LOCKTON

Mining Practice

Insurance market update 2024

A relatively stable Property market and competition in the Liability excess of loss market is driving down rates. The increased focus on ESG across the whole insurance market means buyers need to be prepared to share their plans.

This insurance market update is intended to provide a high-level overview of the market, focusing on the sector's key lines of insurance (Property, Casualty, Directors' and Officers' Liability, Political Violence and Kidnap and Ransom). Our focus is on recent market changes and developments, and solutions buyers should deploy to achieve a better outcome at renewal.

International Property Insurance

Capacity in the Property market for mining operations is stable, with limited new participants or withdrawals. However, the sector is facing rate increases of around 5%. This pricing trend is likely to continue during 2024 with expectations that the market will become more of a buyer's marketplace. The current rates are predominantly driven by two factors:

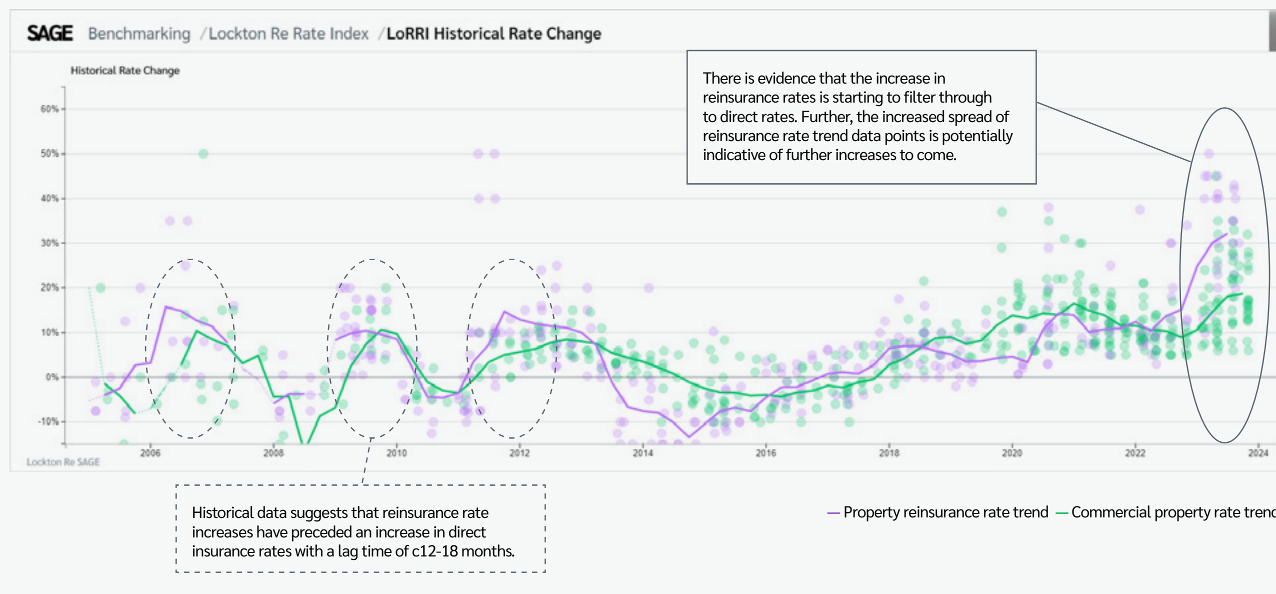
1. Reinsurance costs for Property insurance (mainly catastrophe treaties) rose significantly during 2023. This has included increased retention levels (often double) for insurers as well as large cost increases (20–50%). Direct insurers are seeking to pass these higher costs on to insurance buyers.

2. The mining sector (and related energy sector) were hit with significant claims during 2022 and 2023, with several large claims reported in 2023. Insurers will factor these recent claims events into renewal pricing.

Analysis of historic rate trends clearly illustrates the link between reinsurance and direct insurance rates. If this historic trend is repeated, buyers can expect to see reduced rate increases, given the 12–18-month lag that is historically evidenced. Further, it is not yet clear whether the spike in reinsurance costs has peaked or will continue its upward trajectory as illustrated in the graphic below.

