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Directors & Officers (D&O) Liability Insurance

Sridhar Manyem – Senior Director, AM Best

Biography



Sridhar Manyem is senior director, industry research, analytics and public relations at AM Best. Sridhar is the head of the industry research team, and his responsibilities include publishing AM Best's perspectives of topical issues relating to the insurance industry and possible implications to Best's Credit Ratings.

Prior to joining AM Best in 2017, Sridhar was at The World Bank as a senior credit officer responsible for implementing reinsurance credit risk framework at MIGA (Multilateral Investment Guarantee Association). Before the World Bank, Sridhar was a director at Standard & Poor's, and was responsible for a portfolio of insurers, as well as a lead enterprise risk management (ERM) specialist reviewing ERM and ECM frameworks for a portfolio of (re)insurers and multiline insurers.

Sridhar worked at Nationwide Insurance's ERM function, where his areas of responsibilities included strategic asset allocation, asset-liability management and risk modeling. He has taught basic economics and finance courses at the graduate level and undergraduate level at Ohio Dominican University and serves on the adjunct faculty at Rowan University teaching courses on finance, insurance and risk management.

Sridhar graduated with an MBA from the University of Chicago's Booth School of Business and has an undergraduate in computer science and engineering from the Indian Institute of Technology, Bombay.

Agenda



Introduction to D&O

Market Conditions

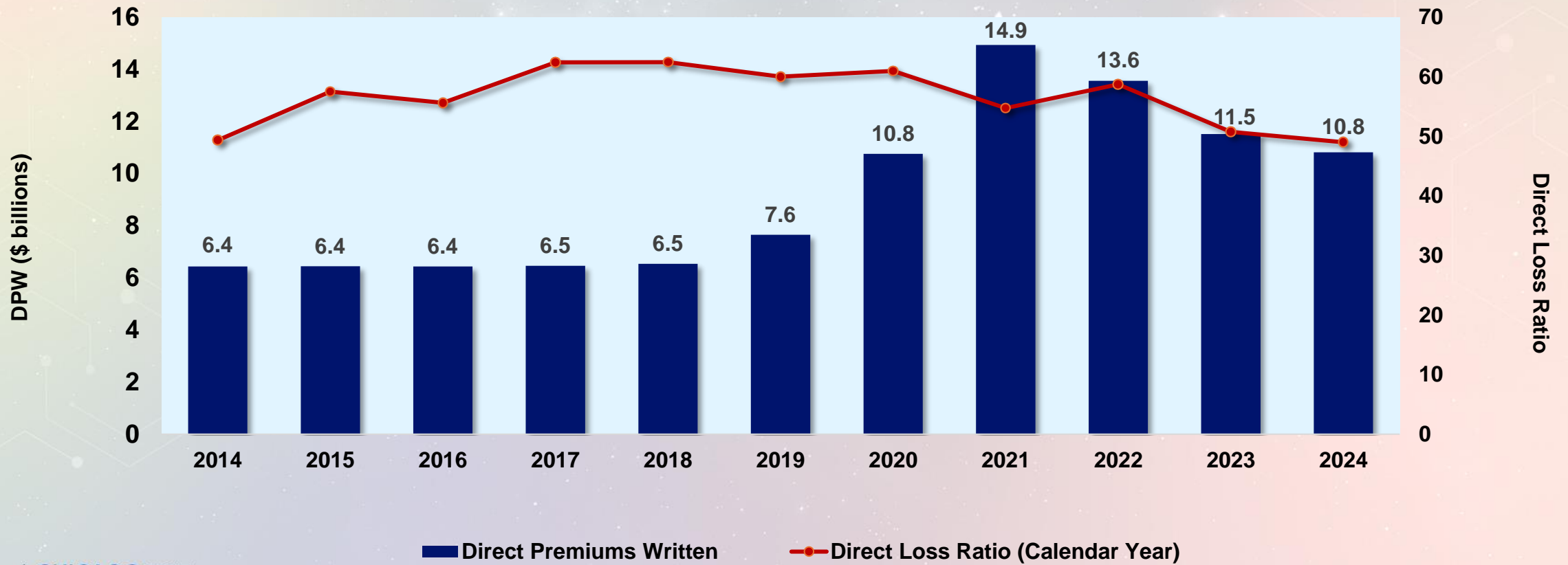
Emerging Issues

AM Best Outlook

What Does D&O Insurance Cover?

