

MERGERS & ACQUISITIONS

GLOBAL M&A INSURANCE

2024 Review and 2025 Outlook



Gallagher
SPECIALTY

INTRODUCTION

After a challenging couple of years, there are finally shoots of resurgence for global Mergers & Acquisitions (M&A) activity. The tremors of increasing inflation and rapidly rising interest rates have started to subside, and the deal-making outlook is beginning to become more favourable.

2024 H1 was challenging, with economic uncertainty causing deal flow to be gradual at best. However, pent-up demand (particularly in the private equity space) along with corporates turning to M&A to accelerate growth ultimately led to a bounce back later in the year.

By the beginning of 2024 H2, sale preparations were mounting, and vendor due diligence engagements were increasing. Seller and buyer valuations were becoming more aligned, which allowed for more deal activity.

Distinct political and economic events have also contributed to deal flow. The Capital Gains Tax speculations leading up to the budget led to a spike in deal flow in the UK, for example. In the US, Trump’s victory is likely to lead to lighter regulation and therefore a spike in M&A activity.

It has been an interesting year for the global M&A insurance market; whilst rates and retention levels almost halved from the ‘2021 M&A rush’, there are signs that these are stabilising and perhaps even increasing in some sectors and jurisdictions.

Deal values and coverage levels have continued to swell, with insurable transactions ranging from the low hundreds of thousands to the tens of billions. US enhancements are becoming increasingly prevalent on deals with no US nexus, and underwriting timeframes are decreasing as experience increases.

The Tax Insurance market has had a stellar year, with a record number of submissions coming to market. With higher interest rates comes more cautiousness, and so buyers have been determined to remove any uncertainties that have been flagged during deal processes.

The use of Warranty and Indemnity (W&I)/Representation and Warranties (R&W) has continued to spread, with experts now being stationed in areas that were previously uninhabited by insurers such as South America and MEA. With language capabilities and regional presence, W&I/R&W processes are becoming more streamlined, meaning that insurer competition has increased.

As the M&A market starts to turn, insurers need to be more resilient than ever. Both placement and claims processes need to remain consistent with what we have come to expect; otherwise, insurers risk losing business to competitors.

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UK AND EEA

It has been another turbulent year for the UK and EEA M&A market.

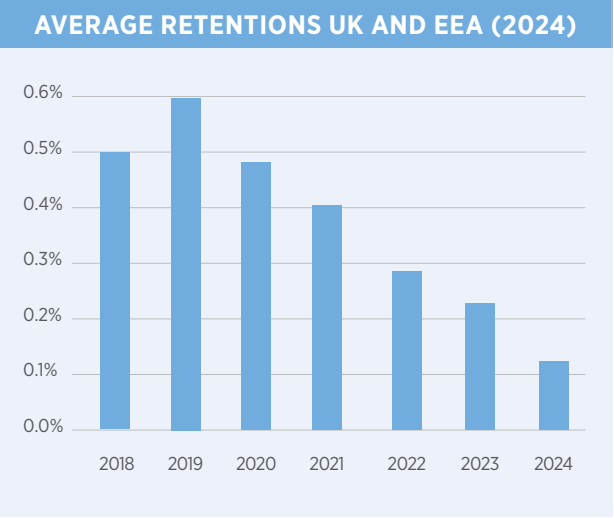
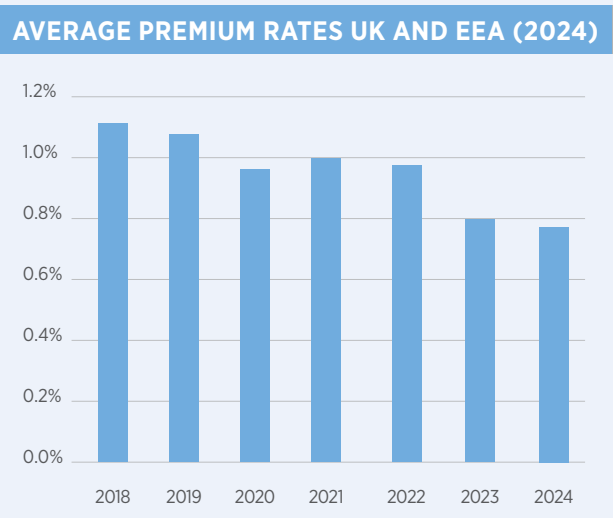
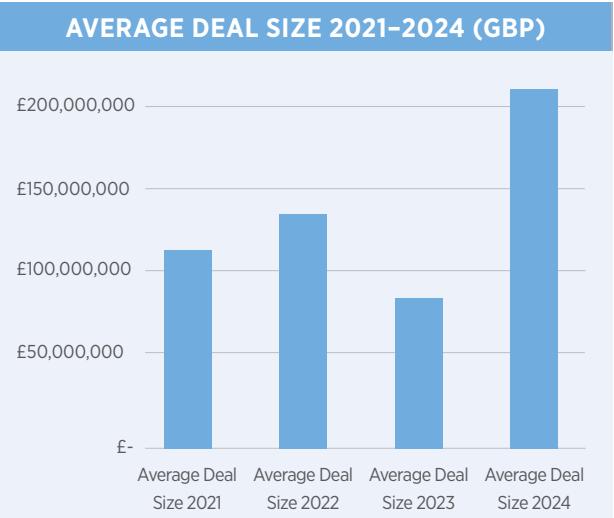
Whilst H1 was very slow given the global economic uncertainty, activity in the UK and EEA picked up gradually throughout the rest of the year. In the UK, for example, the ambiguity over whether the new government would increase the Capital Gains Tax (which they did in late October) led to a large number of transactions going through before the announcement. Whilst deal flow since then has fallen slightly, it feels like there is much more of a willingness to get transactions across the line and to let go of the ‘pent up’ capital that has been accruing for years.

In terms of the W&I market, insurers continue to innovate. Almost every deal is now within appetite — with no transaction too big or too small — so long as there is suitable diligence available.

Premium rates have dropped to as low as 0.65% for operating businesses and 0.45% for real estate deals. Even for more complex businesses (such as FI and healthcare), the premium rates tend to be below 1%.

Retention levels are at an all-time low. Nil excesses are now available for vanilla operating businesses, while insurers might require a 0.25% tipping to nil retention for higher-risk businesses. For perspective, it was only two to three years ago, when 0.5%–1% fixed excess levels were common for operating businesses.

Whilst H1 was very slow given the global economic uncertainty, activity in the UK and EEA picked up gradually throughout the rest of the year.





UK AND EEA (CONTINUED)

US enhancements (including non-disclosure of the VDR and DD reports) and acceptance of internal DD reports have become increasingly common whilst underwriting turnaround times have been significantly streamlined. It is quite possible to get a deal fully underwritten within three working days from receipt of draft DD reports.

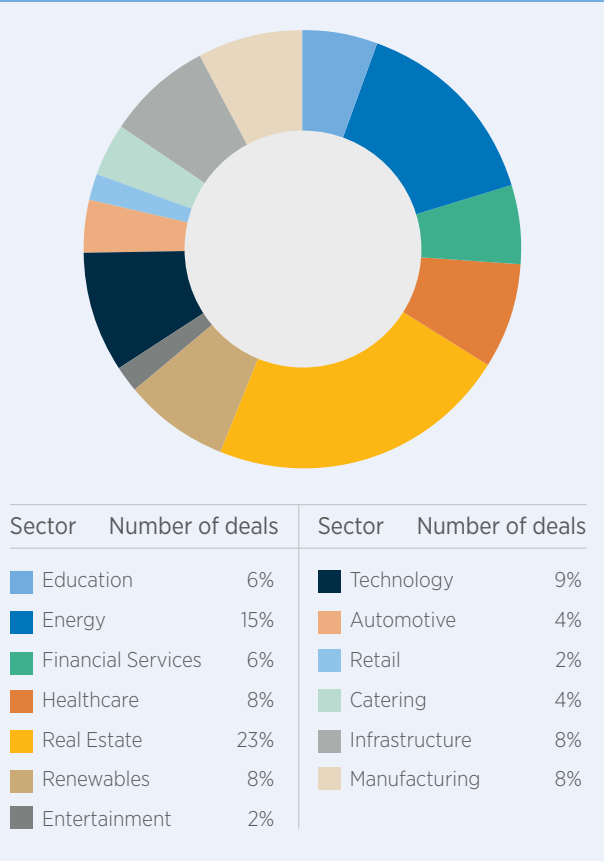
The Irish market has been particularly buoyant in 2024 — the use of W&I has skyrocketed as the knowledge and expertise have increased. As US investment continues into Ireland, buyers are increasingly using US enhancements to facilitate these cross-border transactions.

Whilst Southern and Eastern Europe traditionally lagged behind the UK and Western Europe, our statistics show premium and retention rates are broadly in line across Europe.

