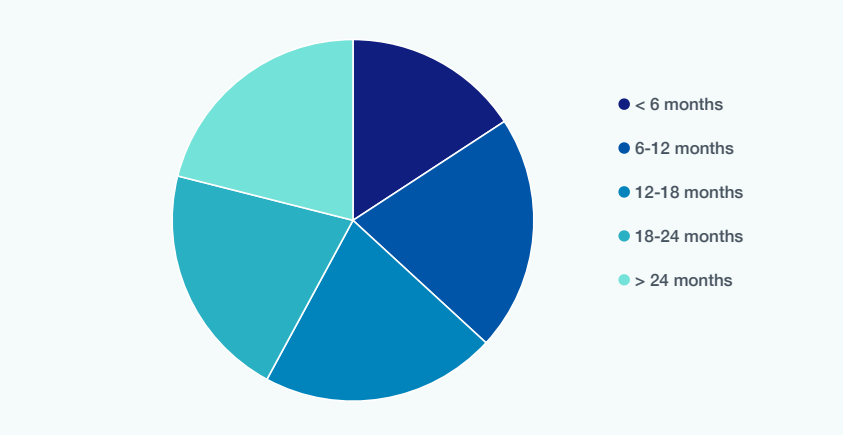
Conversely, the claims that allege breaches of the material contracts representation are much more closely tied with the particulars of the sector. The main drivers of loss include contract performance issues with major online retailers, contract and rebate issues around nationwide fuel provider contracts, and third-party contracts around parts/services to keep a fleet operational. These contracts either provide revenue or help service a fleet so that it can fulfill its revenue-producing obligations and have led to significant loss when they are impaired prior to closing.

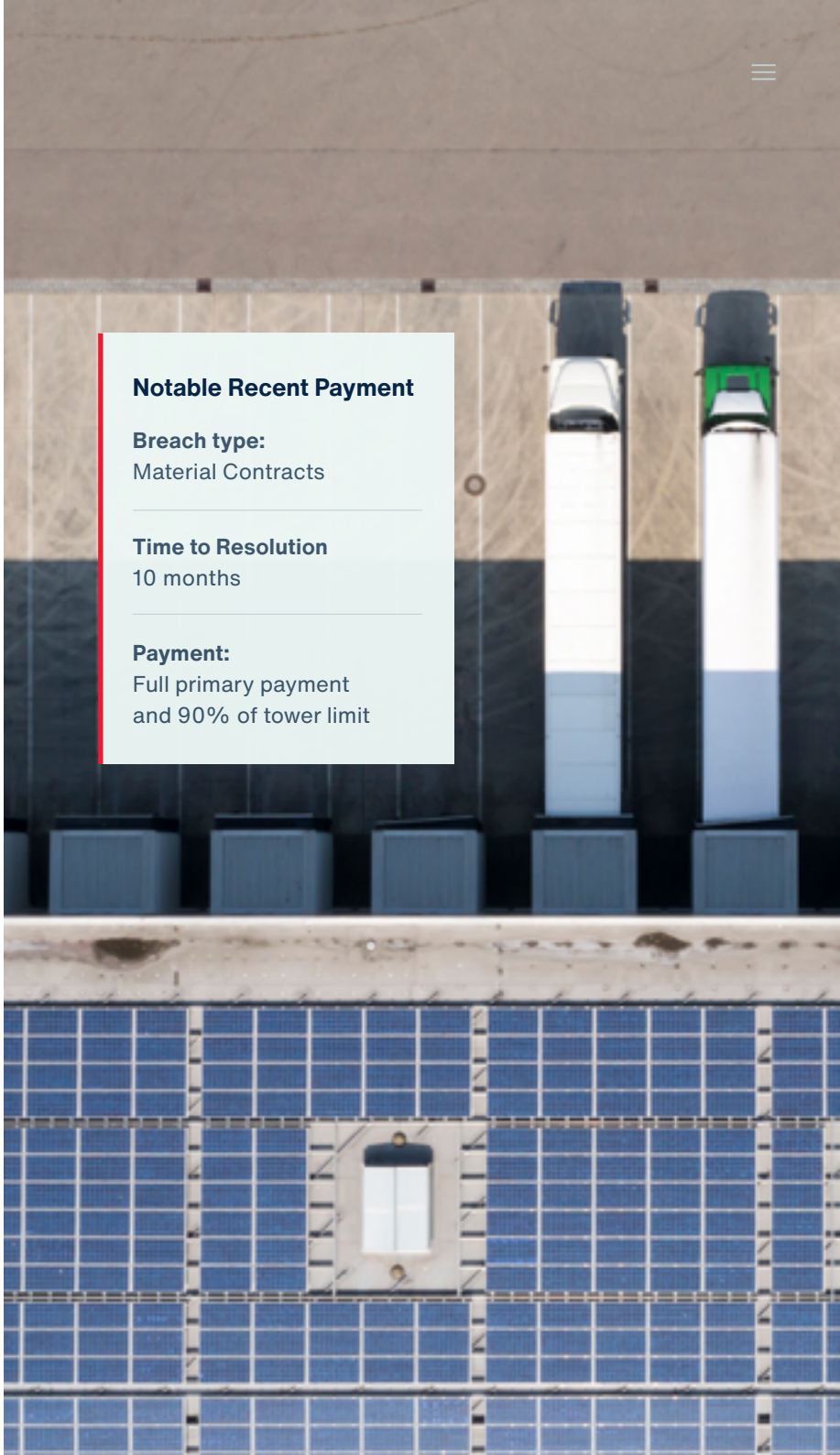
Figure 29: Aon Data: Transportation Frequency and Percentage of Total Loss Paid by Type of Breach



Notably, the transportation and logistics industry is the sector with the highest percentage of claims filed more than 12 months post-close. In fact, as Figure 30 shows, 63% of all claims are filed after 12 months. This is led by compliance with laws claims, which make up 33% of these claims, but financial statements and material contracts claims combine to make up nearly the same amount. Obviously, absent a R&W policy in place there would be no coverage for these claims, as the typical survival period for a seller escrow is 12–18 months.

Figure 30: Aon Data: Time from Closing to Notice (Transportation Policies Where Coverage for the General Representations Has Expired)





Notable Recent Payment

Breach type:
Material Contracts

Time to Resolution
10 months

Payment:
Full primary payment and 90% of tower limit

Tax Insurance

Unlike the tax coverage for unknown tax risks that is provided under R&W insurance policies, this section discusses Aon's claim experience on tax insurance policies for specific known or identified tax exposures of risk related to a known tax exposure. Due to the extended nature of tax contests, as well as the large volume of programs placed in the last seven years, Aon is beginning to observe increased claims activity on tax insurance placements, primarily on those incepted prior to 2022. **On average, the time from policy inception to a notice of a claim or pre-claim notice of a general audit is 28 months, while most policies include a seven- to ten-year period in which to make a claim. However, due to expanding insurer risk appetite and increased number of policies placed after commencement of an audit, this average has declined.** The frequency of notifications on tax insurance policies is shown in Figures 31 and 32.

While tax insurance is a mature global product, this section will focus on North American tax data. In the Insurer Survey, **responding insurers reported that 42% of the notices received with respect to tax insurance policies placed between 2016 and Q3 2024 related to a pre-claim notice of a general audit, whereas 49% have involved review of a covered tax position amounting to a formal claim (see Figure 33). Additionally, responding insurers stated that overall notification frequency on tax insurance policies placed between 2015 and Q3 2024 is 13%** (see Figure 32), with 67% reporting that the number of claims filed since 2021 is about the same and 25% reporting that notices have increased compared with previous years (2016–2020).

Figure 31: Aon Data: Claim Frequency 2015–2024 on North American Tax Policies

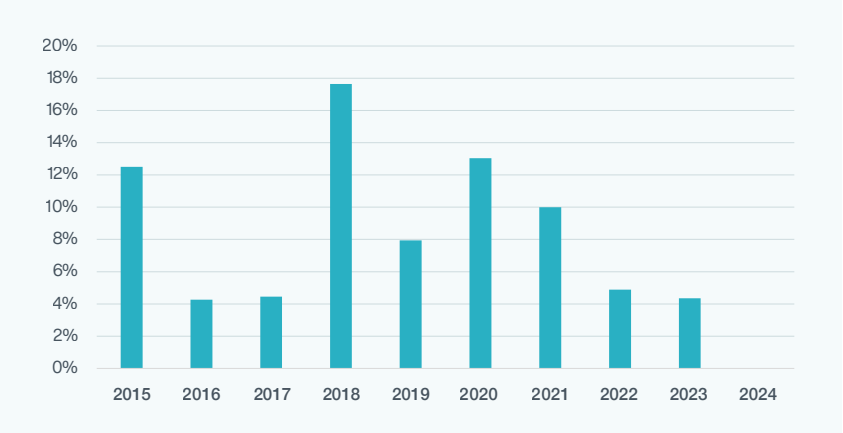
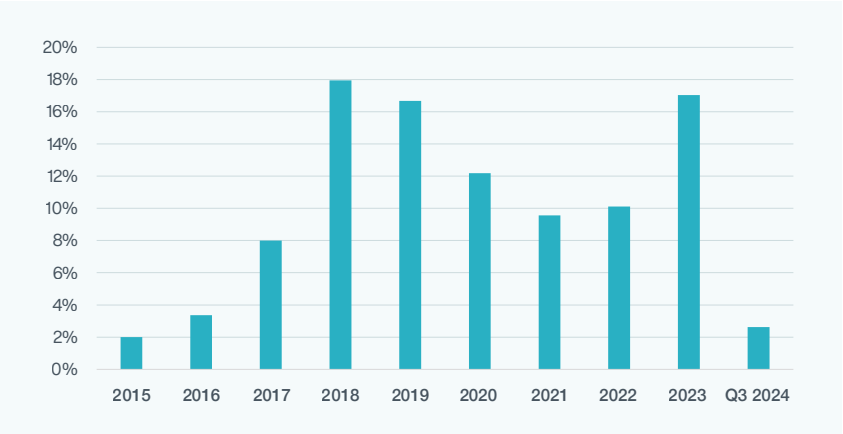


Figure 32: Insurer Survey Results: Tax Claim Frequency 2015–Q3 2024



Since last year's study, we have seen both claims where a settlement was reached and claims where the tax authority successfully asserted that a tax was due, resulting in payments to Aon clients.

For tax insurance policies placed between 2016 and 2024, responding insurers reported that on average, 69% of all claim payments above the retention have been below $1 million; 25% of claim payments have been between $1 million and $10 million; and 6% of claim payments have been greater than $10 million (see Figure 34). **Overall, from this experience we can conclude that our clients are being reimbursed for valid claims for both contest costs and assessed amounts, and successfully negotiating tax authority settlements with insurer contribution where appropriate.**

More than two-thirds of claims made on Aon tax insurance policies placed in North America remain active and are negotiating settlement or resolution. These placements are still working through the audit, appeals, or tax court litigation process and insurers are paying contest costs in connection with these active matters. Approximately 46% of Aon tax insurance claims on placements made from 2016 to 2024 relate to renewable energy tax credit transactions, which is slightly lower than the number of placements in this space compared with our overall book. While some of these claims have now resulted in a payment, the majority remain active and under appeal. It is our expectation that over time, as the tax contests progress, the percentage of claims resulting in a payment and total amounts paid will climb.