- Side C: Coverage for a company when the company is sued (as opposed to individuals)
 - Example: misrepresentation of statements in annual reports or disclosures. Insurance pays for legal expenses and settlement
- Side B: Coverage/Reimbursement for a company when it pays for the Directors and Officers.
 - Example: Directors and Officers sued for ignoring safety issues,
- Personal wealth of Directors and Officers of a Corporation for actual or alleged acts of wrongdoing during their oversight and management

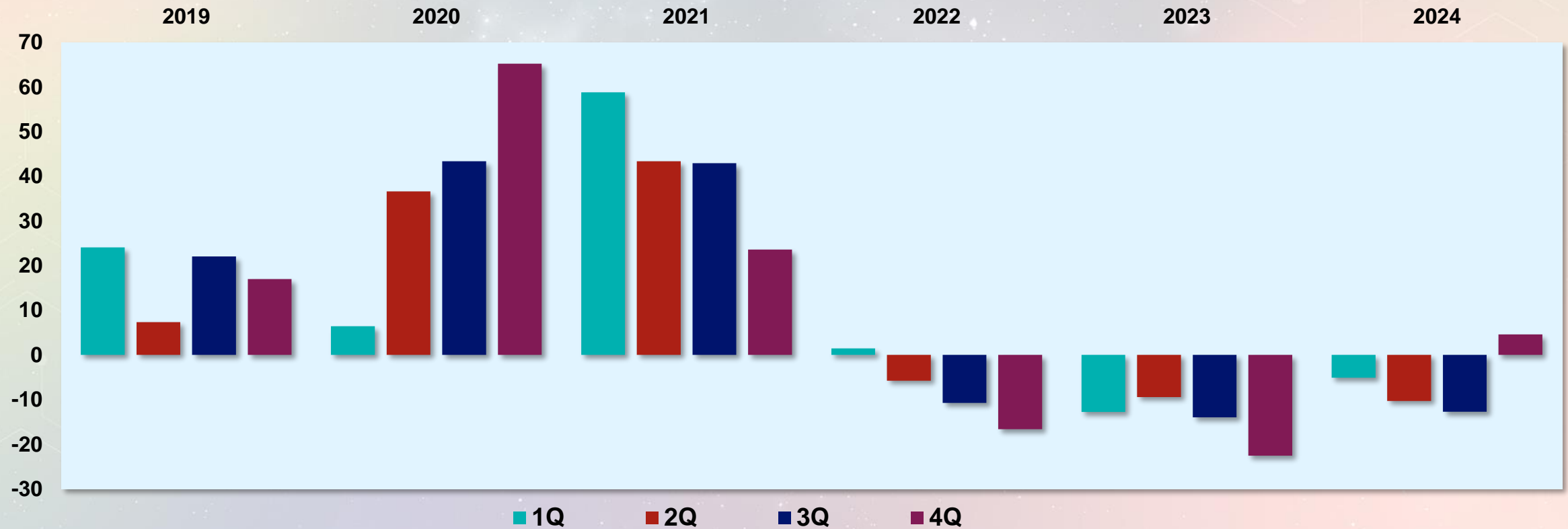
Standalone Direct Premiums Written & Loss Ratios



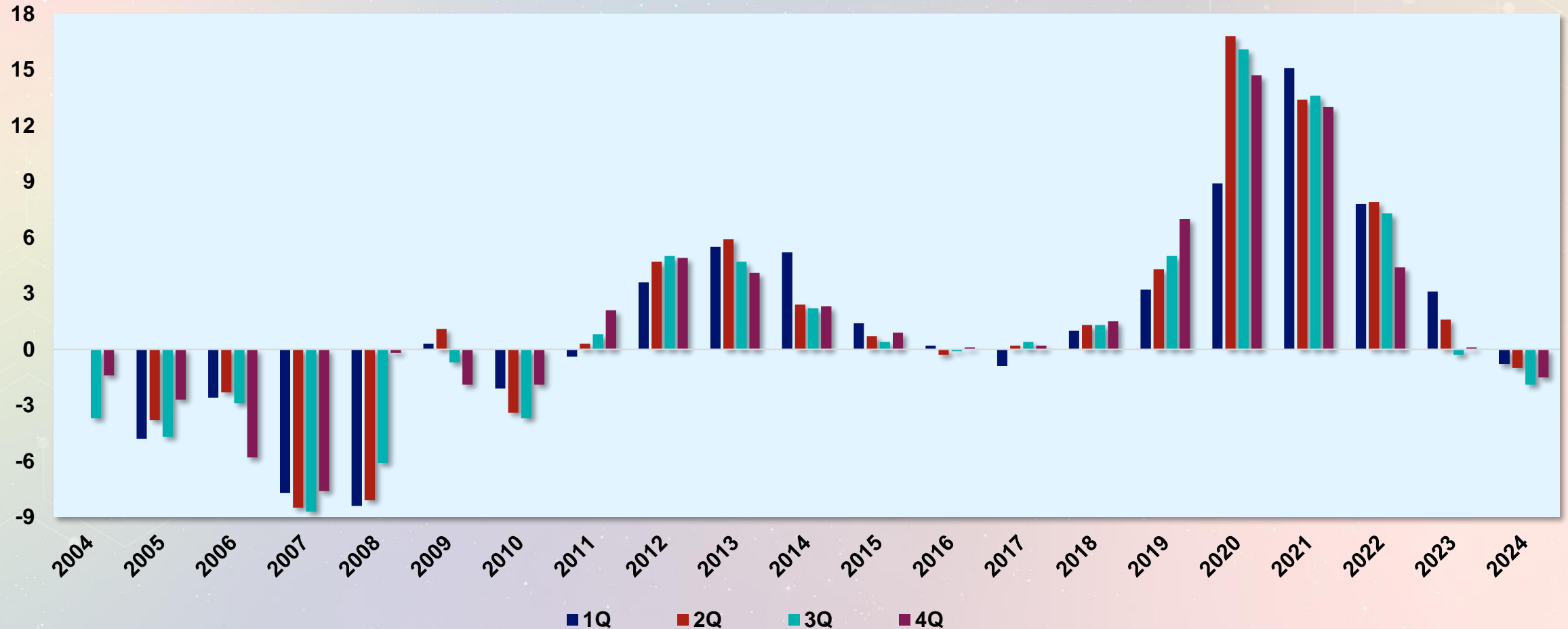
Standalone Direct Premiums Written & Loss Ratios