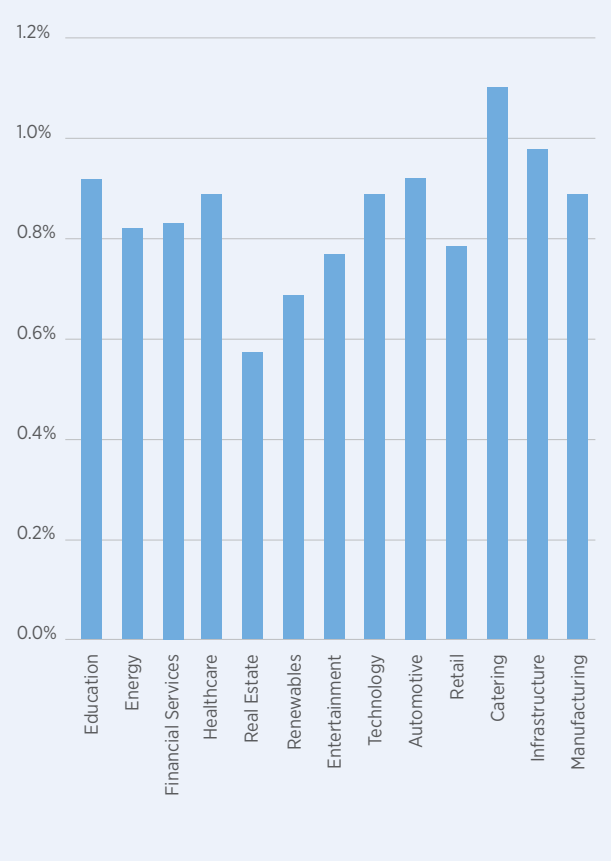
Traditionally, Israeli transactions have often been governed by Israeli or US law, both of which can now be matched by insurers. Premium rates are higher than those across Europe.

W&I insurers continue to innovate; perhaps the biggest change in 2024 has been the introduction of nil underwriting fees for smaller deals and nil retentions for operating deals. This reflects a material shift from previous years and demonstrates a clear reflection of the competition and willingness to be commercial.

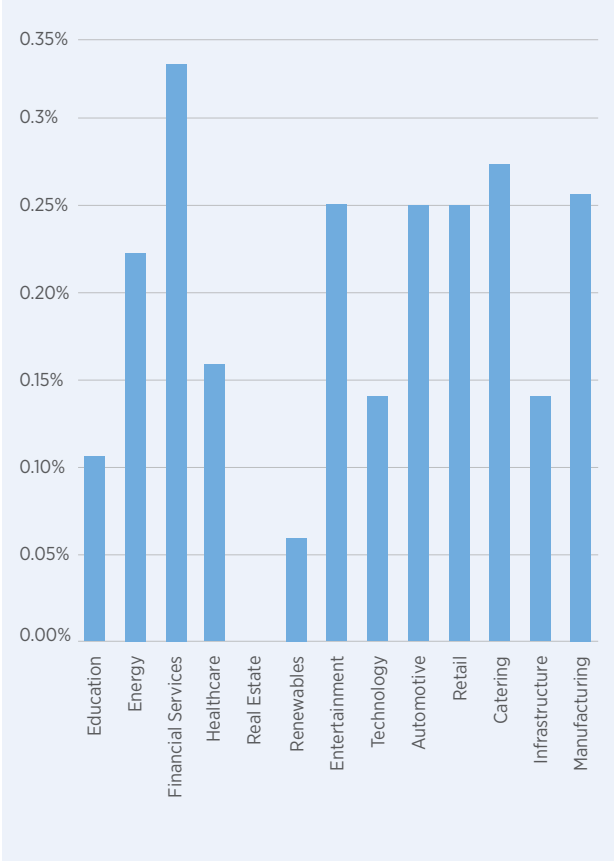
PERCENTAGE OF DEALS BOUND PER SECTOR (2024)



AVERAGE RATES PER SECTOR (2024)

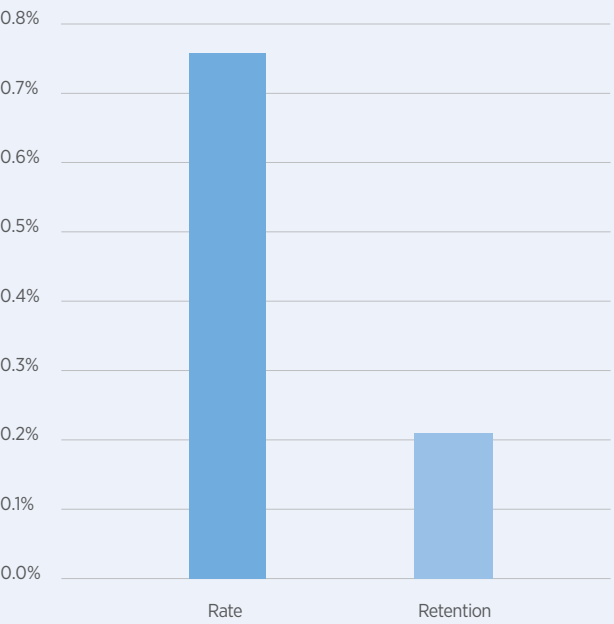


AVERAGE RETENTION PER SECTOR (2024)

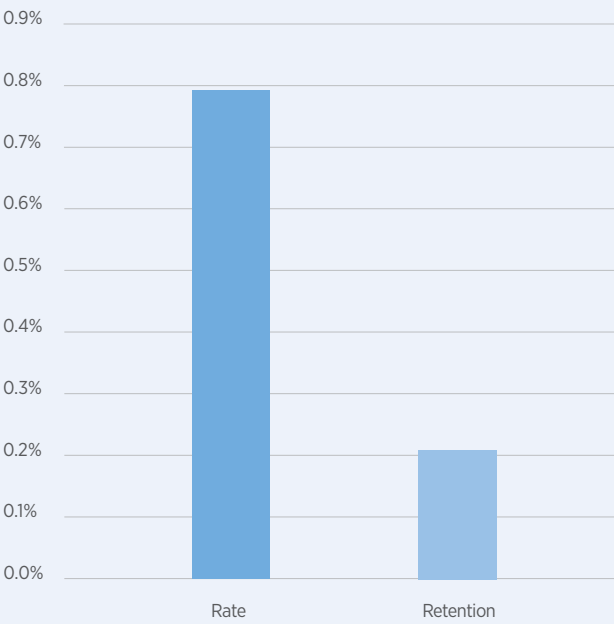


UK AND EEA (CONTINUED)

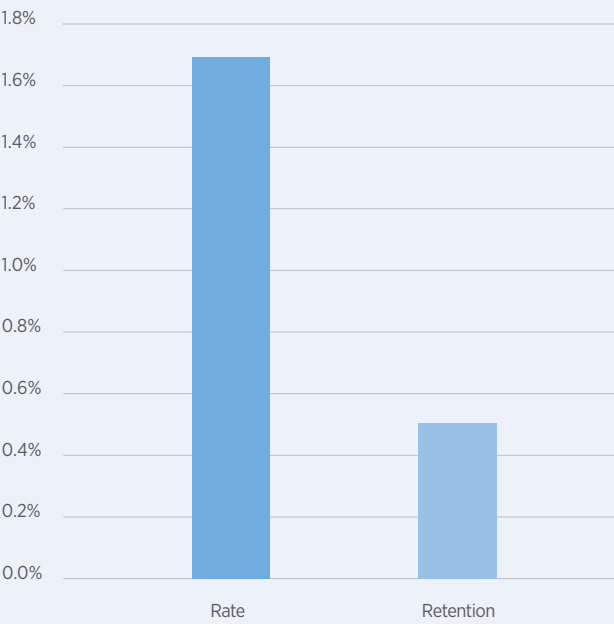
WESTERN EUROPE —
AVERAGE RATE AND RETENTION (2024)



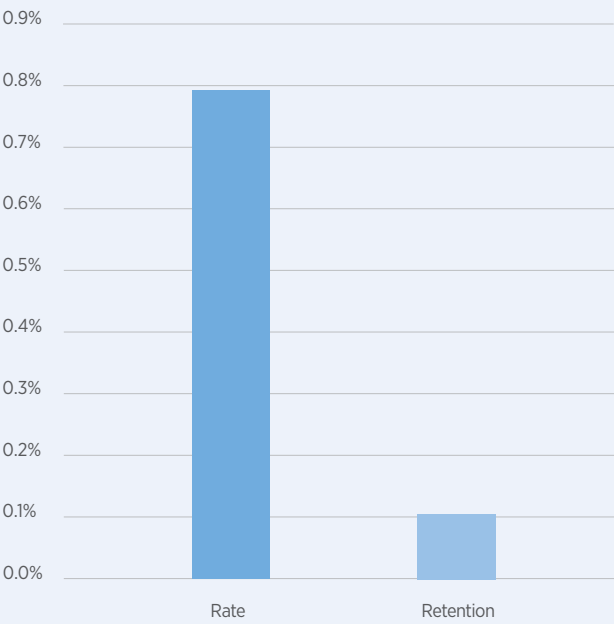
SOUTHERN EUROPE —
AVERAGE RATE AND RETENTION (2024)



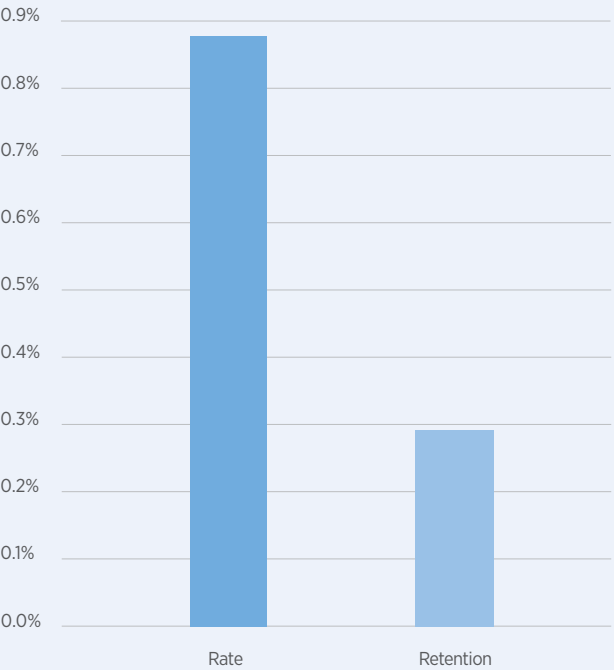
ISRAEL —
AVERAGE RATE AND RETENTION (2024)