Lockton Re's 'LoRRI' analysis automatically gathers reports on rates from reputable sources (e.g., financial reports, insurer publications and market analyses) and plots them according to date. These points are then used to provide an idea of historical changes in rates.

Historic Commercial Property Rates vs Property Reinsurance Rates



Due to global inflationary trends, insurers are expecting sums insured to increase by around 10% year-on-year and consider like for declarations below this as inadequate. Insurers expect updated values along with methodology disclosure and look for independent appraisals to support the values presented. In the absence of a recent appraisal, insurers are comparing value movements over the last three years. Margin/average/values limitations clauses are becoming mandatory, especially where a credible assessment on the actual values is not forthcoming.

Insurers also continue to require business interruption worksheets, with a growing number applying commodity price caps (typically 15%-25% margin on declared commodity price) to their participation, limiting the potential indemnity payable to each insured.

Tailings storage facility (TSF) management continues to remain an area of focus with a number of insurers now utilising in-house specialists to review exposures. For insurers, the minimum standards from the Global Industry Standard on Tailings management (GISTM) are now becoming the expected level that clients should be achieving or working towards. The approach to risk management of TSFs is important for both reduction in physical impacts from an unexpected event, as well as the reputational repercussions to all parties.

Early full submission of available information is recommended, including overview of TSFs and management approach, engineer of record and independent third-party specialist reports including latest annual updates.

Other areas of focus include structural integrity management, conveyor systems, critical spares, and hot works procedures - the latter being a continuing cause of reported incidents.

Regularly updating insurers on risk mitigation activity can help buyers achieve a positive outcome at renewal. However, insurers will adopt a different approach depending on whether their underwriting focus is solely mining and therefore greater emphasis on risk management, or if it is part of a broader Property/Energy portfolio where their underwriting stance will be more aligned with their wider portfolio.

International Liability Insurance

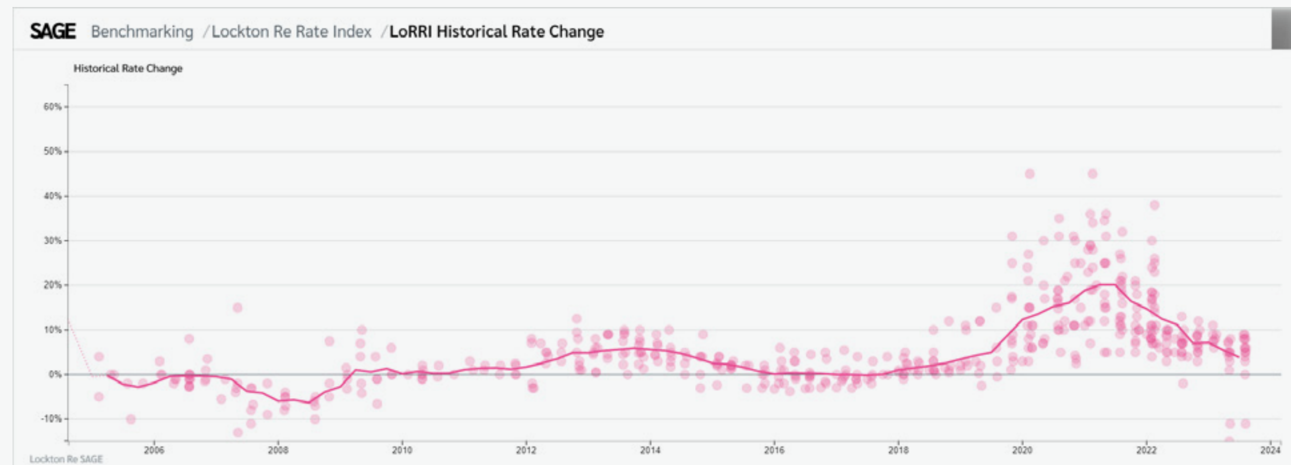
The International Liability insurance market remained consistent during 2023 and is expected to continue into 2024. Buyers with a good claims experience can expect increases in the high single figures. Where we have seen losses the effects on rate and capacity has been dependant on the type of loss.