With another year of experience and some significant tax claims working toward resolution, we have seen insurers continue to be responsive and cooperative. Insurers have timely responded to policy timelines for review and consent during the audit and claim process. Their approach has been collaborative, as the insurers typically view the tax claim as a partnership in the defense of the covered tax position with the insureds and their counsel. **To date, every claim made under an Aon tax policy either is active, has been paid, was settled within the retention, or resulted in no tax owed to the tax authority.**

Figure 33: Insurer Survey Results: Current Status of Tax Insurance Notifications

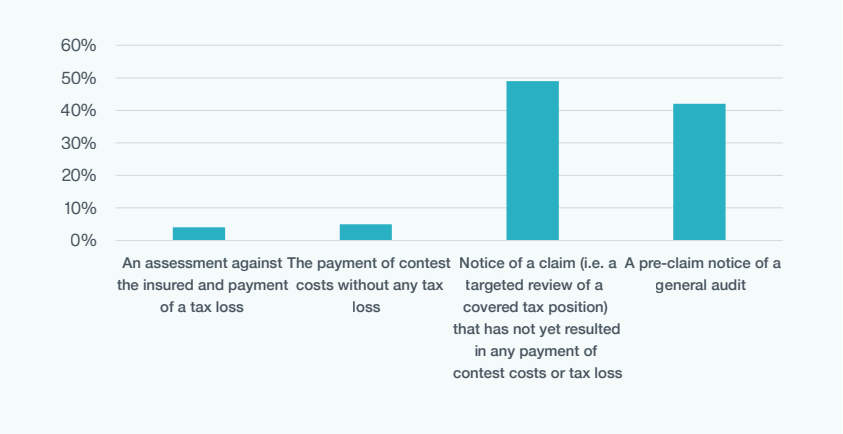
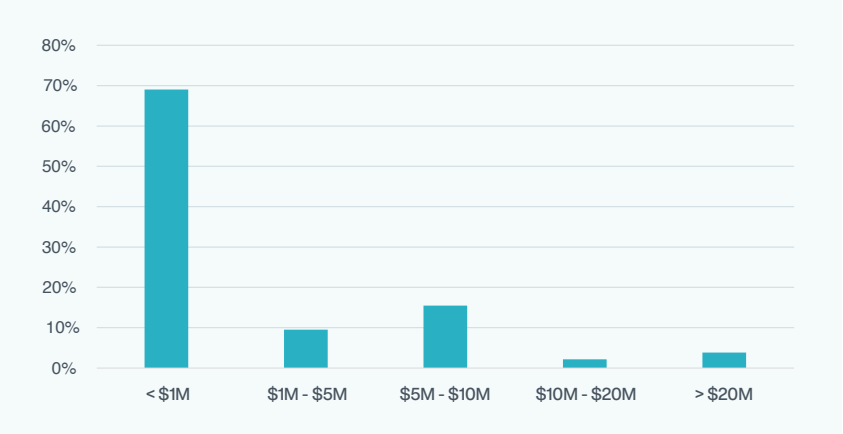


Figure 34: Insurer Survey Results: Tax Insurance Payment Sizes



EMEA

Highlights

01 Since our 2024 claims study, we have worked with clients across EMEA on their warranty & indemnity ("W&I") insurance claims. Insurers indemnified losses of $70.9m for Aon clients throughout 2024.[2]

02 Aon's W&I claims settlements exceed $1.75b globally, highlighting the value this product brings for our clients.

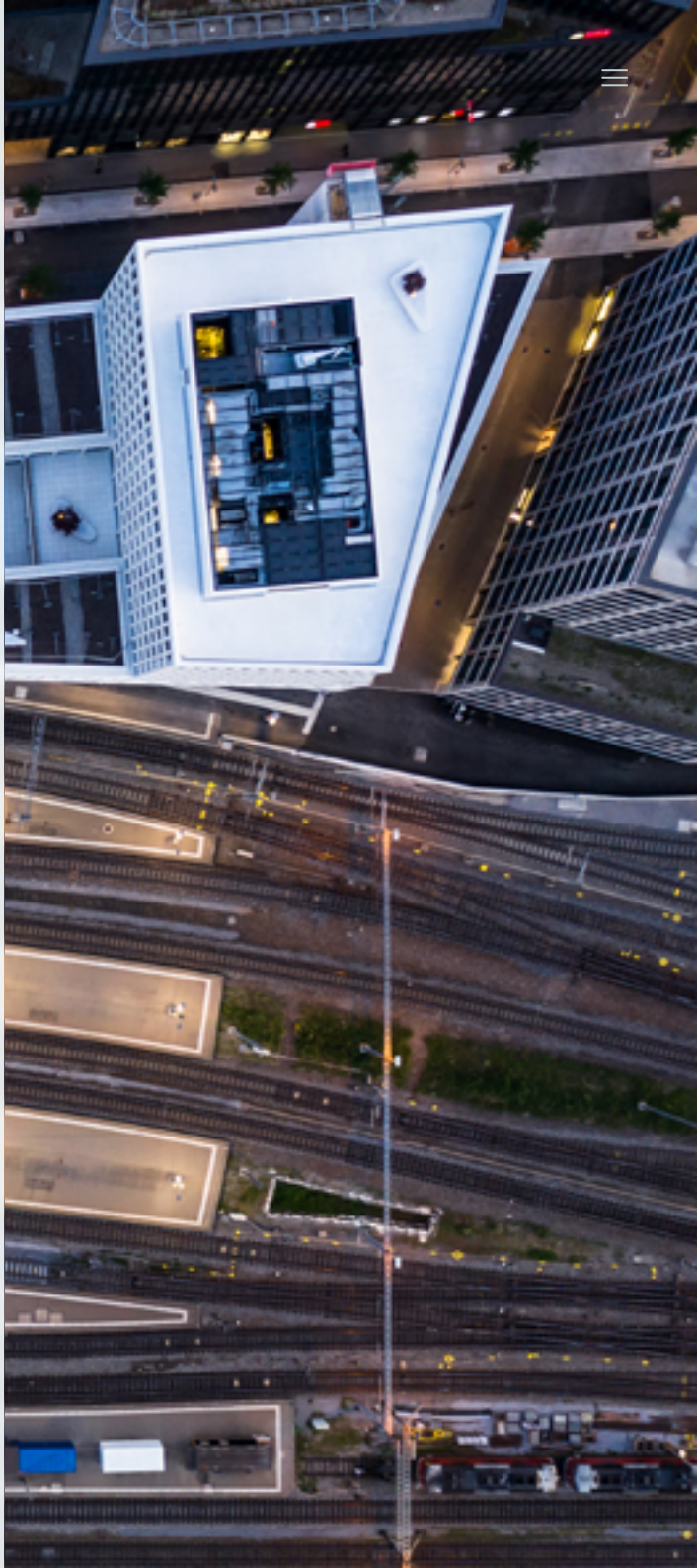
03 To date, the Aon claims team have worked with insurers to recover over $200m in paid claims for Aon's EMEA clients, with settlements paid in 2024 alone representing over 35% of total payout.

04 Early indications are that 2025 will see continued claims resolutions with substantial settlements.

05 In 2024, we have assisted Aon's EMEA clients with many new claims whilst also driving a number of pre-2024 claims to resolution; notifications are up 26% compared with 2023.

06 The top breach notifications in EMEA continue to be tax and financial statements, with financial statements breaches continuing to be the top driver of loss.

[2] Comprising settlements of over $66.4m and recognition of over $4.5m of loss eroding the deductible



Introduction

In this EMEA Claims Study, we consider claims trends and success stories with the context of broader commentary on the prevailing M&A market. Once again, we are excited that this study provides a comprehensive overview of M&A insurance and claims activity, compiled from Aon claims and placement data and an anonymised survey of 12 of our key EMEA insurer/MGA partners (the “Insurer Survey”). Aon’s data has been reported to the end of Q4 2024, whilst the Insurer Survey includes data up to the end of Q3 2024. As clients and their advisers become more sophisticated in their use of W&I policies, they are increasingly turning to our dedicated claims team for assistance. The Aon claims team has grown to meet client needs, seeing many more claims and advising clients on recovery against their policies. We encourage clients to seek our support when navigating a claim.

We continue to see W&I insurance notifications increasing year on year, with clients notifying higher severity claims and with larger initial loss estimates. More importantly, as the product matures in EMEA, we are increasingly seeing insurers pay out.



The Rise of W&I and claims across European M&A

Although the W&I insurance product originated in the 1990s as a sell-side product, its popularity increased as a buy-side product around the time of the global financial crisis in 2008 and, in subsequent years, it became a valuable product to sellers who needed a clean exit and to de-risk transactions through insurance. Over the past decade, we have observed the early and widespread adoption of W&I insurance in the UK and Nordics, with other Northern European jurisdictions also keen adopters of the product. France and Southern Europe were historically slower to adopt W&I insurance as a deal strategy but it is now a mainstream M&A consideration throughout EMEA. This jurisdictional M&A market overlay influences the claims trends that we are now observing. Our claims team now see claims notifications from across EMEA. In recent years, the motivation to use the product for its intended purpose, to both facilitate a deal and respond to unknown issues discovered post-acquisition, has resulted in more claims. This provides us with an illuminating and growing body of claims insights. As a leading broker whose M&A team were involved in some of the earliest deals, we are watching with interest as the product matures and claims data evolves in real time. As a global claims team, we provide real-time feedback to our W&I and tax broking teams from our claims experience to improve client outcomes.

The peak of deal activity in 2021 was followed by an unsettled economic period of high inflation and interest rates resulting in fewer investments, which are widely acknowledged to have stifled the growth of the M&A market in 2022, 2023, and beyond. Building on 2024, the outlook for 2025 had been cautiously optimistic following the conclusion of elections in key countries. However, many uncertainties (including global trade tariffs) persist. It is to be seen how this will impact the EMEA M&A market and the W&I claims that may subsequently arise.

M&A Perspective: We have seen a marked increase in claims notifications with a number of complex claims successfully resolved for our clients in 2024. This trend reflects a market of increasingly sophisticated clients, supported by experienced and dedicated teams from both brokers and insurers, who are adept at steering claims to successful resolution. The M&A market from 2022-2024 has been impacted by, amongst other things, the rising cost of capital, mixed macroeconomic signals, inflationary pressures and geopolitical uncertainty. This reduced activity, combined with an influx of insurance capital post 2021 has led to a highly competitive market with our data showing the lowest pricing on record and advantageous terms for our clients. As well as price, insurers are competing on breadth of coverage and process efficiency. Throughout this period, claims activity has grown. Whilst macro conditions and uncertainty remain, there are signs of positive growth for M&A as actors acclimatize to the prevailing market conditions. Some insurers contend that the combination of low rates and increased claims pay outs may lead to (and indeed requires) a rate correction. However, we have yet to see this impact the W&I and tax markets in any meaningful way. More positively, competition has driven market-wide innovation, with bespoke insurance solutions and enhancements rolled out for clients together with an increased demand for tax insurance.



Claim Frequency

In 2024, our claims team saw a 26% increase in the number of notifications received compared with 2023.

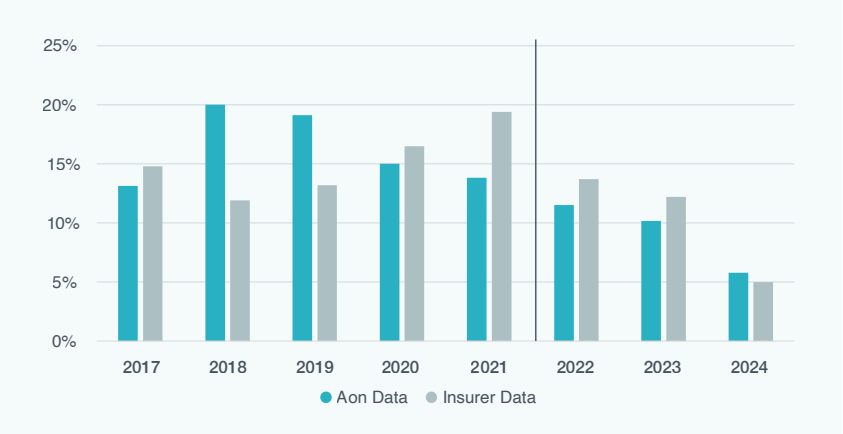
Key Takeaway: If we continue to see year-on-year increases in the number of notifications received, as seen in 2024, claims frequency may trend upward from the historical norms of approximately 20%.