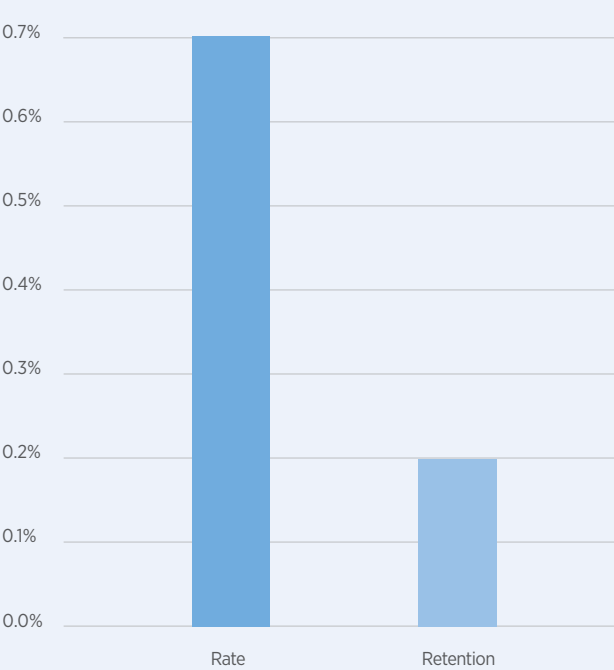
UK —
AVERAGE RATE AND RETENTION (2024)



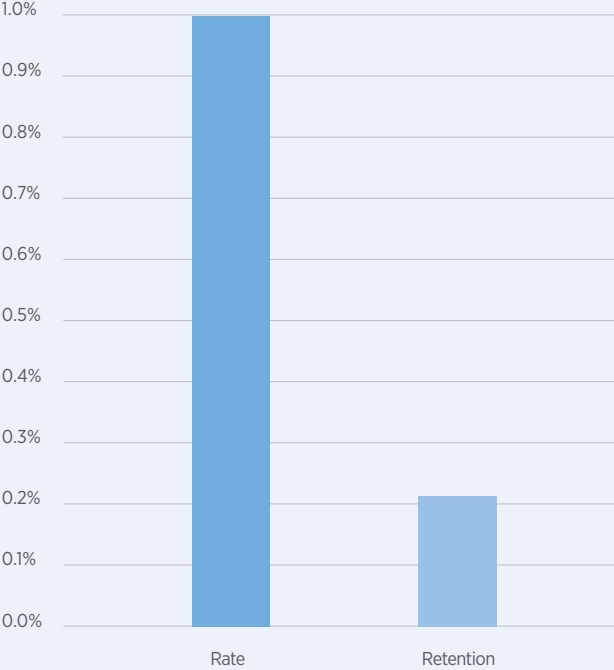
IRELAND —
AVERAGE RATE AND RETENTION (2024)



NORTHERN EUROPE —
AVERAGE RATE AND RETENTION (2024)



CENTRAL AND EASTERN EUROPE —
AVERAGE RATE AND RETENTION (2024)



Whilst Southern and Eastern Europe traditionally lagged behind the UK and Western Europe, you will see from our statistics that premium and retention rates are broadly in line across Europe.

UNITED STATES

M&A REVIEW

This year saw a welcome increase in deal count across corporate and private equity. We are hopeful that this is the start of an upward cycle going into 2025, after the quarterly deal count remained flat since the second half of 2022 and private equity investors pulled back on larger deals due to increased borrowing costs. The M&A world is anticipating a rebound in 2025, driven by stable interest rates and a more favourable regulatory environment under a new government.

Our total R&W submissions reached record highs in 2024, which is a sign of the product continuing its ubiquitous rise among deal parties as well as our continued expansion in the transactional risk space. Global M&A activity was up by 27.6% in deal value and 13.3% by count YoY at the beginning of Q4, according to PitchBook's Q3 Global M&A Report. While volume was up, average deal sizes remained close to 2023 levels.

For our private equity clients, add-ons and secondary transactions continued to dominate deal flow for the first half of the year, with more platforms coming to market in the second half. We expect to see more platform investments in the first quarter of next year as steadying interest rates help bring buyer and seller pricing expectations closer together.

Corporate M&A remained strong throughout the year, with large insurance and healthcare transactions dominating our pipeline. The same cannot be said for infrastructure investing with deal counts below historic averages.

While quotes remain very clean, with underwriters only winning deals by having no deal-specific exclusions, underwriters are focusing more closely on certain areas such as financial due diligence.

REPRESENTATIONS AND WARRANTIES INSURANCE (RWI)

RWI is winning more traction in different industries. One example is real estate, where RWI was once only considered on corporate and Real Estate Investment Trust (REIT) deals; it is now being deployed on asset-only deals. This is, in part, driven by new coverage enhancements such as synthetic coverage for environmental, condition of asset, and rent roll representations (without the need for matching seller representations).

Certain industries are also creating novel challenges for RWI underwriters. In the technology space, some carriers have seen requests to cover representations relating to artificial intelligence.

The healthcare RWI market continues to see the same challenges, with claims dominated by regulatory, financial statements, and billing and coding claims. Several markets have now exited the sector, leaving premium rates vulnerable to sudden increases.

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RWI LIMIT, PRICING, AND RETENTIONS

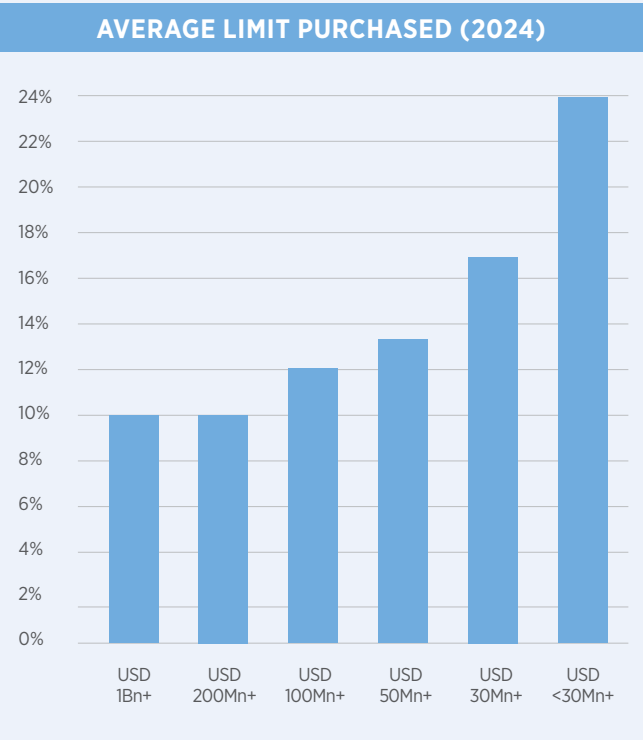
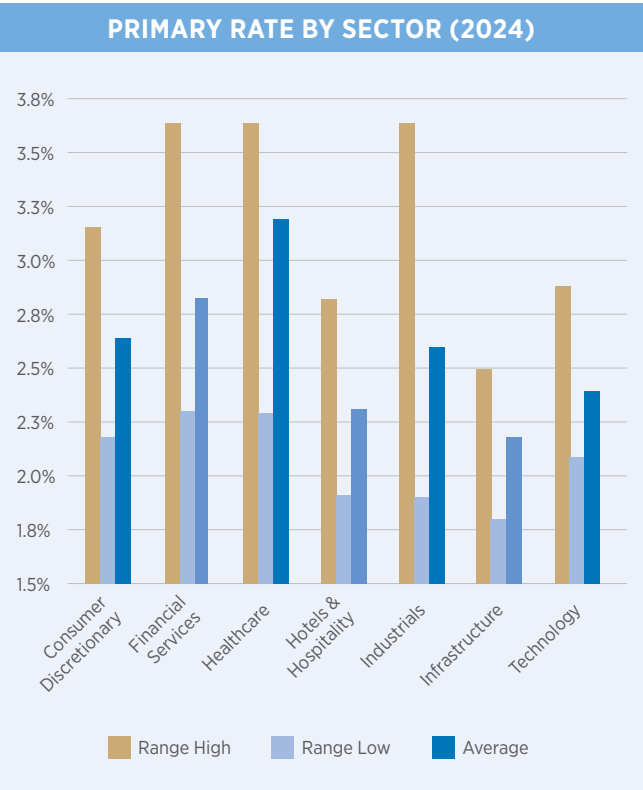
Average primary rates have started to increase, sitting around 2.5% in the final months of 2024. Certain sectors are seeing faster rate increases as some markets pull out, such as healthcare, which now averages over 3%.

Spreads opened over the course of the year as some markets continued aggressive price competition while others started to increase rates in light of their loss experience. We are seeing a range of 2% to 3.5% across all industries.

Retentions continue at historic lows, averaging 0.5% of enterprise value dropping to 0.4% 12 months from closing. Infrastructure and real estate transactions have seen retentions as low as 0.25% flat, and secondary transactions are seeing retentions of 0.25% dropping to 0.10%. Nil retention for fundamentals is being offered by the majority of the market, although we see some of our marquee insurers pushing this up to 0.10% to 0.25% of enterprise value.

Average limits remain unchanged, with most clients insuring 10% of deal value. For deals below USD100 million, we saw an average of 10% to 15% of deal value insured. Under USD30 million, clients are choosing to purchase a limit of USD5 million+, given that claim expenses can quickly mount and the relatively small cost difference between USD3 million and USD5 million limits.