A number of incumbent insurers are looking to increase participation on existing business, either by extending current layer capacity or writing additional capacity at varied attachment points.

In the excess of loss market, increased capacity has led to greater competition, driving down rates. However, the ability to leverage competition reduces as buyers limits increase. This is due to the limited overall capacity in the market and typically starts to have an impact when seeking limits in excess of USD 400m.

The LoRRI analysis below illustrates the historical rate change and the current decreasing rate trend.

Historic Liability rates



During the next six months, we expect these trends to continue. With Lloyds casualty results being strong for 2022, with a combined year ratio of 91.7%, there will be pressures for rates to reduce and similarly there will be a more aggressive stance for growth within certain markets. This will create, to some degree, a market dichotomy where insurers' stance on new business will be more aggresive than renewal business. Having a clear and flexible market strategy will be crucial in achieving the best results.

Environmental, Social & Governance (ESG) and thermal coal

Consistent with the wider financial sector, mining Liability insurers are focussing on ESG and specifically thermal coal exposure.

Insurers have differing stances to thermal coal, with a range of thresholds and requirements for underwriting provisions. What is safe to say, is that the trend of thermal coal stance will become stricter, and capacity will reduce. This is resulting in thermal coal miners (either fully or part-thermal) looking at alternative forms of risk finance to protect their balance sheets, either via captives or Alternative Risk Transfer structures.

Looking at ESG more widely, insurers are focussed mainly on environmental performance. Insurers will look to differentiate between buyers on this basis and some require ESG documentation from insureds for their internal review. We recommend buyers provide as much ESG information to insurers as possible to evidence transparency and allow markets to validate your ESG plans.

Directors' and Officers' Liability

An increase in capacity for Directors' and Officers' (D&O) Liability is improving conditions for insurance buyers. Many new insurers have entered this space to take advantage of favourable rates, without having the burden of legacy claims. Nevertheless, D&O insurers' risk appetite in the mining sector varies, depending on several internal and external factors. One that stands out is companies' ESG disclosures.

D&O insurers are studying ESG disclosures very carefully and testing companies' delivery plans for their commitments. If set targets are not met, it could potentially trigger an expensive lawsuit against the company by stakeholders and/or activists. With ESG-related claims on the rise and the trend seemingly set to increase during 2024, companies should go above and beyond to ensure their activities are fully understood by insurers. Listed companies are particularly in the spotlight, as their ESG disclosures are usually mandatory (depending on the jurisdiction) with Boards held accountable for public statements made. This is attracting scrutiny from shareholders, analysts and regulators as well as insurers.

To assess ESG-related risks, insurers are taking advantage of sector benchmarking assessments. These typically incorporate a combination of publicly available data, alongside questionnaires and data processed by internal analysts, often giving a result in the form of a numerical score. This score will provide an indication as to how a company is performing against others within their industry. Buyers should be aware of the monitoring that ESG rating agencies conduct and be prepared to provide comment or potentially submit additional information to insurers when appropriate. Some syndicates are focusing only on ESG-positive risks, selecting buyers with particularly high standards and a clean track-record in areas such as health and safety and pollution. As such, a good ESG score may open additional capacity.

Tailings risks are also subject to increased insurer scrutiny. The use of TSF has caused several catastrophic failures in recent years, creating a wide exposure for D&O insurers, who are now asking for greater access to information. Some are including tailings exclusions, decreasing limits, or withdrawing from the market altogether. Underwriting guidelines are now more stringent, and the risk appetite is subdued. Accordingly, it is critical to follow a globally approved framework and to effectively communicate risks. Buyers operating TSF need to have a strict governance plan in place that ensures effective implementation of the latest published guidance and best practice, as well as detailed documentation of measures to prevent failures.

Additional considerations:

Mining type: insurers may set their own standards with regards to ESG, potentially excluding certain types of mining – such as thermal coal, for example.

Geographical location: D&O insurers may feel less confident underwriting risks in regions where there is political instability or where the operations are at an early exploration stage.