M&A Perspective: As flagged in our Claims Study 2024, we considered the M&A market factors in play at the time the policies were placed and the correlation to our claim statistics. 2021 is widely known as a "boom" year for M&A: a period of frenetic deal activity when demand for W&I insurance exceeded supply, leading to a short-lived hard market, with terms softening again by H2 2022 with more insurance capital in the market and a slowing of deal activity. It would seem the wider insurance market has seen proportionally more claims on policies from this period than the corresponding Aon data, with last year's insurer results reporting 14.4% claim frequency for 2021, up by 5 percentage points to 19.4% this year (although Insurer Survey respondents changed slightly this year and impacted the data for year-on-year comparison). Possible reasons for this could be the speed of transactions, with less opportunity for diligence, and higher pricing in a more seller-friendly market, which may cause buyers to turn to insurance to seek recourse. It will be several years before we can comment conclusively on notification rates and settlements from policies placed in 2021.

In EMEA, we are seeing a marked increase in claim notifications year on year. Perhaps with this increase in claims notifications and a busy start for claims in H1 2025, it may be that we are now observing the results of the broader coverage offered post 2021. In preparing this report, we considered whether increased claims notifications might be the result of last-minute claims being submitted on 2021 policies that were expiring and/or a maturing W&I client base, with policyholders increasingly utilising their insurance cover for claims and not merely deal facilitation. On review of the Aon claims data, the proportion of 2021 policy notifications received during 2024 does not appear unusually high, which would suggest notifications are arising consistently within notification rate trends.

Figure 35 illustrates the percentage of Aon W&I policies that have had a claim made against them from 2017 to 2024, alongside the results of the Insurer Survey (from 2017 to Q3 2024). The vertical black line separates the policy years that, consistent with broader industry approach, are now off risk for general warranties. 2021 is the most recent year to come off risk for general warranties and a year of particular interest due to the volume of M&A, tight time scales, and high valuations.

Figure 35: Claims Frequency by Policy Year

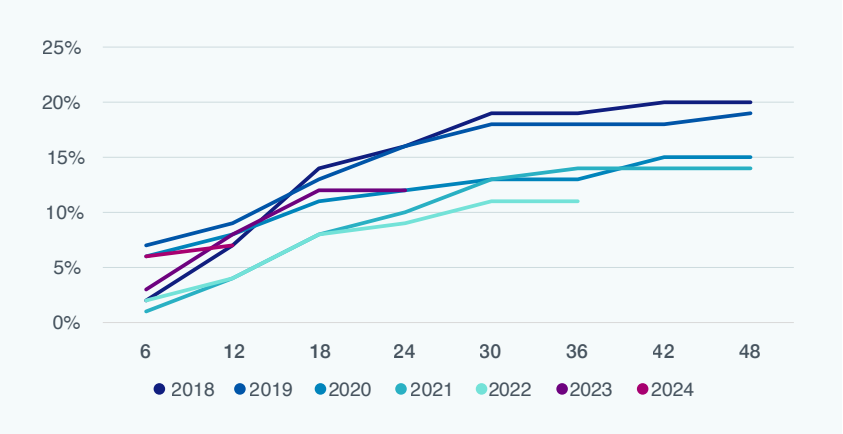


Under EMEA W&I policies, cover for tax and fundamental warranty breaches typically ends after a seven-year period and for general warranties, within two or three years of closing depending on the terms agreed. Therefore, although the post-2017 policy years show a lower claim frequency, these statistics are subject to change, as the policies remain on risk and the percentages will increase as new claim notifications are submitted.

Policies placed in 2018, in accordance with industry standards, are almost off risk completely, pending settlement of existing notified claims and any final tax or fundamental warranty notifications that may arise in the final year of the policy. The claim frequency for 2018 policies did not increase from the 20% reported last year and is in keeping with the market average. Consequently, we do not expect a change to the notification rate. Interestingly, the Insurer Survey data for 2018 shows a marked difference compared with Aon's data, showing a notification rate of just 11.9% against Aon's 20%. A possible explanation for this may be that back in 2018 some of the MGAs surveyed may have only been trading for a short time (if at all) and this is likely reflected in their data. Additionally, pre-2020 take-up of W&I insurance was reduced compared with 2020 and 2021, with a smaller data set prone to be skewed by outliers. The Insurer Survey data shows a peak of notifications in 2021, whilst Aon's data sits at 14%, below historic highs.

Figure 36 shows Aon's notification development as a percentage of total deals from 2018 to 2024. When we observe the development of notification rates in six monthly increments, we can see that the notification rate for policies placed in 2023 currently sits in the middle of the data set. The higher overall notification rates are seen for 2018 and 2019, with policies placed in 2019 and 2021 trending higher than policies placed in 2020 and 2022. It should be noted, however, that the data for 2024 is still developing and we expect the notification rate to increase. There is a proportionally high number of notifications seen on 2024 policies at the 6-month mark, and the 2024 rate is still developing at both 6 and 12 months at the point the data was taken for this study. The same can be said for the notification rate at the 18- and 24-month marks for policies placed in 2023, which notification rate may yet develop further.

Figure 36: Aon Data: Notification Development as a Percentage of Total Deals



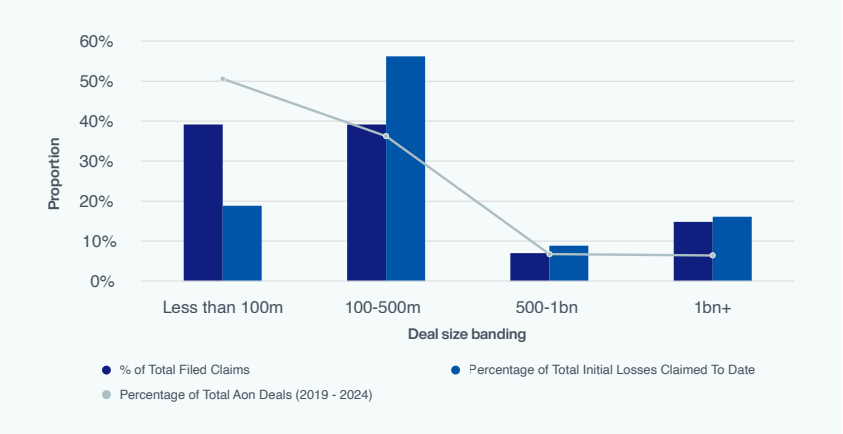
Claims Metrics by Deal Size

The 100–500m EV category sees a proportionally higher share of initial loss claimed compared with the total number of deals placed in this category, whilst 1bn+ transactions see both a higher proportion of notifications and a high proportion of initial loss claimed compared with the volume of deals placed.

Notwithstanding the larger concentration of deals in the sub-100m category in figure 37, both the sub-100 and 100–500m brackets each received 39% of claim notifications (i.e., proportionally fewer than the number of policies placed for these transactions) but transactions in the 100–500m category saw a much higher initial estimated loss figure.

> **M&A Perspective:** Despite lower notification and loss rates on sub-100m deals, we see a volume of transactions within this deal size category and believe this is driven by a greater prevalence of owner-manager sellers with a very personally motivated interest in managing their exit liability.

Figure 37: Aon Data: W&I Claim Trends by Deal Size, Percentage of Aon Deals, and Initial Claimed Loss for the Period 2019–2024



Important to note

Under English law[3] an insured making a claim for breach of warranty is entitled to be put in the position it would have been in had the warranty been true, subject to the usual rules on remoteness and causation. This will ordinarily mean that the buyer is entitled to claim the "true" value of the company rather than the "as warranted" value.

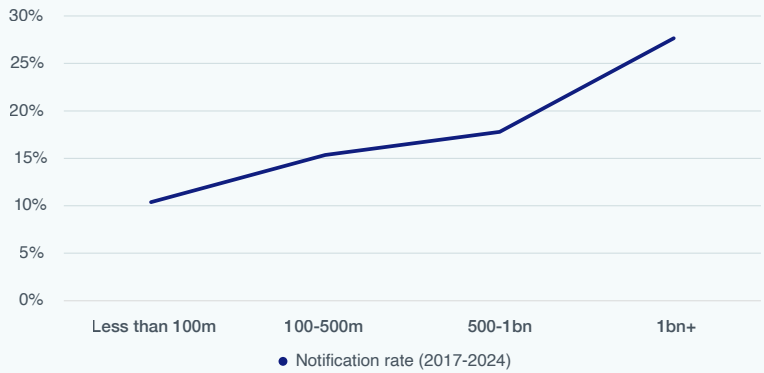
Therefore, claims based on the diminution in value of the company will rarely have the full articulated loss at the time of notification and this needs to be considered when looking at the initial claimed loss statistics. The initial claimed loss often changes as additional facts are uncovered or as a result of mitigation steps taken by the insured.

[3] Oversea-Chinese Banking Corp Ltd v ING Bank NV [2019] EWHC 676

As a proportion of overall M&A volumes, there are fewer deals with an enterprise value over $1bn; however, our broking team consider that a greater proportion of $1bn+ transactions are likely to be insured. For these bigger deals, there is typically a more complex underlying business with greater scope for warranty breach, which will usually be harder to diligence. It is not surprising that the data naturally shows a higher notification rate on $1bn+ transactions.

> **M&A Perspective:** As deal size increases, clients and their advisers navigate a tension between, on the one hand, both budget and timetable for due diligence against, on the other hand, the scope of due diligence work desired for a complex business. However, insurers typically price this into larger policies.

Figure 38: Aon Data: Average Notification Rate by Deal Size





Notifications by Target Location

Claims Insights by Jurisdiction

Aon's data shows higher incidence of claims in France, Iberia, and the Nordics. The Insurer Survey shows higher incidence in UK & Ireland, Benelux, and Italy.

> **Key Takeaway:** The data set is small but will become more reliable as more policies are placed and notifications received. Results may be indicative of the various appetites for business but demonstrate claims are being notified across Europe.

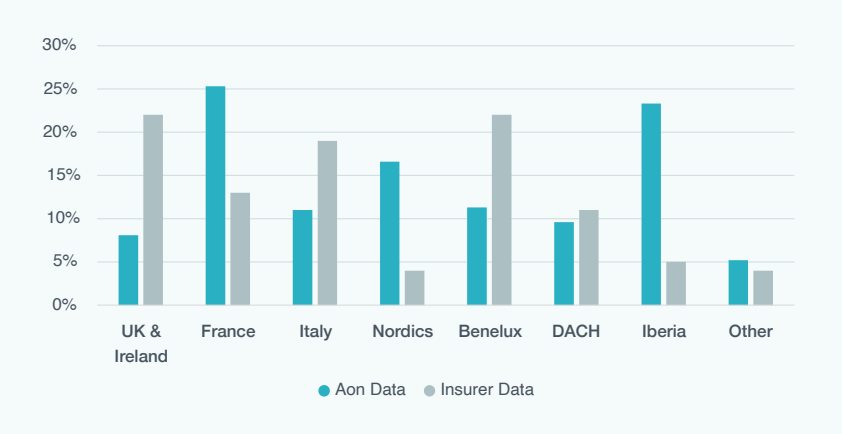
Figure 39 shows the claims notification rates on policies placed by Aon with targets located in different European regions alongside the Insurer Survey. The two data sets should be considered in aggregate rather than comparatively, as each participant in the M&A insurance market will see only part of the whole. **Furthermore, some geographical markets are more mature than others as users of the W&I product. Given the lag between deals closing and claims being notified, this maturity will be reflected in the data.** The Aon data comprises a reasonable data set. The Insurer Survey data set is relatively small and therefore should be treated as a data sample rather than being necessarily indicative of trends and may be skewed by the relevant insurers' respective appetites for different jurisdictions.