UNITED STATES (CONTINUED)



CLAIMS
Claims frequency remains unchanged, with around 20% of policies receiving notifications. An average of one in five notifications results in a payout (circa 4% of all policies). From our experience, one in four paid claims has led to total limit loss.

The shortest claim we resolved took three months, with our longest taking 18 months. According to Euclid’s 2024 Claims Study, nearly 75% of their claims were processed and resolved within one year, and nearly all within two years.

In our experience, time to resolve claims is driven mostly by experts gathering the necessary information to evidence losses sustained, along with negotiation of issues such as valuation. Our advice to clients is to quickly provide evidence of how a breach would have changed their valuation model at the time of the deal.

Our biggest claims have involved material contracts and financial misrepresentations, while our most frequent notifications involve tax matters. Claims notifications continued to centre on financial statements, material contracts, the status and performance of assets, tax liabilities, and third-party claims. When recommending certain carriers, we always take into account their claims-handling ability and our past claims experience.



CANADA

Generally speaking, H1 of 2024 remained busy but still slower than the peak market a few years prior. Deal terms continued to move to a more balanced market, which allowed for deal execution to largely remain on track. Very favourable market conditions created an environment in which we saw the largest percentage (and absolute number) of first-time users of the product in 2024. The Canadian market continues to grow at a material rate as strategic and corporate buyers (and sellers) become more familiar with the overall product offering. As well, similar to 2023, we experienced an uptick in usage of Representations and Warranties Insurance (RWI) amongst the energy sector, which was driven primarily by US inbounds and an expanded breadth in the overall coverage offering.

Rates and retentions continued to remain at an all-time low, coupled with broad overall coverage being offered. Similar to 2023, this was driven by new entrants into the market and competition for primary lines.

Rates remained fairly stable over the course of the year, with rates ranging between 2.2% and 2.7%. Retention percentages also reduced with lower EV transactions now benefitting from 0.5% to 0.75% inception retention structures (compared to 0.9%–1% for sub-USD100 million EV deals in 2023).

The breadth of coverage continues to be expanded in certain industry groups. Energy, for example, continued to benefit from 2023 trending, where condition of asset and pollution matters are covered on the vast majority of deals.

As larger deals in Canada experienced slower growth, M&A transactions primarily concentrated on middle-market deals. This shift prompted several insurers to tailor their RWI offerings to smaller transactions by providing streamlined underwriting processes and lower minimum premiums, making RWI more accessible to moderate to lower deal sizes.

Tax insurance submissions continued to grow year over year. Much of this growth is being driven by Investment Tax Credit (ITC) submissions as a means for investors/operators to protect themselves against a reversal event or challenge to many of the numerous new ITC measures that have been introduced. Tax insurance continues to be used outside of transactions more often than in years prior, with approximately 40% of our inbound work done on non-M&A placement.

The majority of inbounds continue to focus on:

- Capital gains risk
- TCP classification
- Dividend withholdings
- Application of NCL's post-transaction

Claims activity continues to stay on trend with other jurisdictions. Given the claims payouts and loss ratios established by many insurers, it is our expectation that rates will stabilise and likely increase over the course of 2025, though the increases should be fairly minimal in the next 12 months. Claims frequency tends to be slightly skewed to smaller EV deals (sub-CAD100 million) though we have seen claims across the entire portfolio this year. Condition of asset, tax, and financial continue to be where we see most allegations of a potential breach.

With a broader understanding of claims information and data analytics available to carriers, we have observed a focus on innovative offerings, particularly for industries requiring extensive inventory calculations prior to deal closure and those with heightened environmental concerns.

As RWI continues to grow in Canada, more insurers are entering the market, leading to competitive pricing. This competition benefits our Gallagher clients by providing more tailored solutions and reducing deal costs.

Average retention: 0.54%, dropping to 0.4%

Average premium: 2.46%

Average enterprise value: CAD110 million



ASIA-PACIFIC M&A

2024

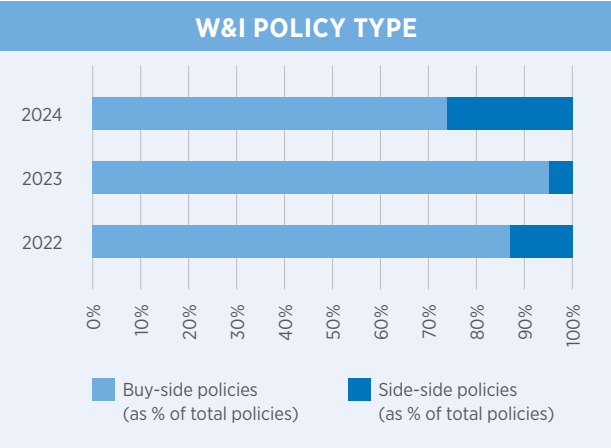
In Asia-Pacific, lingering inflationary issues, static high interest rates, and negative business sentiment saw a reduction of deal activity in the first half of 2024. Usual lead times for deals ballooned out, or deals fell over, commonly because of the value disparity between the parties. However, in the second half of 2024, tentative growth in deal activity occurred as Private Equity (PE) and sophisticated corporates had substantial liquidity reserves they were mandated to deploy, coupled with the requirement for PE to liquidate assets held in terminating funds.

As predicted in the 2023 report, the M&A insurance market in Asia-Pacific moved into a ‘soft market’ period, where contracting parties enjoyed substantially lower policy premiums, broader coverage, higher insurance capacity, and flexible underwriting processes where insurers did not require an underwriting call to be had. This was due to the muted deal activity, plus increased competition among M&A insurance underwriters and capacity providers, as new market entrants entered the region.

W&I INSURANCE PREMIUM

Since the challenging market conditions in 2021, a persistent drop in W&I insurance premium has remained a common theme across Asia-Pacific, with 2024 being no exception. In Asia (excluding India), the average rates on line (premium as a percentage of the policy limits, ‘RoL’) dropped from 1.49% in 2023 to 1.36% in the first three quarters of 2024. Similarly, RoL for Australian and New Zealand transactions saw a marked decrease from 1.29% to 1.09% in 2024 (refer to the Average Premium Rate as % of Limits graph).

Competition among W&I insurers reached a new high in Asia-Pacific. This is expected to continue into the foreseeable future, driven by the steady increase of M&A insurance market participants with a mandate to underwrite Asia-Pacific risks, bringing increased availability of insurance capacity to the Asia-Pacific jurisdictions.





POLICY LIMITS AND TYPE

For Gallagher's Australian and New Zealand business, the median transaction size executed in 2024 was circa AUD200 million. This was a significant decrease from the previous year, where the median transaction value was circa AUD430 million. One could attribute this to the reduced volume of larger transactions and increased volume of smaller transactions.

The W&I insurance policy limits placed as a percentage of enterprise value (EV) remained steady in Asian jurisdictions, whilst noticeably increased in Australia and New Zealand (refer to the Average Limits as % of EV graph). This is an interesting trend, underpinned by the use of seller's W&I insurance (refer to the W&I Policy Type graph) gaining greater popularity, particularly in Australia, where a higher percentage of EV is insured on smaller deals (i.e., EV below AUD30 million) in comparison to that of middle-market and large transactions, where the percentage of EV insured is not as considerable. The motivation for increased utilisation of seller's W&I insurance was a combination of product education in the market, plus a reluctance for certain buyers to accept a buy-side W&I insurance policy in place of typical seller warranties and indemnities within the transaction agreement.

CLAIM THRESHOLD

In 2024, like the three previous years, we observed an increase in the average retention amount (aggregate claim threshold) as a percentage of EV in Australia and New Zealand (refer to the Average Retention as % of EV graph). This was predicated by the reduced volume of real estate transactions (which typically attract a lower retention amount) Gallagher was involved with as a percentage of overall transactions.

The de minimis (per claim threshold) under the W&I policies on Australian and New Zealand risks also saw a marginal rise. Such a variation was primarily due to the increase in utilisation of sellers' W&I insurance policies, where both retention and de minimis mirror, or as closely as possible, the claim qualifications as stipulated in the underlying sale agreement. In contrast, in Asia, the de minimis has been trending downwards over the past three years, reflecting buyers' growing appetite for reduced self-insured claims amount (refer to the Average De Minimis as % of EV graph).

DEAL ACTIVITIES BY SECTORS

In 2024, we witness the continued utilisation of W&I insurance across a wide variety of sectors in Asia-Pacific. One third of the W&I insurance policies placed by Gallagher in Australia and New Zealand related to target companies operating in the energy sector (renewables, energy storage, and transmission assets), which is underpinned by the significant commercial opportunities investors face as the world transitions to net zero emission targets (refer to the Deal activity by Sector (%) chart). Other sectors attracting the most deal activities include general industrial, real estate, and materials, to name a few. We anticipate that W&I insurers will continue to broaden their risk appetite for diverse sectors, complex business, and emerging risks for the year ahead.

NEW MARKET ENTRANTS

We are pleased to welcome several new insurers and managing general agencies (MGAs) who entered the Asia-Pacific market in 2024, notably Dual Australia, Euclid Transactional, Mosaic Underwriting, and CFC Underwriting. With additional insurance capital from the new entrants, Gallagher anticipates an overall insurance capacity of over AUD1 billion to be achievable for non-real estate targets on a single transaction in the region. However, as the M&A insurance market continues to soften, we expect foreign insurers will likely become less interested in entering the Asia-Pacific market or offering terms for Asia-Pacific deals, due to the low margins achievable.