Financial performance: underwriters will scrutinise recent financial statements to make sure buyers are in financial health. If there are any doubts, or if information is incomplete, insurers may request additional material. If any concerns remain this is likely to affect the outcome of the negotiations.

Stakeholder engagement: ideally, buyers will show evidence of good relationships not only with shareholders but also with other relevant stakeholders, including governments and local communities of the countries in which they operate.

Claims record: underwriters will sift through the buyers' claims history and look for evidence that the risks that triggered a loss event in the past have been appropriately addressed.

Listing jurisdiction: for public companies, the listing jurisdiction can affect the risk exposure enormously, particularly where the class-action environment is more developed, such as in the US, Canada or Australia.

Political Violence

In recent years the mining sector has been affected by an array of political violence events, which in many cases has compromised physical assets and revenues. From violent worker riots and community-related disturbances to coordinated insurgent attacks, the relevance of these threats is heightened when considering risk on a global scale. International expansion by Western-domiciled mining firms has accelerated investment across Latin America, Africa, and Southern Asia. Almost half of publicly listed mining companies were domiciled in Canada in 2021, but two-thirds of the value of these operations were located internationally. This expansion presents challenges when protecting workforces, assets, and revenues, particularly in regions which remain synonymous with terrorist activity, widespread unrest, and political instability.

With ESG-related claims on the rise and the trend set to increase during 2024, companies should go above and beyond to ensure their activities are fully understood by insurers.

Whilst the market has hardened following the conflict between Russia and Ukraine, good levels of insurer appetite remain. A key consideration for buyers is the application of civil unrest coverage which is often excluded in conventional property forms. Mines can be susceptible to damages emanating from striking workforces or the actions of local communities, so standalone civil unrest programs remain available which afford risk transfer for these perils and typically cover physical damage and resultant business interruption. A further emerging trend impacting mining operations globally is protest groups blockading access to/egress from key locations. Typically, there is no coverage in traditional programs, as in the absence of physical damage, business interruption cannot be claimed for. In response, many buyers purchase denial of access coverage where a physical damage trigger is not required, but the blockade occurs within a defined radius of any insured location.

Kidnap and Ransom

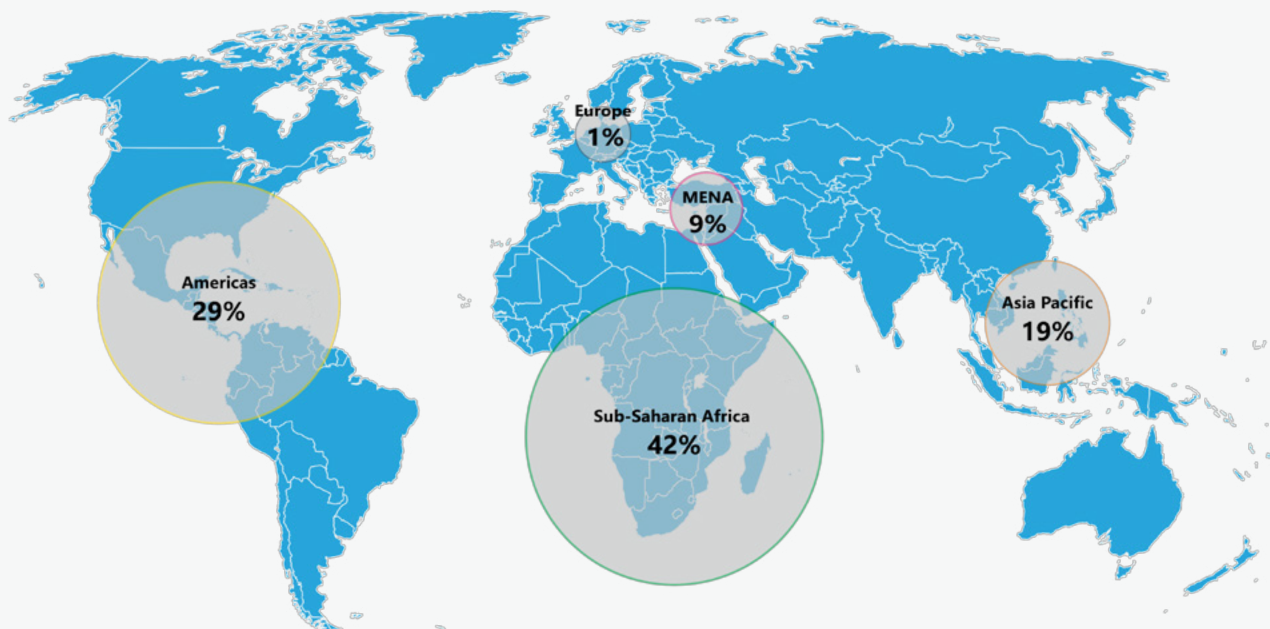
The insurance market for Kidnap and Ransom (K&R) insurance has expanded in the past two years. Several insurers, including Convex, Hamilton, Samphire and HDI, have entered the market and recruited experienced insurers. The London market continues to offer coverage for response consultant fees and the expenses element of cyber extortion, which for some buyers is a useful complement to their cyber policies, using it as a deductible infill.