As can be seen from Figure 39, the Aon and Insurer Survey data has differing results. Market characteristics will factor into the notifications seen, such as the relative maturity of the market (as commented above) and the respective proportion of PE vs. corporate acquirers. We see higher rates of notifications across France and Iberia; however, the Aon data notes a particularly high incidence of tax notifications in those jurisdictions, which may mean that the local tax regimes are influencing notification rates. As detailed elsewhere in this report, a high proportion of tax notifications does not always translate into high loss payouts. The Nordics also show a higher rate of notification, which reflects the number of policies placed in this region.

> **Insurer Perspective:** The Insurer Survey shows higher notification rates for Benelux, Italy, and the UK and Ireland, though saw notably fewer notifications in the Nordics and Iberia. As discussed previously, the data set from the Insurer Survey for jurisdictional breakdown of data was smaller than other parts of the survey, and it may be that the insurers who responded place fewer policies in the Nordics than the Aon team.

Although Aon's data shows a lower W&I claim notification rate in the UK than the rest of EMEA, conversely, the Insurer Survey shows the highest proportion of claims at 28%. One reason may be due to the geographical split of policy placements, with the contributing insurers perhaps more active in the UK and Ireland market than across wider EMEA. However, as the Insurer Survey is provided on an anonymised basis, we are unable to establish whether this the case.

Figure 39: Notification Rates 2020–2024 by Target Region



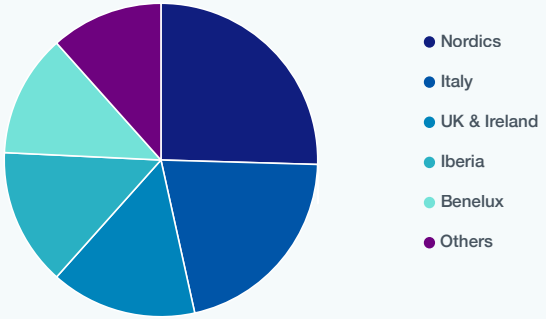
Claim Severity and Payment Trends by Region

In 2024, Aon's EMEA clients were paid $66.4m on W&I claims. This is the largest total annual payment Aon clients have seen in EMEA, and jurisdictional distribution favours the more mature markets.

> **Key Takeaway:** A number of complex claims were resolved in 2024 with Aon clients receiving material payouts on their W&I claims.

Figure 40 highlights which Aon policies have had the highest proportion of settlements in 2024 by the placement team/governing law of the policy. The governing law of the policy is highly relevant, as it determines the legal contractual basis for assessment and recovery of loss. With sizeable settlements in both the Nordics and Italy during 2024, those dominate.

Figure 40: Aon Data: Claims Settled By Policy Placement Region in 2024



Most claim payments are the result of commercial discussions between the insurer and insured. Having a dedicated claims team to advocate on your behalf is, in our view, vital. Our team are specialists in M&A and tax claims and work alongside a client's lawyers and financial advisers to steer a claim to resolution. We have long-established connections with insurers and find this key to unblocking an impasse, particularly where there are difficult coverage and/or quantum issues.

Insurer handling of claims continues to be a key differentiator for our clients. The Insurer Survey provided comments that between 2021 and Q3 2024, where a settlement was reached with the insured, 20% took less than 6 months, 20% took 6–12 months, 50% 12–18 months, and 10% 18–24 months. This is in keeping with our experience.

We also asked whether time frames to reach settlement had stayed the same or slightly decreased; 33% of the insurers surveyed thought they had slightly decreased, whereas 67% thought they had stayed the same. Where claims were denied, insurers commented that this was due to insureds failing to establish that the seller had breached an SPA warranty, or an exclusion applied.

Nordics Claim Success Story

M&A Perspective: The Swedish M&A market has shown remarkable resilience and growth, even in the face of global economic uncertainties. This is largely due to the robust regulatory framework, a strong economy, and the innovative spirit of Swedish businesses. The market continues to attract significant interest from both domestic and international investors, driven by opportunities in sectors such as technology, healthcare, and real estate.

Scenario	A real estate private equity firm ("Insured/Buyer") acquired shares in a number of German property investment companies, which in turn held a portfolio of properties with over 1,000 commercial and residential leases. They purchased a W&I insurance policy from Aon's Nordics broking team, which insured the German target business. Post-acquisition, the Buyer discovered a significant and previously undisclosed cash shortfall. After a rigorous investigation, the financial "black hole" was ultimately traced back to an inaccurate rent roll: a spreadsheet that listed rents across the property portfolio ("Rent Roll").
Aon Claim	The claim submitted to insurers alleged that the sellers had breached the Rent Roll warranty that guaranteed that the net cold rent figure provided in the data room would not fall materially short of the figures provided. The Rent Roll was relied on to value the business and ultimately determined the purchase price. On the facts, establishing breach was relatively straightforward. Quantifying the claim and the loss that flowed from the breach, however, was extremely complicated. Insurers instructed numerous financial experts to ascertain the "true" financial impact of the sellers' misinformation, as well as teams of lawyers on both sides. The Insured spent a significant portion of time correcting the records and attempted to create a unit-by-unit assessment of loss, which, in circumstances where there were missing tenants, proved almost impossible. The loss exercise was compounded by elements of German law that needed to be factored in, such as leases dating back to the 1980s with the right to rent in perpetuity, an inability to rent a vacated rental without first investing capex in it, limitations on raising rent, and loss of opportunity.
Result	After discussions with insurers, expertly steered by Aon, the Insured was able to reach a mutually agreeable commercial compromise and agreed to settle the claim for over €10m. The Insured could not have foreseen the undisclosed cash shortfall, which was indemnified by the W&I insurance policy. The existence of the policy saved the Insured significant time and costs of potential litigation against the sellers and is another example of the significant benefit of utilising insurance solutions in M&A transactions.



Spanish Claim Success Story

Tips for Claims Recovery

Claims success hinges on reviewing warranties thoroughly, detecting breaches accurately, and quantifying losses precisely. There is broad coverage available in the M&A market, and when claims are made successfully it highlights the value W&I provides to secure investment returns in transactions.

Scenario	A Spanish renewables company ("Insured/Buyer") acquired shares in a Spanish company, which included several solar power projects ("Relevant Projects"). They purchased a W&I insurance policy from Aon's Spanish broking team for the acquisition. Under Spanish regulations, the Buyer was entitled to set rates of return with respect to the Relevant Projects provided that there was no record of litigation by direct foreign shareholders or investors, or if there were, that waivers had been obtained from the Spanish government. Post-acquisition, the Buyer was notified by the Spanish authority that there was, in fact, a record of litigation by foreign shareholders or investors with respect to the Relevant Projects and that the Buyer was therefore only entitled to a reduced profitability rate for such projects.
Aon Claim	The Claim submitted to insurers alleged that the sellers had breached the warranty relating to the profitability/remuneration of the Relevant Projects, which stated that the Buyer was entitled to the increased warranted profitability rate and that the seller was not aware of litigation by foreign shareholders or investors and had not therefore obtained a waiver. The Buyer claimed the loss in profit between the warranted profitability rate and reduced profitability rate for the regulatory period. The Buyer was able to establish breach; however, quantification of loss was complicated, as the loss in profit included an element of future economic loss that required the prediction of future revenue.
Result	In consultation with the insurer, assisted by Aon, the parties agreed on an acceptable time frame to claim loss and a methodology for the projection of revenue. After collaborative discussion, the Insured was able to reach a mutually agreeable commercial compromise and settled the claim for approximately €5m. The Insured were pleased they had a W&I insurance policy to indemnify them against this undisclosed issue.



Breach Types

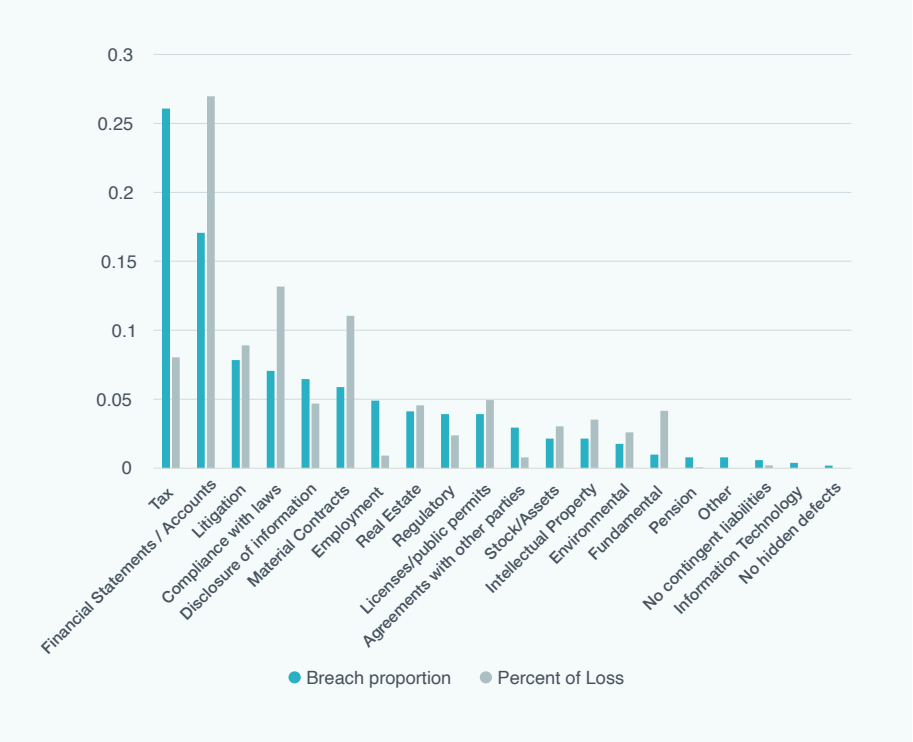
The warranty breaches mirror those reported last year, with tax being the number-one breach type by frequency, followed by financial statements, litigation, compliance with laws, disclosure of information, and material contracts.

> **Key Takeaway:** Financial statements, compliance with laws, and material contracts breaches continue to drive claim severity.

We have reviewed the types of breaches that we most commonly see occur on EMEA W&I claims and have compared this data to the percentage of total loss attributable to each breach type. We see claims notifications against multiple warranties, as one underlying issue may lead to breaches of more than one category of warranty. It is important to note that we have included all warranties breached, rather than only one warranty per claim, and this should be considered when interpreting the data in Figure 41. Once breach is established under one warranty, that will be sufficient for a successful claim and there is typically then little analysis on the applicability of the other warranties claimed against.

As demonstrated in Figure 41, the number-one breach notification by frequency on EMEA W&I claims is tax. Following tax, and in keeping with last year's claim stats, financial statements, litigation, compliance with laws, disclosure of information, and material contracts remain our top breaches by notification and the most likely areas where claims arise.

Figure 41: Aon Data: W&I Frequency by Type of Breach Versus Percentage of Loss Attributable to Each Breach for the Period 2016–2024



Tax has always been a key driver of claims notifications in Europe as a consequence of European tax authorities conducting audits of newly acquired companies. These audits are often routine in nature and do not lead to any allegation of a tax liability, which is reflected in the lower loss levels. Covered tax losses will often be paid on an indemnity dollar-for-dollar basis. Although claim notices may be submitted, there may also be limitations in cover (such as exclusions for transfer pricing), which will mean that claims do not progress. Aon's data shows that the European regions most likely to see W&I tax claim notifications are France and Iberia.

We continue to see financial statements breaches being the second-highest-notified breach type and, once again, this category of breach represents the highest proportion of loss (27%). **Given that losses that arise from financial statements tend to impact the purchase price of the acquired company, calculation of loss may be claimed on a multiplied basis depending on the relevant facts, European jurisdiction, and applicable framework.**

Aside from financial statements, the material contracts, compliance with laws, and litigation warranties have losses that exceed their relative claim frequency. Some of these warranty categories, such as financial statements and compliance with laws, can be categorized as "sweeper" warranties that respond to varied circumstances giving rise to a claim and so may be harder to diligence effectively. On the other hand, the notifications with respect to both material contract and litigation breaches are more likely to be responding to their specific area of risk. **For material contract breaches, the quantum of loss is often higher where recurring revenue was associated with a terminated or disputed contract.**

> **The Insurer Perspective:** The Insurer Survey confirmed that financial statements and material contract breaches often resulted in the highest amount of loss, followed by compliance with laws, tax, assets/stock related, IP, disclosure of information, employment, licenses/permits, and real estate.