2024 M&A INSURANCE DUE DILIGENCE

Our 2024 experience included a spectrum of due diligence from project financing requirements in the mining sector (rare earth ore; high-purity metals processing), infrastructure projects, including core-plus assets (airports, data centres, hybrid renewables platforms), through to the middle market being the 'engine room' of the economy and covering a large, diverse, and dynamic set of operating businesses such as vertical integration in the agricultural protein sector and sale processes across healthcare, aged care, and childcare.

A consistent feature of transactions in 2024 was the treatment of tail liability exposure, including the importance of pricing in appropriate run-off cover with respect to 'claims made' insurances, i.e., Directors' & Officers' Liability, Professional Indemnity/E&O, Cyber, and other long-tail exposures.¹



¹"Why You Might Need Run-off Insurance — Avoid Liability Claims After You've Left Your Business." *AJG Australia*.

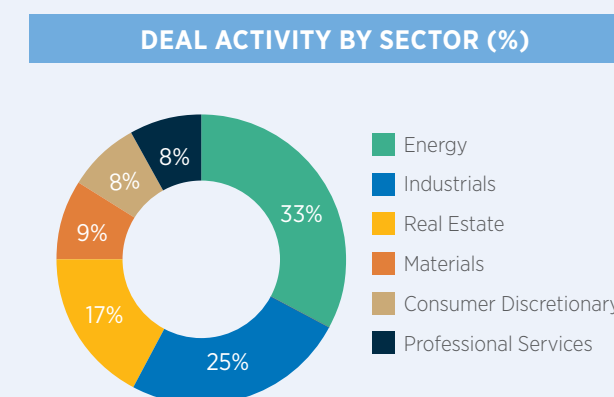
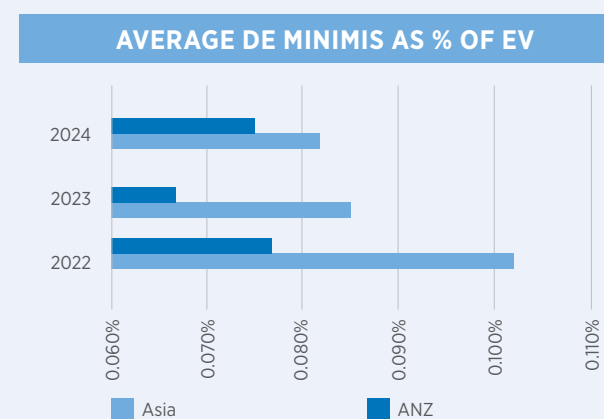
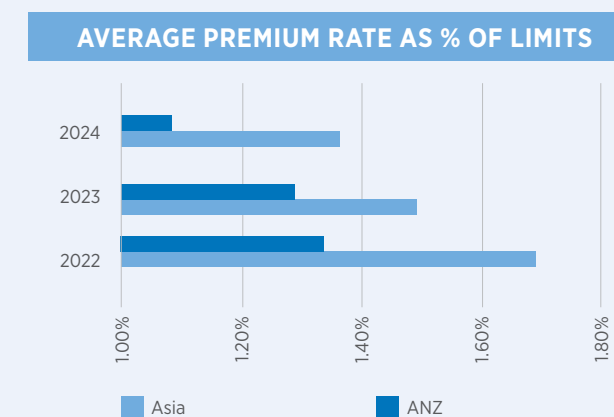
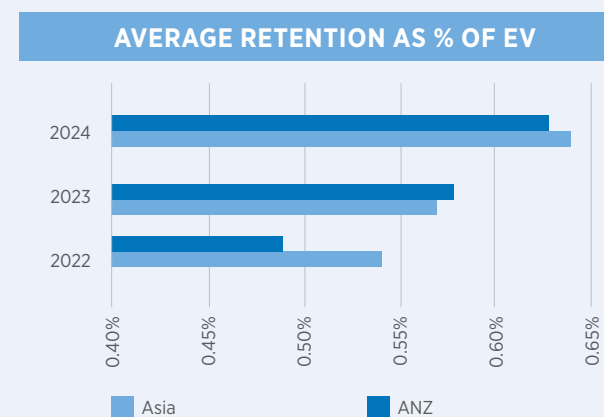
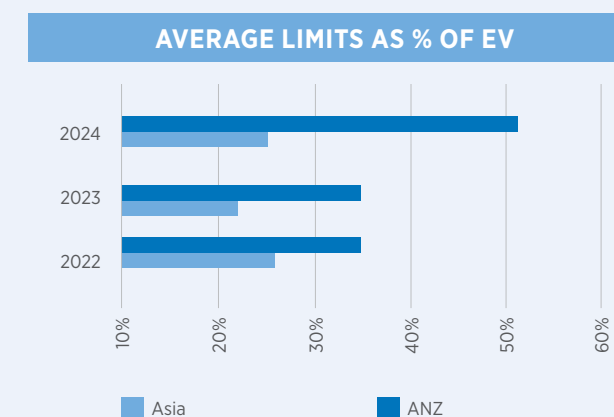
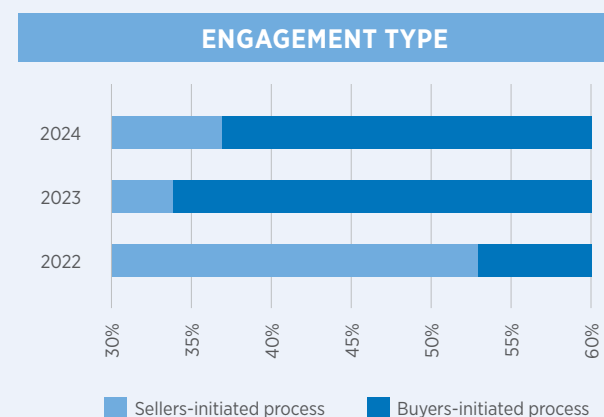
2025 M&A INSURANCE OUTLOOK

ASIA-PACIFIC M&A MARKET

There is an optimism for increased deal activity in 2025 and following calendar years amongst dealmakers and M&A practitioners following the resurgence in M&A deal activity in the second half of 2024. Such optimism fundamentally comes from the following three positive factors:

- Central banks in Asia-Pacific (including New Zealand, China, South Korea, Indonesia, and the Philippines) are reducing benchmark interest rates, whilst central banks of major economies, such as Australia, Singapore, and Malaysia, are expected to gradually commence a quantitative easing cycle in 2025. As such, we anticipate M&A activity to fundamentally benefit from a series of rate cuts and easing monetary policy.
- PE funds will remain one of the primary drivers of the global and regional M&A recovery as they are sitting on significant dry powder. With PE deal activities ramping up in the second half of 2024, we anticipate an even more significant increase in PE/financial sponsor-led transactions in 2025 as the disconnect between valuation expectations between buyers and sellers has started to narrow.
- Asia-Pacific is recognised as a growth region globally, and much of that growth is driven by family- and founder-owned businesses. SME businesses are estimated to account for over 95% of all businesses in Australia and New Zealand. With the trade sale to a strategic buyer or private equity being one of their exit strategies, business owners will naturally consider the use of W&I insurance to achieve the objective of a 'clean exit'.

Asia-Pacific is recognised as a growth region globally, and much of that growth is driven by family- and founder-owned businesses.



INDIA

The Indian economy has expanded at a robust pace in the last decade. Fuelled by its positive political environment, technological advancements, strong financial matrices, business-friendly reforms, allowance of maximum foreign direct investment (FDI) in various sectors, and growth rates averaging around 6%–7% in recent years, India is poised to be one of the fastest-growing major economies in the world. Investment bank Jefferies has forecast India to be the third largest economy by 2027, with its market cap reaching USD10 trillion by 2030.

India, with its monumental growth story, vast consumer base, and skilled labour pool, has emerged as a global destination for foreign investors seeking cross-border M&A opportunities as strategies to enter new markets, acquire new technologies, diversify portfolios, and consolidate operations globally. Indian companies are also expanding internationally through acquisitions.

2023 was relatively sluggish for M&A deal value in India; however, in Q1 2024, the market grew in terms of activity and value, especially for mid-market domestic and inbound deals. By the end of Q3 2024, India’s total M&A deal value reached a record high of USD69.2 billion, up by about 66% from the same period last year, predominantly driven by domestic activity.

Cross-border M&A activity in India has been particularly driven by sectors like IT, media, telecom, pharmaceuticals, renewable energy, infrastructure, healthcare, and consumer goods. One of the key drivers is the increase in restructuring, which is leading to distressed sales. Tax wind-up is also gaining significant currency in the Indian market, with multiple funds coming to the end of their lives. Additionally, the availability of enough dry powder and beneficial valuations for private equity continue to contribute to the expanding market.

The most notable deal is the Reliance-Disney merger, valued at USD8.5 billion and expected to be finalised by year-end. This deal is poised to reshape the media and entertainment industry.

- Other significant transactions included:
- Bharti Airtel’s USD4.08 billion acquisition of a stake in BT Group was one of the first major cross-border M&A deals of the year
 - Data Infrastructure Trust’s acquisition of ATC India’s assets for USD2.5 billion, positioning it as one of the largest infrastructure sector deals in 2024
 - Gujarat Gas’ acquisition of Gujarat State Petronet for USD3 billion was the third-largest acquisition in the country

M&A insurance is increasingly becoming an essential risk transfer tool for domestic and international companies in India as awareness of its benefits continues to grow. As more insurance companies and managing general agents (MGAs) have entered the Indian market, the rates have moderated from 3% or higher to about 1% to 2.5% depending on the transaction. Increased competition could potentially lead to a further reduction in rates and wider coverage over the next 12 months.

We can build a tower of around USD800 million to USD1 billion, both for W&I and Tax, taking into account the increased number of insurers looking to cover Indian risks.