The market is also showing some signs of being impacted by recent global events such as the war in Ukraine, which had a knock-on effect on reinsurance premiums for crisis management lines. The number of evacuations has been rising recently, driven by worsening security and political stability in countries including Afghanistan, Myanmar, Ukraine, Sudan and, more recently, Niger.

Nevertheless, plenty of available capacity and competition means that buyers are renewing policies either flat, or with modest increases (5–10%). The K&R market is receptive to most territories and risks, and restrictions tend to be around sanctions, notably in relation to Russia. For higher-risk territories (e.g., Afghanistan/Nigeria), insurers might request more detailed information about the security in place.

According to risk management group Control Risks, sub-Saharan Africa remained a hotspot for kidnappings in 2023. Local nationals working in the Mining industry tend to live in less protected urban/rural environments, and are thus far more susceptible to security risks. By comparison, foreign nationals in Africa can typically afford better security measures (i.e., gated-community accommodations fitted with alarms, CCTV, and use of guard personnel). In several cases, expat nationals are mandated and/or provided such security measures by their employer. However, mining personnel both local and foreign nationals alike remain at risk of kidnapping owing to the widespread perception that mining companies - and employees by extension - are wealthy.

Kidnaps by region 2022



Source: Control Risks

Spotlight on the US

Workers' Compensation (WC)

Employers in the sector face several challenges given the nature of the business and the political landscape of the US:

- Multiple US insurers have treaties that contain underground mining limitations and/or exclusions and are not able to offer coverage for operators with underground exposure- this has shrunk the marketplace to just a small handful of insurers willing to cover underground exposures.
- Many insurers have corporate directives to not support the thermal coal industry, and this has caused further restrictions on an already limited marketplace.
- Black Lung Disease (or coal workers' pneumoconiosis) is an exposure that is unique to coal insureds and should be carefully reviewed as part of the WC program.

The perceived hazardous nature of mining means it is critically beneficial for operators to foster carrier relationships allowing for a deeper appreciation and understanding of operations, exposure to loss, ESG best practice, and health and safety practices.

Spotlight on Australia

- The legacy of Australia's closed borders policy during the COVID-19 pandemic is still being felt, with attraction and retention of staff continuing to be a significant challenge. The mining industry contributes 46% to Western Australia's Gross State Product and is a major economic driver. Attracting skilled people to the sector is crucial. Companies that put their employees at the forefront of their business and think outside the box will secure the best talent. Many companies are seeking to address this challenge by offering attractive employee benefit packages.
- We are seeing a greater focus from Property insurers on structural integrity of mining process plants, conveyors and the like due to a spike in claims in these areas. When presenting Property risks to insurers, buyers should provide detailed commentary on their loss mitigation measures, including evidence of regular monitoring and preventive maintenance measures.
- Property insurers are also focused on contractor management by principals. Over the last 3-4 years there have been numerous property/BI losses during shutdowns on mine sites which have been caused by contractors. In some cases, subrogation has not been possible due to relatively poor contractual controls both from a legal standpoint and physical controls on sight (ie: hotwork permits, Job Safety Analysis, etc). It is important that buyers convey to insurers their contractual regime(s) for contractors. This will demonstrate that buyers are proactively protecting the insurer and their subsequent ability to subrogate from any negligent third-party contractor in the event of an insured event.