Top Breach by Industry

Expansive industry data is becoming key to broking and claims.

> **Key Takeaway:** Whilst pricing is at historic lows, pricing differentiation by industry persists and is driven partly by perceived industry risk and claims.

Figure 42 represents claim notifications by target industry for Aon for the period 2019–2024 and Insurer Survey data for the period 2020–Q3 2024. We must allow for an element of subjectivity as to how target industries have been assigned within the data between Aon and the contributing insurers. The data may also reflect sector appetite and experience. **Aon and Insurers agree that there is a high incidence of claims where target companies are in the manufacturing industry.** Again, due to the size of the data set, the Insurer Survey is indicative as a sample and should be considered alongside the Aon data in aggregate rather than comparatively.

In addition to manufacturing targets, Aon data clearly shows a high incidence of claims in other industries, namely financial services, infrastructure and healthcare, pharmaceuticals, and life sciences. Insurers have seen a high incidence of claims in real estate, TMT, and retail/hospitality. We find the high proportion of real estate claims surprising in a sector that is typically low-priced due to a perceived lower risk of claims, linked to insurer expectations of reduced operational risk.

To attempt to delve a little deeper into the industry breakdown, the heat map in Figure 43 (comprising Aon data only for 2019 to 2024 on the following page) compares key industries and the types of claims that we most frequently see occurring therein.

As anticipated by the breach by warranty type data, tax and financial statements claims are prevalent across nearly all industries. Financial services and healthcare/pharmaceuticals generally see higher numbers of claims in nearly all key warranty categories across the board. This is despite certain sector-standard exclusions typically seen in policies for targets in these sectors, such as medical malpractice for targets in the healthcare/pharmaceutical industries. In the manufacturing industry, we see that the higher claims notifications are more likely to arise in the financial statements, disclosure of information, and “other” categories.

Figure 42: Aon Data: Claims Notifications by Industry

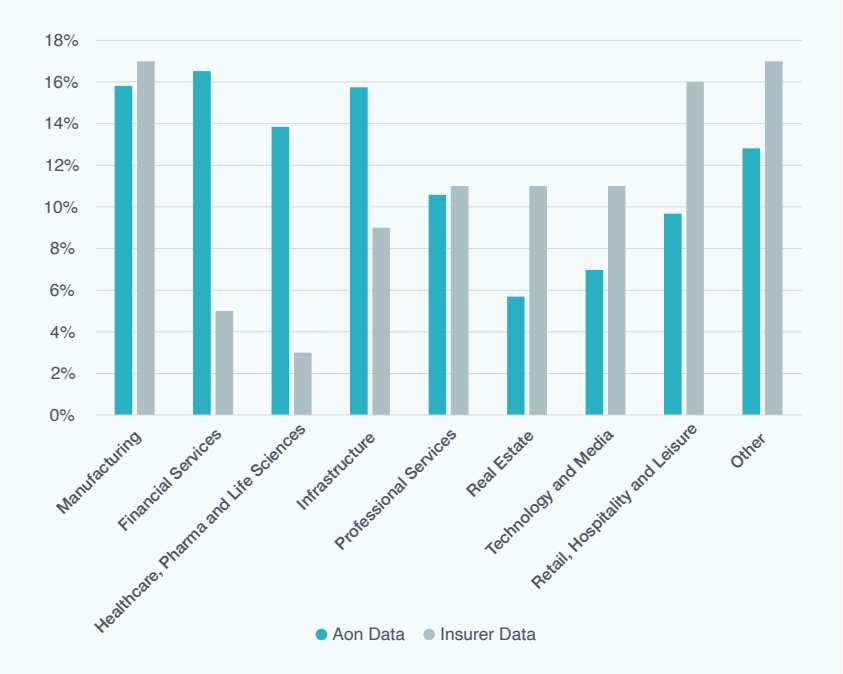
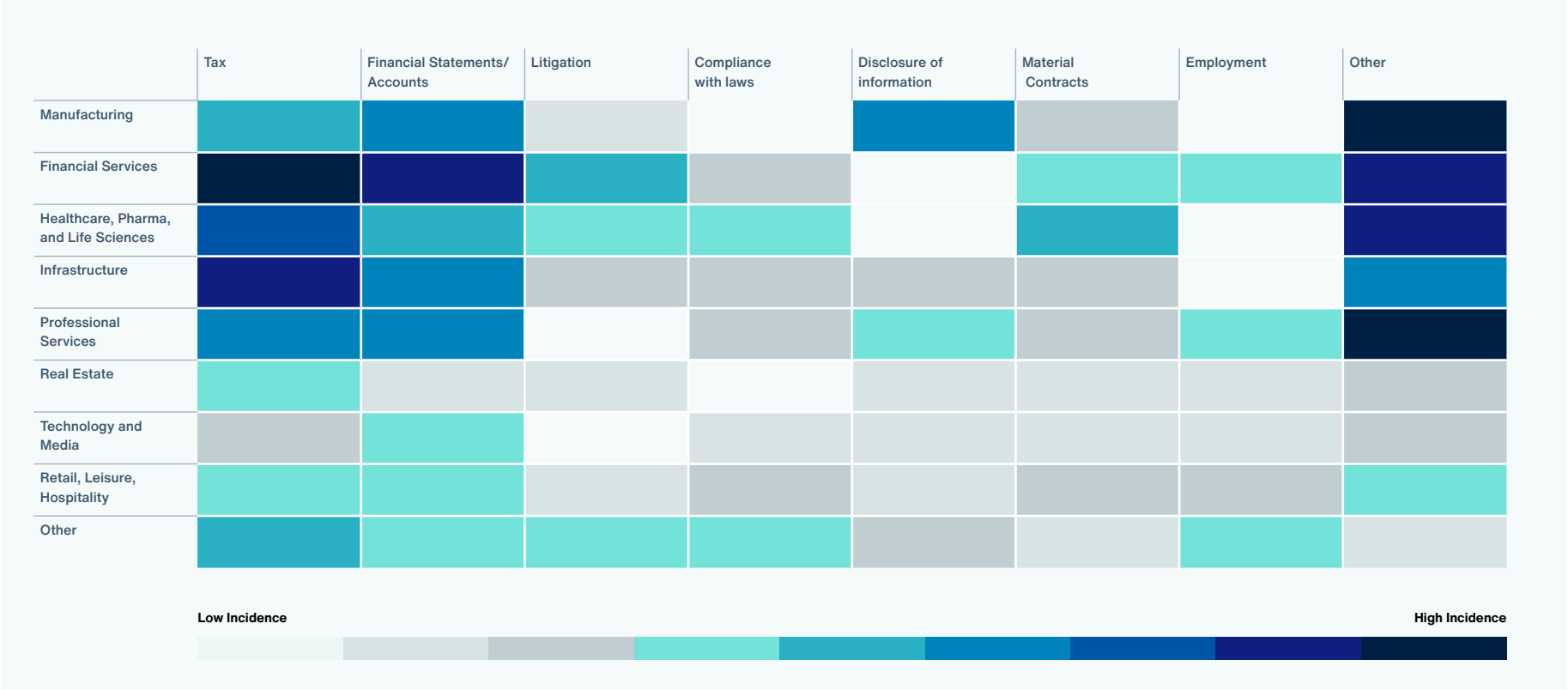


Figure 43: Aon Data: Claim Notifications by Industry and Type of Breach



The heat map is provided with a health warning, however, as the data set becomes small when divided by both industry and warranty category and so should be considered anecdotal rather than as a statistically meaningful correlation.

The “other” category contains such a broad array of warranty breaches by category across the manufacturing, financial services, professional services, and healthcare/pharmaceuticals sectors that it might be said that for higher-risk industries, W&I really does serve its purpose of responding to those unforeseen losses and risks to value, outside of the usual areas of focused diligence and warranty cover.

Timing for Discovery of a Breach

Figure 44 shows that 64% of claims are notified with the first 18 months.

Figure 44: Aon Data: Policy Inception to Claim Notification

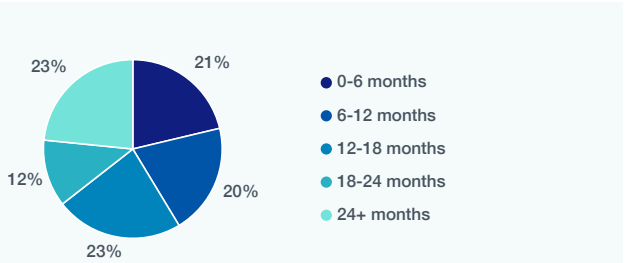
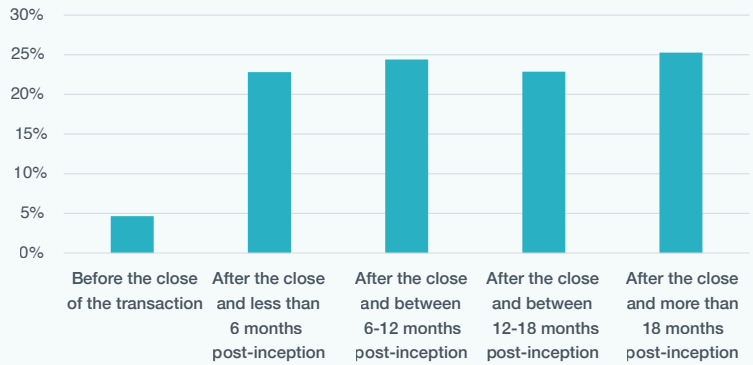


Figure 45 shows the Insurer Survey data for the percentage of notifications made on policies placed between 2017 and Q3 2024. Interestingly, 5% of claims were notified before the close of the transaction.

Both Aon and Insurer Survey data show a similar trend for the timing of notifications.

Figure 45: Insurer Survey Data: Time from Policy Inception to Claim Notification

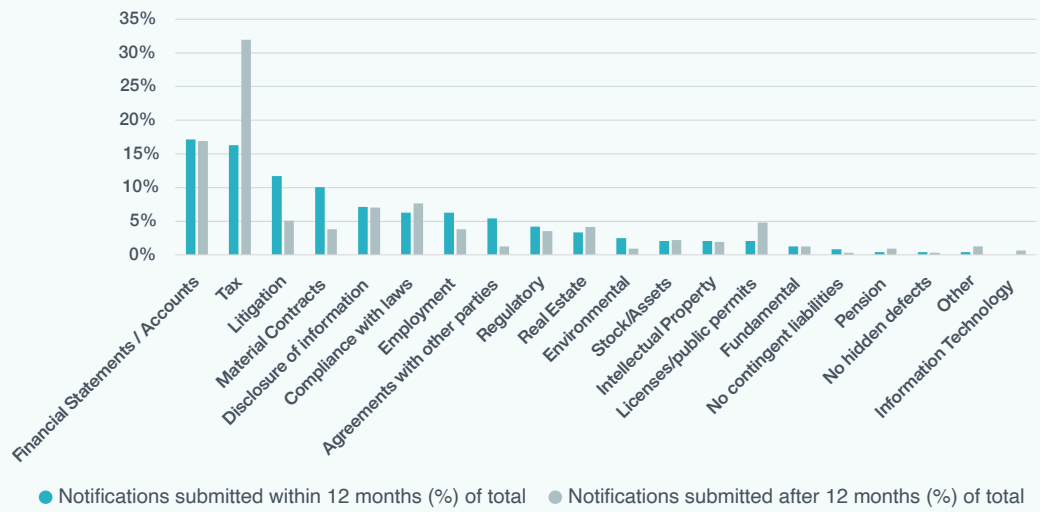




M&A Perspective: Where there is a split signing and closing (and in the absence of interim breach cover purchased to cover the gap period), claims that arise in the interim period will not be covered under a W&I insurance policy unless the issue occurred before signing and was not disclosed by the seller. We have seen a marked increase in insureds notifying insurers of claims pre-closing on a precautionary basis.