OUTLOOK

Recent regulatory/legislative amendments in India, along with noteworthy deals, are signalling growing confidence in the Indian market. Dealmaking in India is expected to grow steadily as companies with strong balance sheets seek assets with attractive valuations. The key trends driving growth in deal-making in India include the ‘Make in India’ initiative, major investments in infrastructure, especially digital (tech and AI), and corporates’ adoption of net-zero strategies leading to pertinent changes in structures.

Average rate	Retention
0.98%	0.25%





SOUTH AMERICA

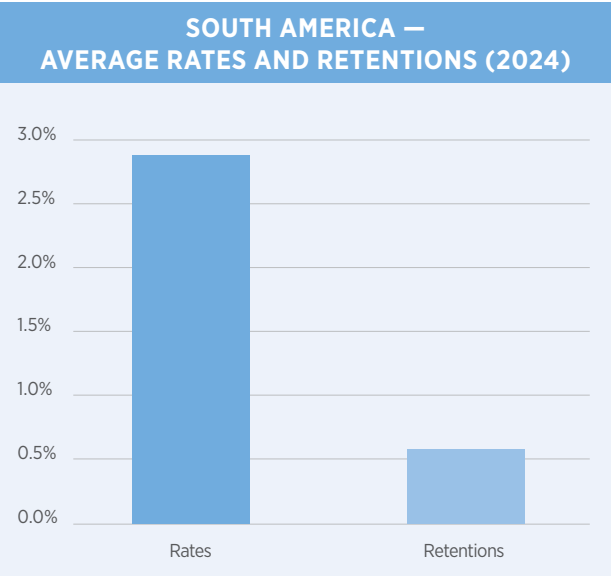
The W&I/R&W market in South America continues to heat up. Whilst transactions based in Peru, Mexico, and Chile have been insurable for a few years now, those in Uruguay and Brazil are also now increasingly insured.

The coverage in these territories has also expanded markedly. Tax and litigation (previously uninsurable in Brazil, for example) are now covered as standard, mainly due to the increasing experience of underwriting in these regions. Insurers not only have stronger relationships with counsel based in these territories, but most markets also now have internal Spanish/Portuguese speakers in order to streamline the process.

The premium rates have dramatically reduced in the last few months. Whilst 4%–6%+ would have been considered common for South American transactions, these are now likely to sit at around 2%–3.5% (with those governed by US law being at the higher end). It is interesting to see that those transactions governed by either European or South American law are actually attracting rates lower than US-domiciled deals.

Retention rates have also plummeted; gone were the days that you would see a 1% fixed excess, as 0.6% is much more common towards the end of 2024.

As insurers grow into emerging markets, we would expect to see some start setting up local offices through South America within the next few months. This will inevitably lead to more competition, a more streamlined process, and ultimately cheaper rates.



MIDDLE EAST

REGIONAL DEVELOPMENTS

In contrast to global trends, private equity deal activity in the region grew in 2023 from a deal value and deal count perspective, and M&A activity continued to thrive in 2024, drawing investments in sectors such as energy, technology, and financial services. Luckily, not heavily influenced by the global M&A activity, the clients in the region benefited from the global decreased pricing of W&I insurance, which was at historic lows in 2024, as the underwriting remained in London. Whilst M&A insurance in the region remains in its infancy, the landscape is certainly evolving. 2024 saw an increasing number of transactions incorporating insurance solutions, the entry of new M&A brokers, and two underwriters planning to establish M&A insurance underwriting capabilities in the Dubai International Financial Centre (DIFC), United Arab Emirates, to service the region by early 2025.

PRICING TRENDS

M&A insurance remained in a soft market with historically low prices. Pricing in the region aligns more closely with the London market than the more expensive market in the US unless the deal involves a US element. Although the Middle East region's rates are slightly higher than London's, the low pricing is not a barrier to entry for clients. Pricing ranges from 0.6% to 2%.

COVERAGE

There are certain warranties that will not be covered by insurers, such as anti-bribery and anti-corruption warranties; however, as underwriters grow comfortable with the region, we expect certain exclusions to be dropped. An area of marked difference is tax. Underwriters were reluctant to provide coverage on tax matters in the region given factors such as limited or non-existing tax regimes. The tax landscape is changing with the introduction of value-added tax, excise tax, and corporate tax in certain countries, and so is underwriters' consideration for coverage.

MARKET CAPACITY

Underwriting has been historically carried out from the London market. The global slowdown in M&A activity combined with the region's M&A activity insulation prompted insurers to seek more opportunities in the region, fuelling the increase in M&A insurers writing regional deals to now 20+ insurers, including the two different insurers who are expected to be operational in the DIFC by early 2025. As the volume of regional deals continues to grow in 2025 and beyond, we expect more insurers to write this line of business and more underwriters to establish a physical presence.

CLAIMS LANDSCAPE

In 2023, the first claim in the region emerged. It involved a UAE-based buyer and target operating across the Middle East. The insurer quickly processed the claim, settling it within eight days. While Gallagher is not aware of any claims being formally reported in 2024, there is a significant potential claim under review by an insurer.

SUMMARY

As the frequency of use of M&A insurance continues to increase in the Middle East, Gallagher is thrilled to be a part of its growth story.

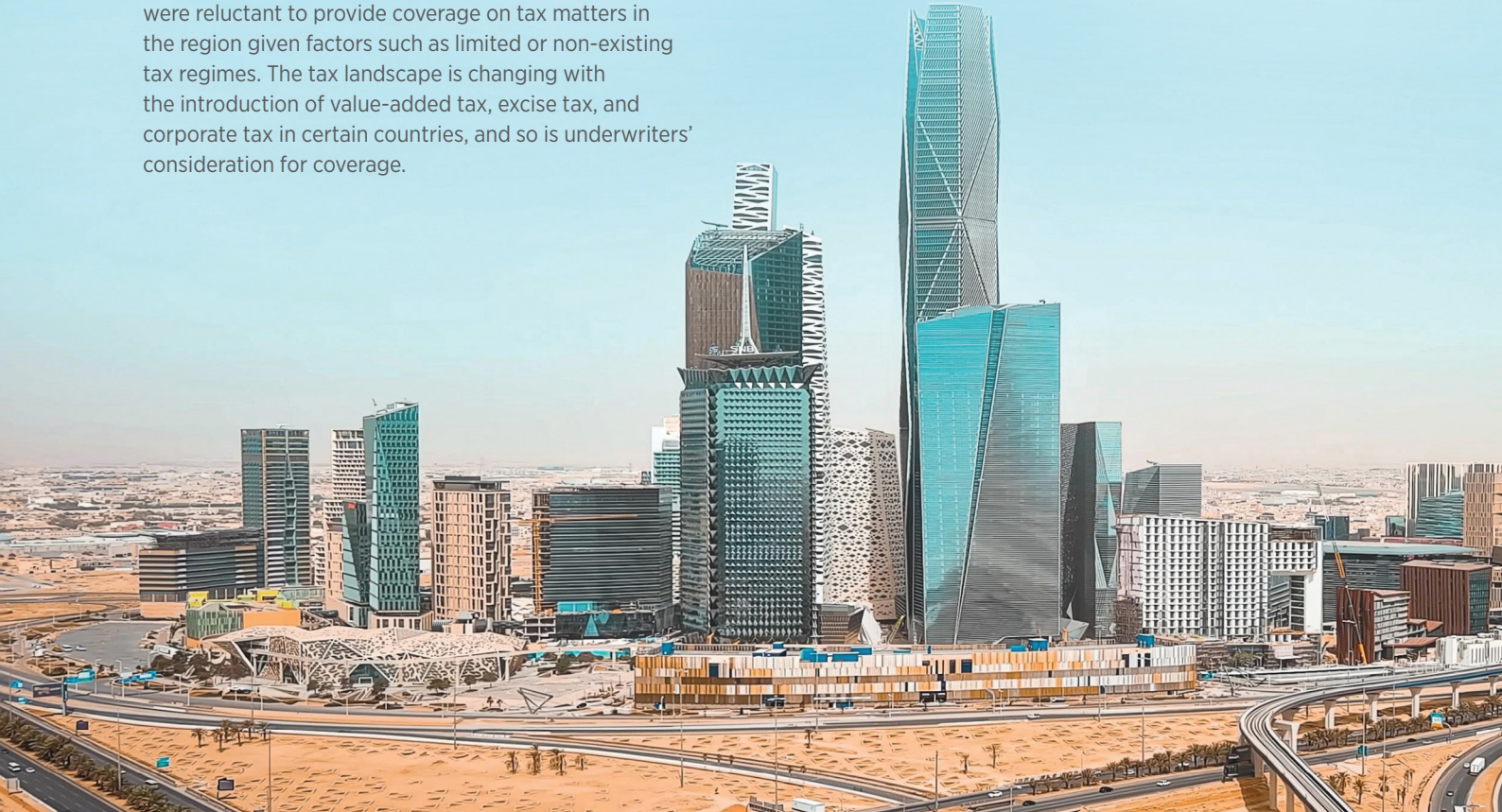
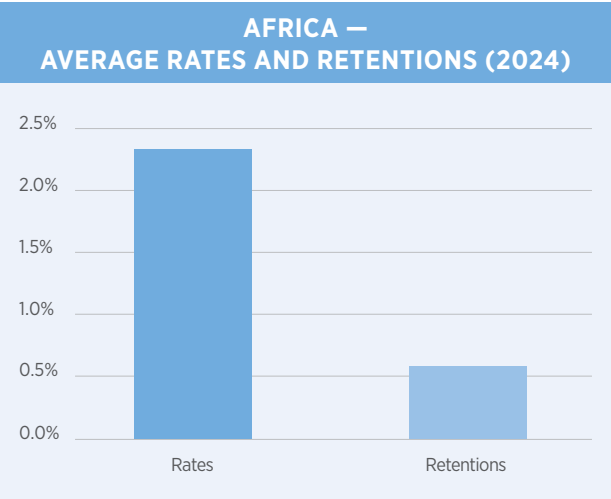


AFRICA

It is exciting to see that many countries within Africa are now insurable from a W&I perspective. We have recently worked on transactions involving Mozambique, Nigeria, Senegal, and Ghana; W&I processes are becoming much more streamlined as experience in the region grows.