Spotlight on Chile

- Most mining companies in Chile depend on reinsurance capacity to transfer their risks in both construction and operational phases. London and continental Europe remain the main capacity providers but accessing regional Latin American capacity or the Asian market can help obtain the required capacity at competitive terms. When assessing mining risks, reinsurers are focusing on specific areas that buyers need to address prior to renewal. These include:
  - Loss record and operational security
  - Lead times, availability of key parts and equipment
  - Tailing dams
  - Insured values PD and BI
- Attention should be paid to risk scenarios impacting EML/PML calculations. Some insureds are struggling to find sufficient earthquake capacity in the traditional market and are exploring parametric solutions as an alternative.

Spotlight on Brazil

- Insurance capacity has reduced, mainly due to changes in the guidelines of the primary local reinsurer, which is a key leader in insurance treaties. This has prompted major insureds to seek capacity through international facultative reinsurance or consider establishing captive reinsurance structures.
- Restricted capacity, combined with the hardening reinsurance market, has directly impacted insurance premiums, which have undergone significant upwards adjustments in recent years.
- Accidents related to tailings dam failures in 2015 and 2019 have brought significant risk assessment and risk management transformation and have redefined the insurance market's risk appetite, with insurers raising their risk mitigation expectations. While insurers have shown caution regarding tailings dam risks, capacity is available for projects with strong risk management controls, with some Brazilian companies becoming the international benchmark for tailings management.
- ESG has become a crucial underwriting factor. It is critical that insurers have access to buyers positive ESG plans and actions implemented, with a focus on those areas that are relevant to the insurance programme.
- Climate change is affecting the sector's operations, leading to an increase in damage caused by excessive rainfall and landslides. These extreme events heighten the risks to operations and call for careful review of existing insurance policies. In a geographically extensive country like Brazil, these risks can significantly affect the logistics chain of the sector.
- There is a growing trend towards more sustainable practices, with buyers investing in new technologies and self-generation of energy. However, these may introduce new risk elements, such as:
  - The use of IoT and AI adds intangible risks that may create physical loss and business interruption.
  - The complex interdependency between mining and power generation.

However, insurers are developing coverage solutions to meet these evolving needs.

Spotlight on South Africa

- The South African insurance market remains stable, with a few new entrants into the market and no exits.
- In view of the current electricity crisis in South Africa, grid failure exclusions are being imposed by almost all insurers, many of which are occurring mid-term.

Cover for riot, strike and civil commotion can only be purchased on a primary level through state-owned Sasria. Following the widespread civil disruption and riots in South Africa in July 2021, Sasria are still not able to provide coverage for more than ZAR 500 million (circa USD 27 million equivalent). 'Top-up' political violence cover through the commercial insurance market remains very expensive for South African risks.

Key underwriting considerations include electricity crisis and possible grid failure in South Africa, political uncertainty and potential unrest leading up to national elections this year, together with ongoing, and general macroeconomic factors.

Spotlight on Canada

Property

- 2023 saw insurers respond to high competition with rate increases dropping from +5% to +10% in late 2022 to -2.5% to -7.5% at the end of 2Q23. The main upward pressure is now driven by inflation, commodity prices, and supply chain variables.
- There has been a reallocation of capacity away from international insurers into the Canadian market, driven by more competitive terms and conditions.
- Commodity price volatility and accuracy of insurable values require a clear business case to support market negotiations.

Liability:

- Settlement inflation of 6–7% is being leveraged by insurers to push rate increases.
  - Social Inflation with increase health care and medical costs.
  - Property damage: increased cost due to materials price inflation, labour and supply chain disruption.
- PFAS (per- and polyfluoroalkyl substances) exclusion due to the potential long term health hazard exposure from this firefighting foam.
- With a high risk of wildfires, where applicable, insurers are requesting information on vegetation management.

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