Figure 46 shows that 41% of claims are notified within the first 12 months. Notably, the types of breaches that are likely to see a notification post 12 months of the deal closing are tax, compliance with laws, and licences/public permits, with financial statements claims notified consistently both within and after the 12-month period post-acquisition.

Figure 46: Aon Data: Warranties most commonly breached within and after 12 months





Trends Based on Parties to Transaction

Figure 47 shows that Aon's client base from 2019 to 2024 is made up of 43.5% corporate clients and 56.5% investors. Our data from the claims study last year recorded more deals with corporates (54%), which marks a slight shift this year to deals with investor clients. In keeping with last year's data, however, Figure 48 shows that, between 2019 and 2024, corporate clients continued to bring 59% of the total claim notifications submitted notwithstanding the fact that they are now the smaller percentage of Aon's EMEA client base.

M&A Perspective: We have hypothesized that the increased notifications from corporates may be due to the makeup of Aon's historical client base, but also the increased likelihood of integration of newly acquired businesses and therefore greater discovery and notification of any circumstances that may give rise to potential loss as a matter of course. However, compared with last year's study, in which notifications from corporates approached 70% of notifications received, there has been a shift, with an increase in claims by investors. The Insurer Data (see Figure 51) shows a higher proportion of claims from investors than corporates. It is unclear currently whether this is linked to the PE deal activity seen in 2021 and early 2022 or this is a more structural and sustained shift in claims activity.

Figure 47: Aon Data: Proportion of Deals by Client Type

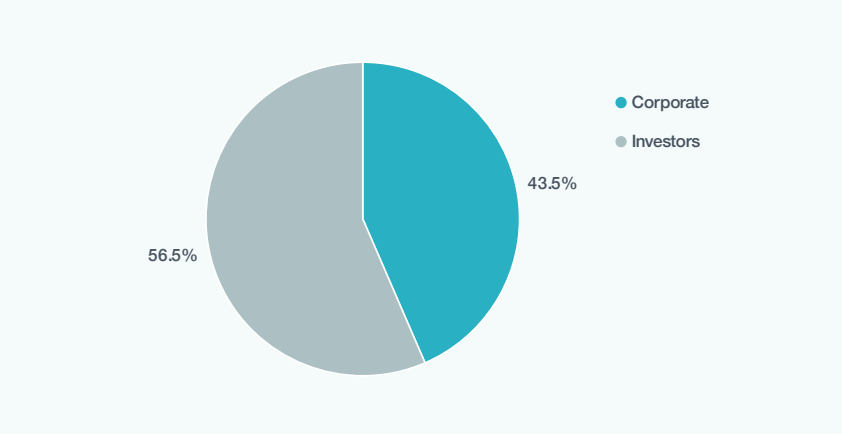


Figure 48: Aon Data: Proportion of Notifications by Client Type

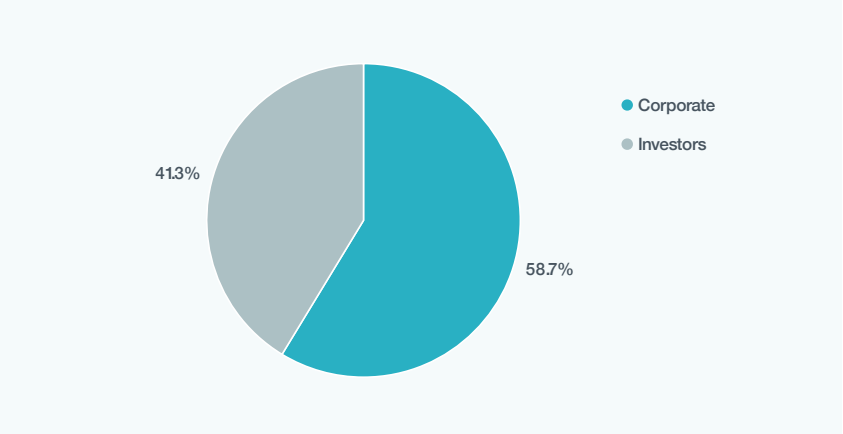


Figure 49 shows that, in aggregate, corporates drive a higher proportion of the total amount initially claimed for upon notification, but it remains the case that investor clients receive a larger claim payout on average, based on the Aon data in Figure 50. Please refer to page 35 and our note on initial claimed loss data and considerations to have in mind when interpreting this data.

Figure 49: Aon Data: Proportion of Initial Claimed Loss by Client Type

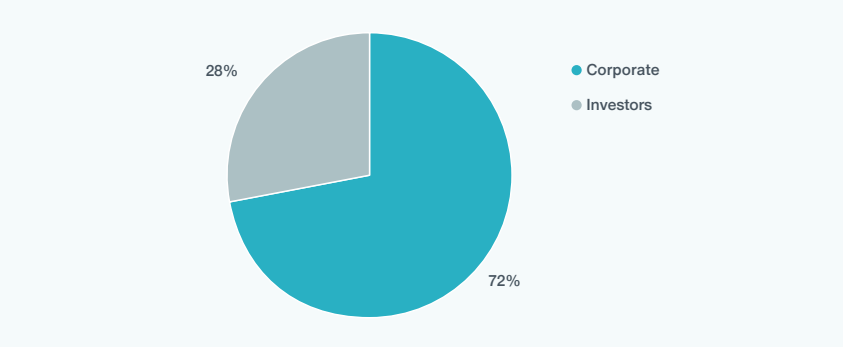


Figure 50: Aon Data: Average Settlement Amounts (2019–2024) by Client Type

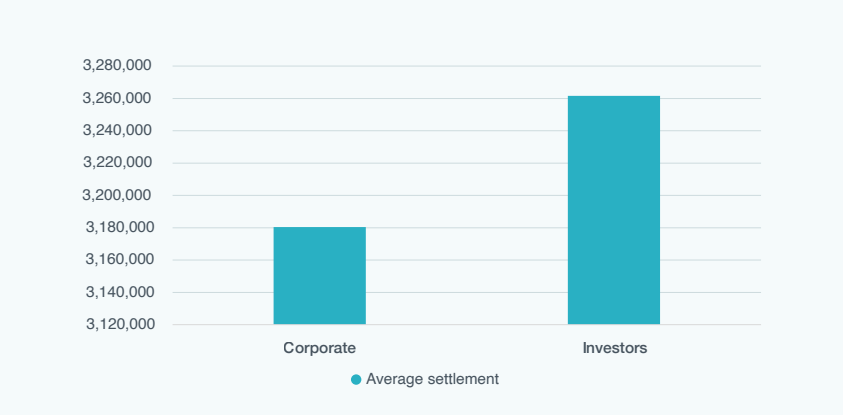
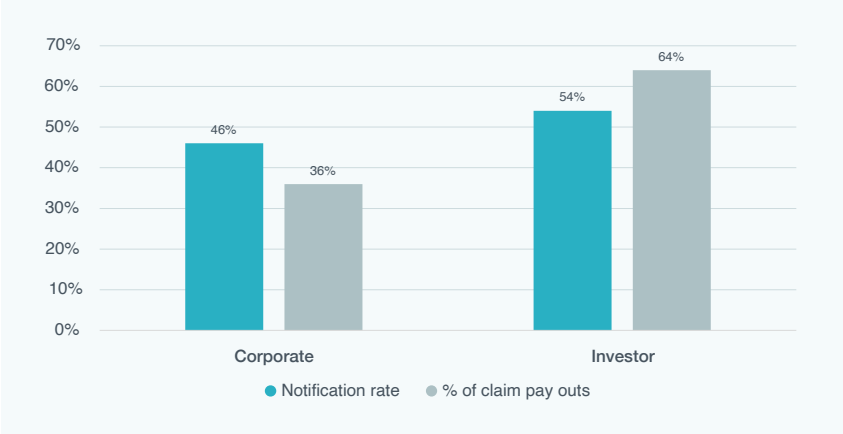


Figure 51 shows the Insurer Survey data for corporate and investor buyers with respect to claims made and claim payouts on policies placed between 2017 and Q3 2024. Insurer Survey data shows that their investor buyers have a higher notification rate than corporates but also recover significantly more under their policies than their corporate counterparts.

Figure 51: Insurer Data: Proportion of Notifications and Paid Loss by Client Type



Case Law

At Aon, our global claims team have worked on hundreds of claims that have been resolved commercially, which gives us unique insight and experience that we lean on, but which cannot be disclosed publicly. These insights are shared with our broking teams in our efforts to continuously improve client service and outcomes. Given that there are just three English court cases[4] (two of which were heard recently, in 2023), it is perhaps unsurprising that the Insurer Survey results recorded that less than 1% of claims were arbitrated, litigated, or mediated. This accords with our experience that W&I claims are resolved during commercial discussions, with only a few highly contested claims going to formal adjudication. Parties are therefore somewhat lacking in Court precedent and judicial guidance. As noted in the APAC section on page 58, a recent decision in New South Wales, Australia provides helpful guidance to insurance claims experts in EMEA. We can also look to case law in other countries such as the "Gram Equipment Case" in Denmark which provides judicial guidance and highlights the inherent risk in taking any claim to court.

Judicial Guidance from the Danish Court

In April 2019, it was widely reported that Liberty GTS had settled a W&I insurance claim with private equity firm FSN Capital ("FSN") where they paid €50m for losses arising out of manipulations to the financial information provided by the Seller in connection with FSN's acquisition of Gram Equipment, a Danish-based ice cream equipment manufacturer.

Notwithstanding the significant insurance payment, the Buyer had significant loss above the policy limit and in circumstance where fraud was alleged, were able to pursue the sellers for the shortfall.

In 2019, proceedings were issued in The Maritime and Commercial High Court ("Court") in Denmark against the sellers seeking damages of €87.5m. In November 2023, the Court determined that although members of the then day-to-day management of Gram Equipment had acted in such a way as to incur liability, there was no recoverable loss in excess of the W&I insurance payment and the claims against them were dismissed.

The Claimant asserted that the actual value of Gram Equipment at the time of transfer was €16.3m, against a warranty true value of €120m, but the Court did not concur, finding instead, based on an expert opinion, that the actual value of the company was €60.2m at the time of the transfer, and the warranty true value was €90m. The rationale for reducing the warranty true value was, amongst other considerations, that the purchase price was reached after a bidding process that considered buyers' circumstances and assessment and therefore the "as warranted" value would need to be considered in isolation.

Therefore, since the Claimant had already been paid a W&I insurance sum of €50m, the Court held that they had suffered no loss. The Court's judgment was not unanimous, with two out of the five judges dissenting. We understand the Insured is appealing. The takeaway, although subject to appeal, is that the court and thus insurers can consider whether the purchase price was an accurate measure of the value of the business and will interrogate the warranty true value. From a policy perspective, insurers paid €50m here, which can be contrasted with the buyer's experience where the Court reached a different (though not unanimous) decision on valuation and the buyer's claim failed.

[4] Ageas (UK) Ltd v Kwik-Fit (GB) Ltd [2014]; Finsbury Foods Plc v Axis Corporate Capital Ltd & Ors [2023] and Project Angel Bidco Limited (in administration) v Axis Managing Agency Limited and Ors [2023].

Insurer Survey and Claims Handling

Based on responses to our Insurer Survey and our own experience, the best approach for a smooth running claim is to...