Whilst in 2022-2023, we would have expected W&I rates in Sub-Saharan Africa to be c. 6%-7%, we have recently been able to obtain quotes as low as 2%-3% for renewables deals. Insurers have been able to access the small pool of lawyers that are able to advise on these local deals, and thus the relevant expertise is now available for these transactions.

Retention rates have also tumbled. 1% of EV is no longer marketable, with 0.5% of EV being much more standard. Whilst UK law deals are relatively standard in Africa, US enhancements (such as non-disclosure of the VDR) are now usually being offered.



TAX INSURANCE

It has been an evolutionary year for tax insurance; there are now over 20 specialist tax insurers in the market able to provide a range of products to cover almost any type of tax risk. Further entrants are expected in FY 2025.

Appetite for risk has broadened across Europe and APAC with an increasing interest in providing a solution for risks with a more likely than not level of opinion as opposed to previously favouring risks with a 'should' level of opinion.

Tax insurers now have an appetite for risks under audit (tax authority enquiry) and risks in active litigation (judgement preservation). In addition, the product is being utilised in a broader range of contexts, including to facilitate fund wind-ups and administration proceedings/schemes, alongside the traditional facilitation of transferring risks within an M&A context.

Interestingly, there has been an appetite to cover 'change of law' risk and, in certain circumstances, 'change in tax rates' risks. Whilst these risks have tax as the primary consequence of loss, these are more within the remit of political risk. It's fantastic to see insurers seek to broaden their appetite and approach for covering risks not traditionally within their domain.

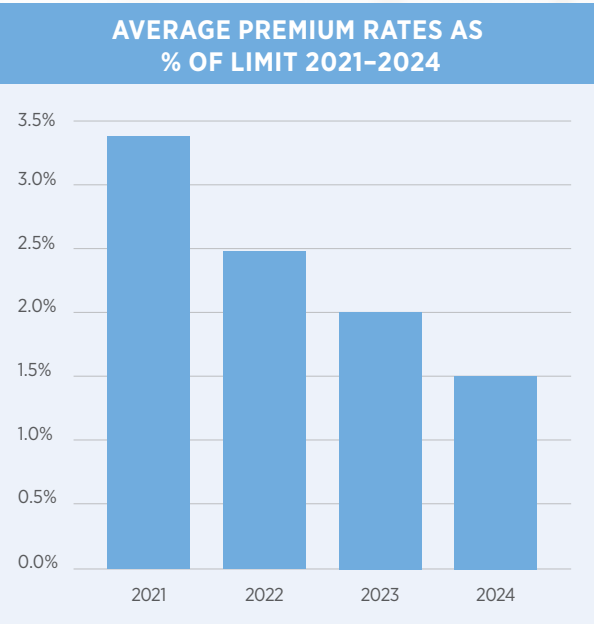
As a natural consequence of increased numbers of insurers, competition for premium is at an all-time high, with insurers increasingly being willing to quote below 1% rate-on-line (for the UK and some jurisdictions in Europe). There has also been some consolidation across the sector, with one of the largest transactional MGAs acquiring insurance portfolios, which include specialist tax MGAs. It will be interesting to see how these MGAs work together with regards to quoting on insurance programmes and/or competing amongst themselves.

Cover-wise, there have been increased rumblings of exclusions or additional premiums being applied for 'Advance Tax Payments' in certain jurisdictions (e.g., Spain). We expect appetite for providing ATP cover without extra charge will remain for the near future; however, it would not be surprising to see a market shift in the next year or two.

Gallagher has had another record year with the placement of tax insurance. Policies have been placed in a wide variety of contexts across a variety of jurisdictions (including South Africa). We are also receiving an increase in enquiries from individuals seeking comfort in relation to estate planning.

The market for Indian tax risks remains healthy, albeit with a larger focus on PPT/MLI analysis as it relates to Double Tax Treaty risks. There has also been increased interest in providing solutions to cover domestic Indian tax risks and provide domestic Indian insureds with solutions. The market for domestic Indian insureds is still in its infancy, but it's wonderful to see the market adapt to the demands of such a significant economic power.

We expect the tax insurance market to continue its rapid growth trajectory in 2025, with an increased appetite for risks in Latin American jurisdictions and Southeast Asia. In addition, the US tax insurance market is also expanding rapidly, with resounding success with respect to tax energy credit insurance.



INSURANCE DUE DILIGENCE (IDD)

Our Insurance Due Diligence team can offer a wide range of due diligence advisory services. Transactional risks range from niche investments to international deals. Insurance Due Diligence, including full reliance on agreed-defined parties, IDD serves as an invaluable function in the transaction process and dovetails with the legal, financial, tax, and other technical due diligence to allow bidders to make a further informed decision.

IDD identifies the targets' insurable risks and enables dealmakers to make informed decisions as to the transfer of risks via insurance capital. Transactions are time-critical and can often leave dealmakers with unforeseen risks post-completion.

IDD can support in successfully closing deals, mitigating portfolio company risk, addressing 'gap risk', identifying synergies, and ultimately securing investment returns. The focus of the IDD workstream is to understand target's risk profile, assess the adequacy of the insurance programme the target company procures, identify any gaps in coverage and change of control provisions, critique the costs of the current insurance programme, address loss history, and recommend any enhancements, new insurances, or risk management strategies to address gap risk. Post-close estimated insurance costs are included in the bid model, allowing for a further informed bid.

Vendor IDD is also undertaken by our IDD team; this can help identify any potential issues that could impact the sale price, such as underinsured or uninsured risks. It can also speed up the sale process by providing a buyer with a report they can rely on. 'Carve out' IDD is also available; this can help buyers mitigate insurance-related risks and provide an overview of a 'go forward' replacement insurance programme vs current coverage. This analysis also includes cost indications vs current costs.

The IDD team will review the Sale and Purchase Agreement (SPA) provisions to see how they impact risk and work with a Bidder's legal counsel for appropriate inclusion. Operations & Maintenance Agreements (O&M) and other applicable agreements, are also reviewed during the course of IDD, ensuring compliance with any insurance clauses placed therein.

The team can subsequently provide actionable advice in relation to deal negotiation (including run-off cover and associated one-off costs), post-completion planning, and integration. Importantly, it allows W&I insurance underwriters to carry out the appropriate risk analysis on the target business. A bidder having undertaken appropriate IDD is a standard expectation or requirement by W&I insurers during the underwriting process and allows insurers to take a pragmatic view on policy coverage.

CONTINGENT RISKS INSURANCE

Contingent Risk Insurance (CRI) is primarily used as a tool to address matters identified in a buyer's due diligence that neither buyer nor seller wish to bear and are therefore causing a roadblock in an M&A transaction. A bespoke CRI policy is a way of ring-fencing such a liability.

It is a cost-efficient alternative to a purchase price chip, specific indemnity, or escrow arrangement. Insurable risks often arise in situations where the parties to a transaction are comfortable with the specific issue on the basis of their external legal advice, but a related party (e.g., an underlying investor, lender, or in-house legal counsel) sees it differently and is more conservative in their tolerance for risk.

Increasingly we are seeing CRI deployed for financing and restructuring processes, where low probability/high potential impact legal risks can also come to the surface, and a similar dynamic is at play. No two enquiries we receive are the same, but we have seen particularly frequent requests for CRI in the following scenarios:

1. Environmental, Social, and Governance (ESG) — In an environment where ESG metrics are under increased scrutiny by investors, buyers, and counterparties with contractual relationships, we have seen a significant spike in requests for insurance that aims to mitigate and insulate those stakeholders from adverse impacts, particularly financial. As global supply chains diversify in a post-COVID-19 environment, we expect this trend to continue and have developed bespoke products and partnerships that reduce exposure significantly.

- 2. Judgment Preservation Insurance (JPI)** — JPI crystallises the financial value of a verdict or determination that is favourable to the insured, reducing the risk of the decision being overturned upon appeal. We have seen this play out numerous times this year, where unresolved and pending litigation has been a potential block to the completion of a transaction. Whilst the market has hardened in some jurisdictions owing to significant claims being paid out, there is still an appetite for well-thought-out and presented risks.
- 3. Contractual disputes** — Any scenario where our client is facing or could face commercial litigation, and our client has received favourable (but not foolproof) legal advice about their case.
- 4. Insolvency and restructurings** — CRI can, for example, help facilitate distributions to valid creditors by ring-fencing a successful third-party claim directed against decisions taken by an insolvency practitioner.

CRI underwriters focus on the motivation for seeking insurance just as much as the jurisdiction, risk size, and legal arguments at play. The product is well-suited for circumstances where taking a certain issue off the table will provide our client with a compelling strategic advantage in effecting a transaction.

We expect significant further growth in 2025, as awareness of the product continues to grow, deal-makers and their lenders face challenging issues during M&A, financing, and restructuring proceedings, and competition amongst CRI underwriters increases.