1. **Provide adequate information to allow insurers to analyse breach and/or loss**
   Once a claim notice has been submitted, for insurers to be able to confirm cover, they will likely need to request further information ("RFI") and documentation. The insurers' claims adjusters who are assessing cover will not have been involved in underwriting the deal and will need to get up to speed quickly to understand the issues. They will need explanation of how the facts support that a seller warranty has been breached and how this has caused loss. There is an asymmetry of information for the insurer who has "stepped into the shoes" of the seller, perhaps only underwriting the risk in a short time period and assuming the risk without the seller's knowledge of the business. This is how the insured can play its part in assisting insurers' understanding, by providing narrative context and evidence for the insurer's consideration. Fishing expeditions for documentation/information that is not relevant to the issues will be challenged by your Aon claims team.

2. **Provide information as quickly as possible**
   A claim will only be resolved if the right information is provided in a timely manner, avoiding delays where possible, as this also delays confirmation of coverage.

3. **Evidence loss**
   Insureds will need to be ready to explain the valuation methodology they used when buying the business, alongside supporting contemporaneous documents. Both sides are likely to need to instruct accounting experts and several valuation methodologies may be considered before the parties can reach a commercial resolution on loss.

4. **Ensure the process to address the claim is followed**
   Insureds should involve their broker as soon as they become aware of a potential claim issue that may give rise to a loss. We can help frame the claim notice and ensure insurers have sufficient information to provide their preliminary views of a claim at an early stage.

5. **Avoid breakdowns in communications**
   We cannot overstate the importance of discussions with insurers. At Aon, we remain involved throughout the claims process and will use our commercial relationships to speak to insurers to break any impasse that may arise. Equally, insureds must appreciate that the claims process will not play out in the tight deal time frames akin to an M&A deal.

6. **Be aware of reporting obligations for third-party demands**
   Insureds need to be cognizant of their reporting obligations as set out in the policy. Where a third party has made a claim against an insured, both parties may find themselves in litigation and therefore at the mercy of court time scales, which may slow coverage decisions. The insured and insurer may be aligned as they both seek to defend the claim, but permission to incur defence costs must be requested by the insured of the insurer as soon as possible.

Tax Liability Policies

In contrast to tax issues covered under a W&I policy, tax liability policies are put in place to ringfence a particular tax issue and transfer the risk to an insurer to prevent it from hampering the transaction so that the business can manage balance sheet exposure. Subject to the negotiated terms of cover, a tax liability policy will provide cover for the tax owed, interest, potential penalties, and costs related to defending the position. Given that the typical duration of these policies is 7 to 10 years and the relatively short amount of time that such bespoke tax policies have been available, both Aon and insurers' data sets in EMEA are relatively small but growing.

Aon has a small number of claim notifications on tax liability policies. However, we are seeing defence costs being paid in some cases, which indicates that cover may be confirmed in due course, though that may take several years while the underlying claim unravels. We hope to be able to provide commentary as the case profile for this product builds on both broker and insurer side.



APAC

Highlights

01 We have seen increased deal activity in 2024 both in Asia and in ANZ in 2024, and a steady rise in claims notifications across APAC.

02 A number of key trends have emerged out of APAC 2025 claims statistics, including an increasing variety of categories of breaches being claimed in Asia, a high incidence of disclosure-related breaches in ANZ, as well as a consistent relatively high frequency of claims in smaller transactions particularly in ANZ.

03 Asia has also seen a growing number of claims made under tax liability policies in 2024, most of which occur within the first year of the policy being incepted, with tax liability policies relating to Indian risks being particularly prevalent throughout the year.



Asia

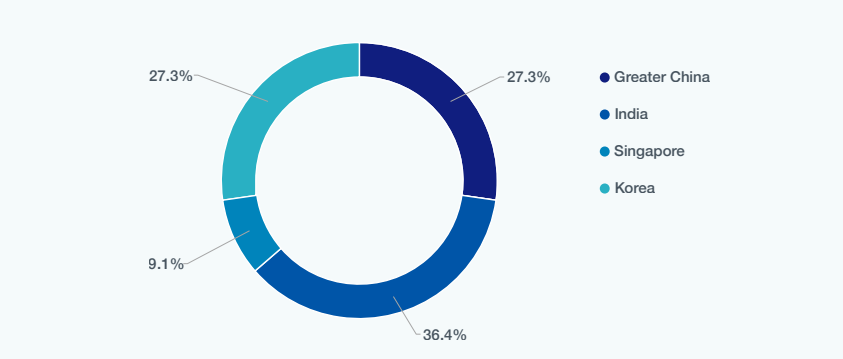
Claims Trends

After a dip in deal activity in 2023, we saw an increase in the volume and value of M&A transactions across Asia in 2024. Along with that increase, we have seen a rise in the uptake in M&A-related insurance solutions across jurisdictions and sectors, with insureds consisting of private equity firms, private strategic investors, and government-owned or government-linked entities. Key factors driving this growth in uptake are the growing complexity of cross-border deals, lack of familiarity with certain local regulatory environments, and a higher incidence of seller processes mandating the adoption of M&A insurance solutions in certain transactions.

While claims frequency in Asia remains lower compared with other, more mature regions, there has been a steady rise in the rate of notifications across Asia with insureds becoming more aware of their claims entitlements as well as the benefits of commencing the claims process early and in accordance with the claims notification requirements.

Figure 52 shows the proportion of claims by jurisdiction received in Asia, with India receiving the highest proportion, followed by Greater China and Korea.

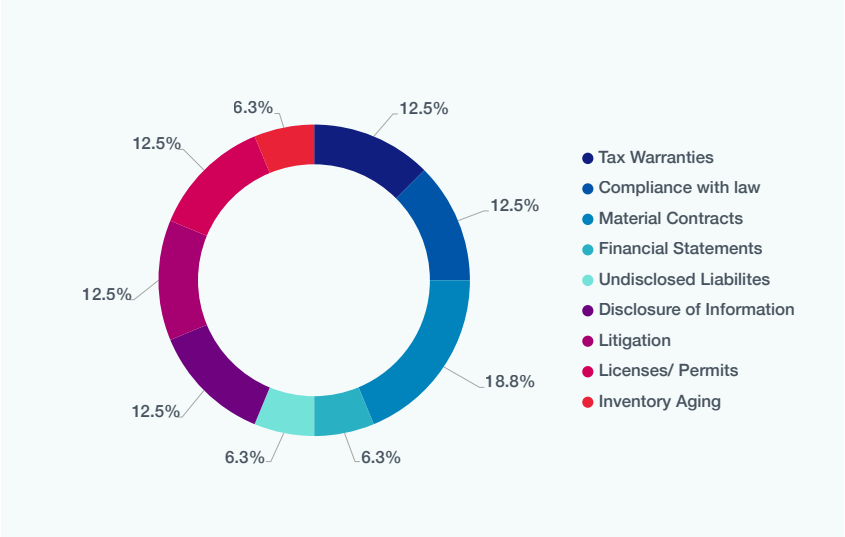
Figure 52: Aon Data: Proportion of Claims by Jurisdiction



We also examined the types of breaches most often cited under W&I insurance. This is crucial for deal teams and their advisers to proactively risk manage the transaction process. Identifying the commonly cited breaches helps transacting parties refine their focus areas of the due diligence process – placing more scrutiny on these common themes to ensure accuracy and prevent any unforeseen issues post-transaction. By understanding these trends, transacting parties can also ensure a more robust disclosure process.

Compared with last year's Aon Claims Study Report, which examined notifications in 2023, 2024 saw a heightened variety of breaches being notified to insurers, with the most common being warranties relating to material contracts. Similar to North America and EMEA, tax warranties continue to be one of the most notified warranties breached for W&I insurance. Asia also saw a similar proportion of notifications under compliance with laws, litigation, disclosure of information, and licenses/permits.

Figure 53: Aon Data: Types of Breach Most Often Notified in Asia



The majority of the W&I claims in 2024 were notifications made to insurers within the first year of the transaction closing, with the rest reported within three years of the transaction closing. We are also seeing Asian insureds becoming more prudent with their claims reporting, preferring to engage with insurers at an early stage or as soon as a potential breach is identified, even if the quantum of loss has not been determined.

Regarding claims on tax policies in 2024, 67% of notifications were made within the first year of policy inception, whilst 33% were made within two to three years of policy inception.

With more insurers based in Asia specifically to focus on Asian deals, we also see an increased focus by insurers on improving the claims process in Asia. Some insurers have started to invest in local claims resources, whilst others have dedicated resources in their claims team based in EMEA to focus on Asian deals.

With a dedicated claims team based in Asia, our clients' claims are handled by a specialist team that combines strong technical expertise (in both tax and W&I insurances), post-M&A disputes experience, and local language abilities to ensure that clients receive quality input and guidance throughout the claims handling process.

Over the past years, we noticed various concerns coming from Asian insureds and highlight the following factors that would impact the efficiency of a claims process and its outcome:

- Information gathering for clients sometimes takes longer than expected. This may be because the information is not readily available, requiring time and effort to obtain it from the target company and its employees.
- Other reasons for a longer claims process include the fact that there could be an ongoing third-party dispute that needs to be resolved before the policy claim can be settled.
- Early notifications often mean that the quantum may not be specified or provided early on in an initial claims notice. It is useful to bring in quantum experts early in the process to commence quantification to substantiate claims and point the insured in the right direction whilst insurers are determining liability.

Spotlight on India

The transactional landscape in India has seen remarkable growth in recent years, with increased deal flow between 2023 and 2024 in comparison with global deal flow. The growing economy in India is ripe for strategic deals driven by significant large transactions. Alongside this growth, Aon Asia has seen significant uptake in W&I insurance as well as tax policies relating to transfer pricing issues, capital gains tax, and double taxation treaties.

One key highlight is that all of the tax policies in 2024 that served notifications in Aon Asia related to Indian tax policies. Many of these have not triggered the claims process but are preliminary notifications given to insurers whenever there is an audit (typically a routine audit) or query received from tax authorities. It would appear that Indian tax authorities are getting more robust in their investigations process, leading to this increase in notifications.

Pacific

Australia & New Zealand (ANZ)

Market Insights and Trends

The ANZ M&A market showed promising signs of recovery in 2024, leading to a notable increase in insurance-bound deals compared with the previous year. Commentators remain optimistic that deal flow will remain steady throughout 2025, with strong demand for W&I insurance continuing.

As competition among insurers intensifies, markets are responding by offering broader coverage, aiming to attract more deals. In addition to the standard W&I product, insurers are developing innovative solutions to address the needs of distressed sellers and target companies, including a "synthetic warranty" product. "Synthetic" warranties have evolved to provide protection to buyers in circumstances where sellers may be unwilling or unable to provide the warranties, such as in distressed sales or auction processes. The insurer, rather than the seller, assumes liability for the synthetic warranty and a claim is made directly against the policy. Another notable shift is the introduction of lower minimum premiums for certain transactions, particularly within the small-to-medium enterprise (SME) sector, as insurers tailor their offerings based on target sector risk and coverage limits.

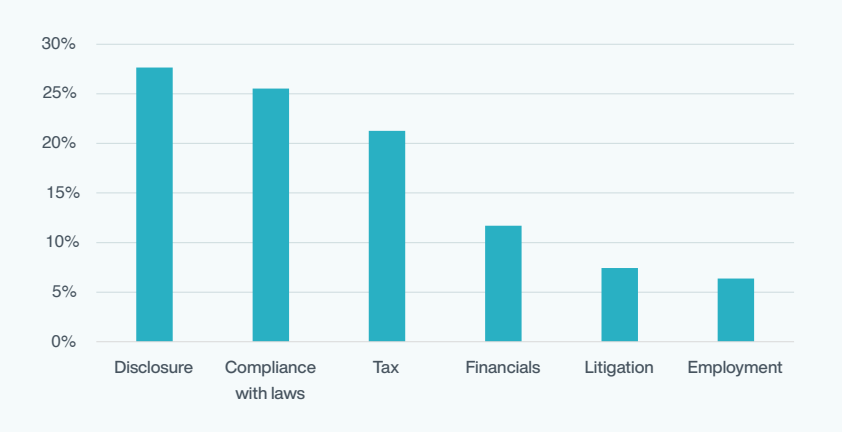
Claims Frequency and Key Trends

Claims notifications remain a consistent feature of W&I policies, with approximately one in five policies receiving a claim. Notably, 80% of these claims stem from deals with an enterprise value of less than AUD 500 million, underscoring the higher relative frequency of claims in smaller transactions.

In Australia and New Zealand, the most common deal risks leading to claims include compliance with laws, tax matters, and financial statements (see Figure 54). Breaches of litigation and employment warranties also feature prominently. Employment-related claims remain a particular area of caution for insurers, given the complexity of regulatory compliance and the evolving legal landscape. While due diligence around employment compliance has increased, insurers continue to view this as a high-risk area.

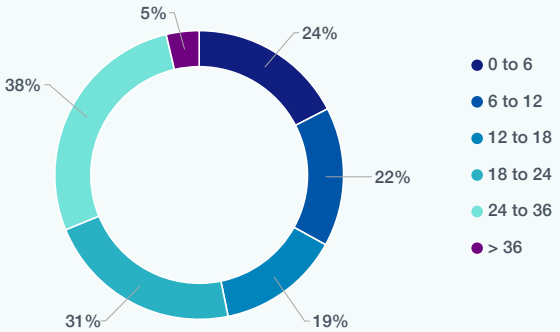
A recurring theme across many claims is inadequate disclosure during the due diligence process. Whether related to general "catch-all" information warranties or specific disclosures relevant to other warranties, failures to provide relevant disclosures or key information frequently contribute to claims.

Figure 54: Aon Data: Proportion of Notifications by Type of Breach



Post-deal integration plays a significant role in the timing of claims. While there is often a lag between closing and claim notification, nearly 25% of claims are reported within six months, and almost 50% are submitted within 12 months of closing (see Figure 55). Close to 100% of claims are filed within three years, aligning with the typical duration of W&I policy periods (excluding tax warranties). Growing awareness of W&I insurance among insured parties is expected to reduce this lag time as businesses become more familiar with notification requirements.

Figure 55: Aon Data: Timing for Discovery of a Breach (in months)

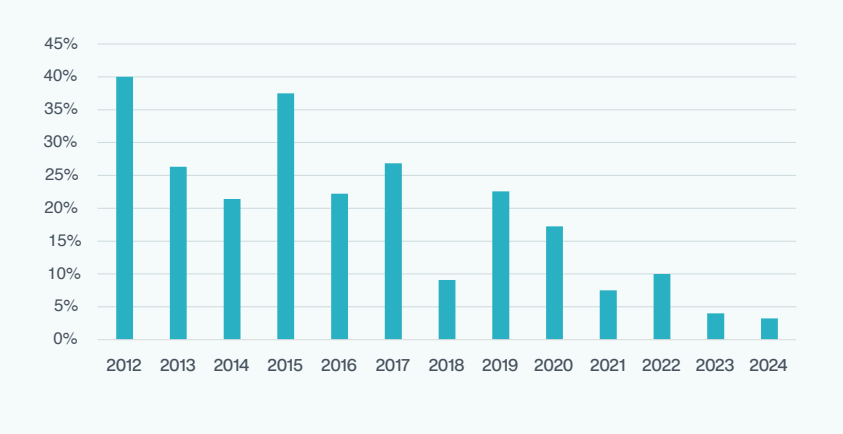




Long-Term Trends in Claims Notifications

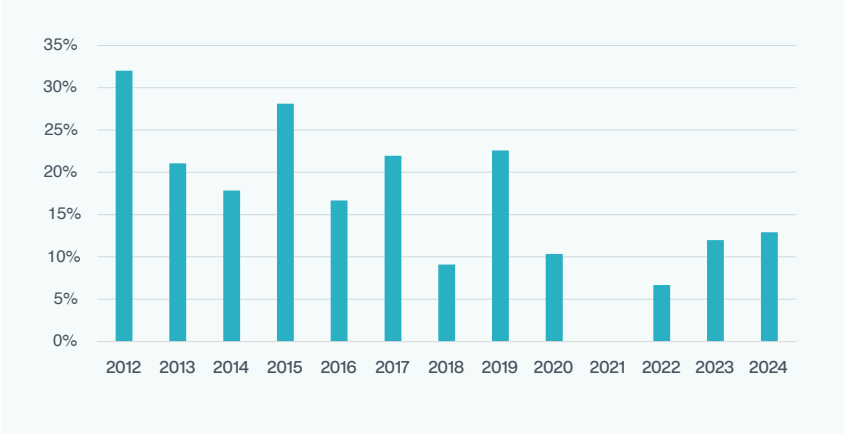
Looking at historical data, claims notifications saw a general downward trend from 2019 to 2022. While figures from 2022 onward remain incomplete — given that many policies are still active and potential claims are still developing — this decline may reflect the suppressed deal flow and reduced demand for W&I insurance in the immediate aftermath of COVID-19. However, with the market's recovery, claims frequency is expected to remain robust, driven by increased awareness and adoption of W&I insurance.

Figure 56: Aon Data: Notification Rate by Policy Inception Year



Recent data suggests that claims submitted within 24 months of deal completion are trending slightly upward (see Figure 57). This trend reinforces the growing familiarity with W&I insurance, as well as the timing in which claim issues typically emerge post-closing.

Figure 57: Aon Data: Notification Rate by Policy Inception Year (Only Claims Made within 24 Months of Closing)



Despite increased awareness and faster notifications, the responsiveness of insurers to claims remains an ongoing challenge. There is a wide variance in claims expertise across insurers, and their ability to provide a positive claims experience largely depends on their willingness to dedicate resources to W&I claims handling. Claims service remains a key differentiator in insurer selection and continues to be a major focus for Aon's clients.

The complexity of claims — particularly in assessing loss and establishing breaches — further slows the resolution process. Legal and accounting expertise is often required to support these claims, making the process more intricate and time-consuming.

Case Law: Australia

There is very little Australian case law guidance on W&I insurance disputes. Most claims settle pre-action or on confidential terms. However, a significant judgment was recently handed down in February 2025 in **DTZ Worldwide Limited v AIG Australia Limited [2025] NSWSC 12.** In 2014, DTZ Worldwide Limited (DTZ) entered into a Share Sale Agreement (SSA) to acquire a group of companies from the United Group for approximately AUD 1.2 billion. The SSA included various warranties provided by the seller and stipulated that the seller would obtain W&I insurance, making the insurance the buyer's sole recourse for any warranty breaches. The W&I insurance tower comprised a primary insurer and eight excess-layer insurers, with a total indemnity limit of AUD 300 million and a retention of AUD 12.15 million.

DTZ alleged that the seller breached accounting and disclosure warranties in numerous respects, in relation to a facilities management contract (FM Contract) in Singapore, alleging incorrect accounting treatment of certain payments, incorrect capitalization of certain mobilisation costs, and a failure to classify the contract as an onerous contract. DTZ claimed losses flowing from the breaches in excess of AUD 230 million.

Whilst the Court largely rejected DTZ's asserted accounting and financial breaches and onerous contract claim, based on the complex facts of the case, the Court did consider that the disclosure warranties were breached, due to a failure to disclose matters that the Court agreed had a substantial impact on the FM Contract's costs and on the company's ability to meet the performance benchmarks in the FM Contract.

On the question of damages, the Court did not accept the assessment of DTZ's Expert. Rather, the Court adopted a nuanced approach to calculation of damages by confining the period for calculation of damages up to the first benchmark period. The damages were calculated to be the difference between the present-day value of forecast profits under the FM Contract and the actual profits experienced due to the higher cleaning costs. The quantum of damages under this methodology were substantially lower than asserted by DTZ. Ultimately, the Court did not consider it necessary to make a specific finding on the quantum of damages because the primary-layer insurer had settled the claim against it prior to trial and the Court found that the quantum of damages fell below the attachment point of the first excess policy, such that there was no liability of the remaining defendants. In light of the Court's finding on quantum, the claim was dismissed as against the remaining defendants, with costs.

Takeaway: Despite identifying a breach in the disclosure warranty that was material, the Court found that DTZ's methods for assessing damages were unsubstantiated and speculative. Specifically, the Court noted that the use of a discounted cash flow analysis to ascertain actual value was appropriate, but adjustments made to the discount rate and cash flows were not appropriate, ultimately concluding that DTZ's claims were not substantiated. This decision underscores the evidentiary challenges in pursuing high-value W&I insurance recoveries, especially concerning financial, accounting, or valuation matters. It also highlights the importance of accurate and comprehensive disclosure in corporate transactions to avoid potential liabilities. When providing materiality or knowledge scrapes, it is important to consider how this works if the warranties are impacted. Furthermore, the case emphasizes the necessity of adhering to established methodologies when assessing damages for warranty breaches.

Spotlight on Claims Service

As W&I insurance becomes a standard feature of M&A transactions, the efficiency of claims service has come under greater scrutiny. The claims experience varies significantly between insurers. While some insurers have built a strong reputation for fair and timely claims handling, others have been criticized for delays, overly technical arguments, and a defensive approach to claims resolution.

As the M&A insurance market matures, insurers are dealing with increasingly complex and high-value claims, testing their technical expertise, internal processes, and capacity to manage claims effectively. The costs associated with resolving claims can be high, particularly given the need for legal and financial analysis. This has, in some cases, resulted in more rigid, legalistic interpretations of claims — an approach that does not always align with client expectations or the commercial realities of deal negotiations.

Loss quantification remains a contentious issue. Insured parties often advocate for a broader interpretation of loss, while insurers scrutinize causation and the measurement of damages. Gathering the necessary evidence post-transaction can also be challenging, especially if the seller is no longer cooperative or available. While insured parties typically expect a straightforward payout, insurers undertake rigorous assessments of coverage, causation, and quantum.

In a field of ever-increasing competition, insurers are rising to the challenge, by recognising that claims service can be a powerful brand differentiator. Maturation of transaction liability insurance market has seen greater investment in claims expertise and a more streamlined claims assessment process. A positive claims experience can promote confidence in the product, enhance brand reputation and attract repeat customers. In an established market, we expect claims capabilities will continue to strengthen.



About Aon

Aon plc (NYSE: AON) exists to shape decisions for the better — to protect and enrich the lives of people around the world. Through actionable analytic insight, globally integrated Risk Capital and Human Capital expertise, and locally relevant solutions, our colleagues provide clients in over 120 countries with the clarity and confidence to make better risk and people decisions that help protect and grow their businesses.

Follow Aon on LinkedIn, X, Facebook and Instagram. Stay up-to-date by visiting Aon's newsroom and sign up for news alerts here.

aon.com

© 2025 Aon plc. All rights reserved.

The information contained herein and the statements expressed are of a general nature and are not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information and use sources we consider reliable, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. Subject to availability in applicable state.

Contact Information

North America



Stephen Davidson
Global Head of Transaction Solutions Claims
New York, NY
stephen.davidson1@aon.com



Anthony Dragone
Managing Director
New York, NY
anthony.dragone@aon.com



Jennifer Drake
Senior Vice President,
Toronto, ON
jennifer.drake@aon.ca



Alex Ewald
Assistant Vice President
New York, NY
alex.ewald@aon.com



Alexa Cypher
Analyst
New York, NY
alexa.cypher@aon.com

EMEA



Claire Fleetwood
Senior Claims Advocate
London, UK
claire.fleetwood@aon.co.uk



Elizabeth Blackwell
Director
London, UK
elizabeth.blackwell@aon.co.uk



Sophie Exall (née Newton)
Senior Claims Advocate
London, UK
sophie.exall@aon.co.uk



Richard Campbell
Senior Claims Advocate
London, UK
richard.campbell@aon.co.uk

APAC



Cathryn Neo
Associate Director,
Transaction Solutions, Asia
cathryn.neo@aon.com



Ami Kalmath
Claims Manager, Financial Specialties & Transaction Solutions, Pacific
ami.kalmath@aon.com