LEGAL INDEMNITIES

TITLE TO SHARES AND TITLE TO REAL ESTATE

The uptake of this cover has increased during 2024, particularly in conjunction with W&I policies. In doing so, the full value of a transaction can be covered in isolation, with no warranties needing to be reviewed. Whilst we have seen the withdrawal of certain capacity providers, capacity remains strong, with some markets able to provide GBP1 billion of cover across Europe. Rates on this product type have remained stable. In 2025, we are expecting to see an expansion of both the territories and capacity available.

FUNDAMENTAL WARRANTY TOP-UP

The supply and availability of this product have largely shifted to W&I insurers. That being said, we are aware of a number of markets that are looking to re-enter, so throughout 2025 we are hoping to see the availability of new capacity and a reduction in rates that are currently available for Fundamental Warranty top-up products.

PORTFOLIO TITLE

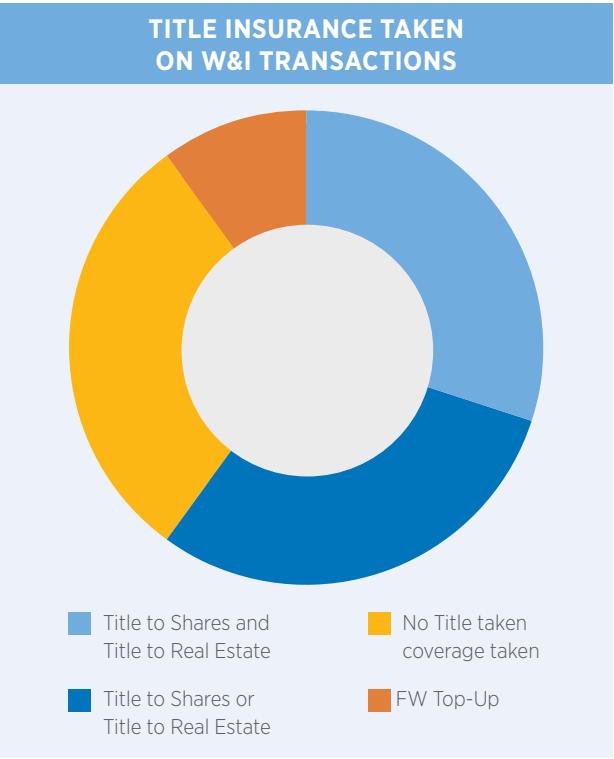
Portfolio title is a product area in which we have continued to see growth. The main drivers for this cover are the lack of title due diligence required and the ability to cover both known and unknown risks. Further alterations to cover can be made to provide bespoke solutions, such as removing any requirement for title due diligence. With sublimits in place, the cover is available for almost any size portfolio.

CERTIFICATE OF TITLE TOP-UP

A relatively new product in 2024, driven by the desire to cover the full market value of the asset or assets covered by a certificate of title. We have seen a large uptake of this product and expect to see this continue in 2025. This product covers the gap between the limit of liability offered under the certificate of title and the market value of the assets. The cover lasts as long as the certificate of title can be relied upon. Given the rising costs of associated insurance, it is a trend we expect to see continue into 2025.

CONTINGENT MATERIAL DAMAGE

During 2024, this is a product that has been traditionally used for single real estate assets or utilised by lenders to cover their entire portfolio. Premiums are charged monthly based on the total outstanding loan amount. It is a block policy that can be amended when loans are removed from the portfolio or new loans are issued. We expect to see marked growth for this in 2025.



LENDING DUE DILIGENCE

Activity in the debt sector has continued to rise over the past 12 months, with competition fierce across the broad variety of banks and non-bank/alternative lenders. With 2023 being dominated primarily by refinancings, 2024 has seen acquisition activity pick up across the UK and Europe, with a focus on more diverse asset classes and territories from our lender clients.

From an insurance perspective, this variation in appetite from lenders has resulted in a number of scenarios where the typical loan requirements under an LMA-based facility agreement become more challenging to agree with non-traditional insurance markets.

Whilst most insurers remain broadly open to accounting for lender interests, most are becoming increasingly stringent in standardising their position around key policy requirements, which can result in difficulty when expecting a consistent approach across all types of financing. It therefore remains key to be able to rely on an advisor with experience across a variety of territories and asset classes who can build on precedent agreements to bring about the best possible result and minimise any frictions across the insurance workstream.



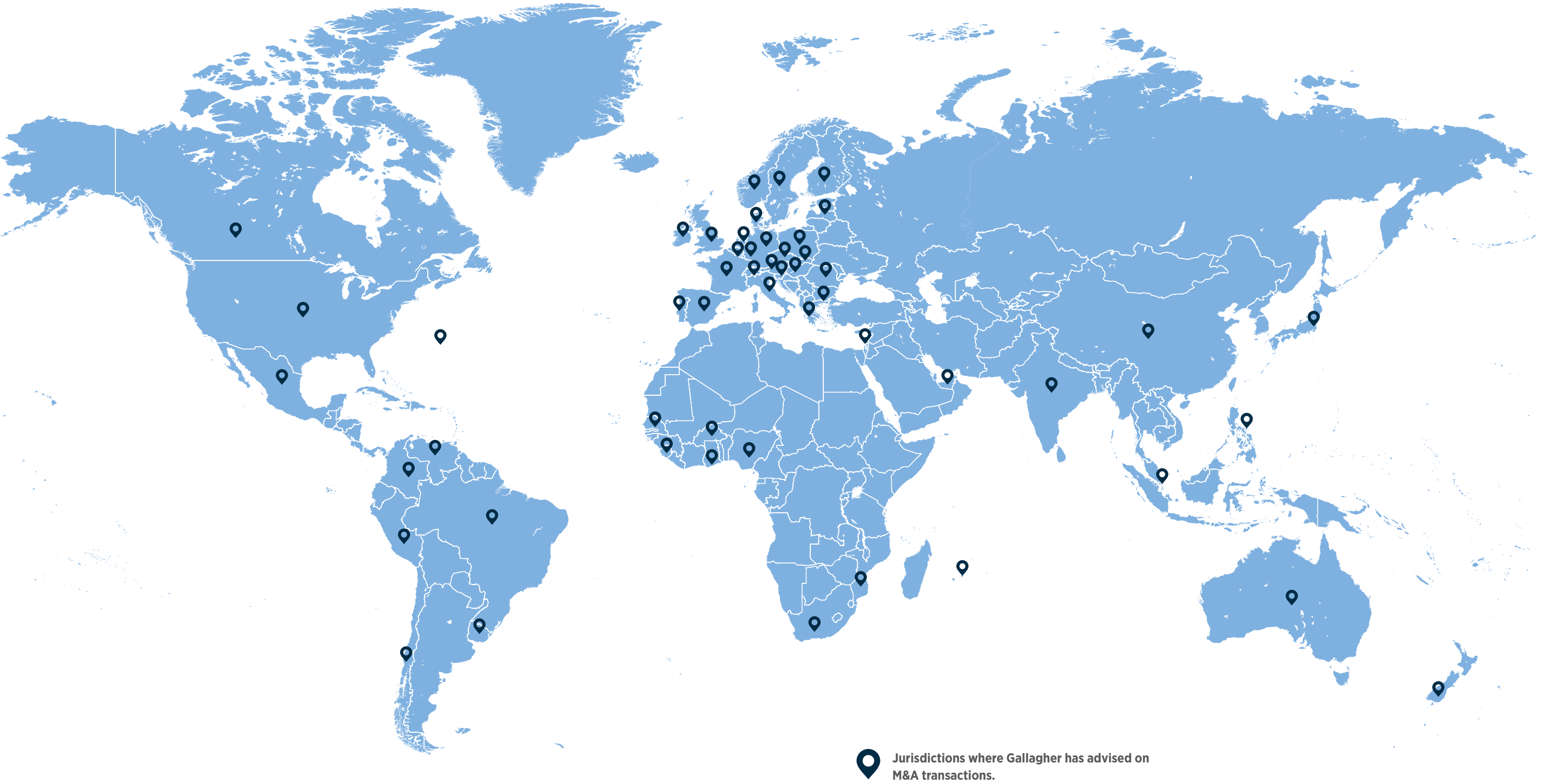
WHY GALLAGHER?

Our specialists consist of qualified lawyers, brokers, and insurance professionals who have a breadth of deal experience spanning a range of sectors and jurisdictions. Gallagher has also negotiated enhanced features of cover with the full M&A market, which are exclusive to Gallagher clients and which set our policy wordings apart. Our specialists will review all the legal, financial, and tax reports with underwriters and push for as much coverage to be granted as possible.

As one of the world’s largest insurance brokers, operating globally across a wide range of classes of business, Gallagher places significant premium on the international insurance market. This means that in the event of a contentious claim, our brokers have considerable leverage and expertise to ensure that valid claims can be resolved in our clients’ best interests.

Advised on more than
2,000
deals in over 40 countries since 2013.

Advised on over
USD30Bn
of combined deal value in 2024.





CONCLUSION

The market remains resilient and is anticipating a significant uptick in 2025. Insurers now have the capabilities to underwrite W&I in almost every sector and jurisdiction, with language and governing law no longer being an impediment.

Insurers continue to innovate in the known risk space, with Tax Insurance and Contingent Risk Insurance becoming ever-present, especially with buyers needing as much comfort as possible before pulling the trigger.

The economic environment appears more positive than it has been for the last few years, which is translating quickly into the M&A world. Whilst we still expect buyers to exercise caution throughout deal processes, we do anticipate an uptick in the number of transactions throughout 2025.

The use of M&A insurance continues to increase, with the % of deals insured rising every year for the last 10 years. Given the flexibility and innovation of the M&A insurance market, we only expect to see this % increase for many years to come.

Insurers now have the capabilities to underwrite W&I in almost every sector and jurisdiction, with language and governing law no longer being an impediment.

LET’S TALK

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