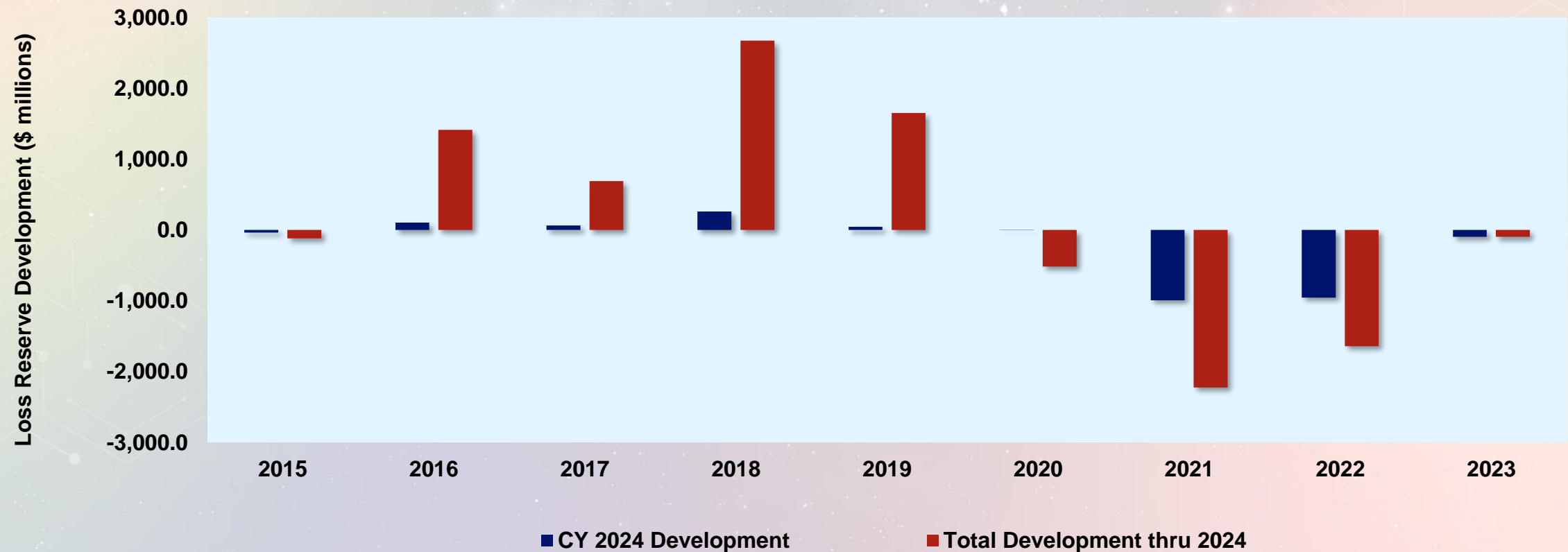
Change in Monoline Premium Over the Same Quarter One Year Earlier



Quarterly Pricing Changes



Other Liability – Claims Made, Loss Reserve Development



What is AM Best Concerned About?

- Intersection of cyber and D&O risks
- Artificial Intelligence
- Severity Increase (Settlements are getting bigger)
- SPACs and De-SPACs
- Litigation funding
- Social Inflation

Intersection of cyber and D&O

- CrowdStrike: Securities Fraud (Class Action) alleged misrepresentations as cyber incident resulted in a massive drop in market cap
- Alphabet: Settlement after a software flaw allowed developers to access personal data of 500,000 users

Artificial Intelligence

- AI Washing: Companies overpromising on the results from their AI technologies.
- 15 AI related lawsuits were filed in 2024
- *Example:* Dolly v. Gitlab Inc., et al., No. 3:24-cv-6244 (N.D. Cal.)
A complaint filed in the Northern District of California alleges that Gitlab misled investors about how its planned AI features would increase efficiency and boost the company's revenue.

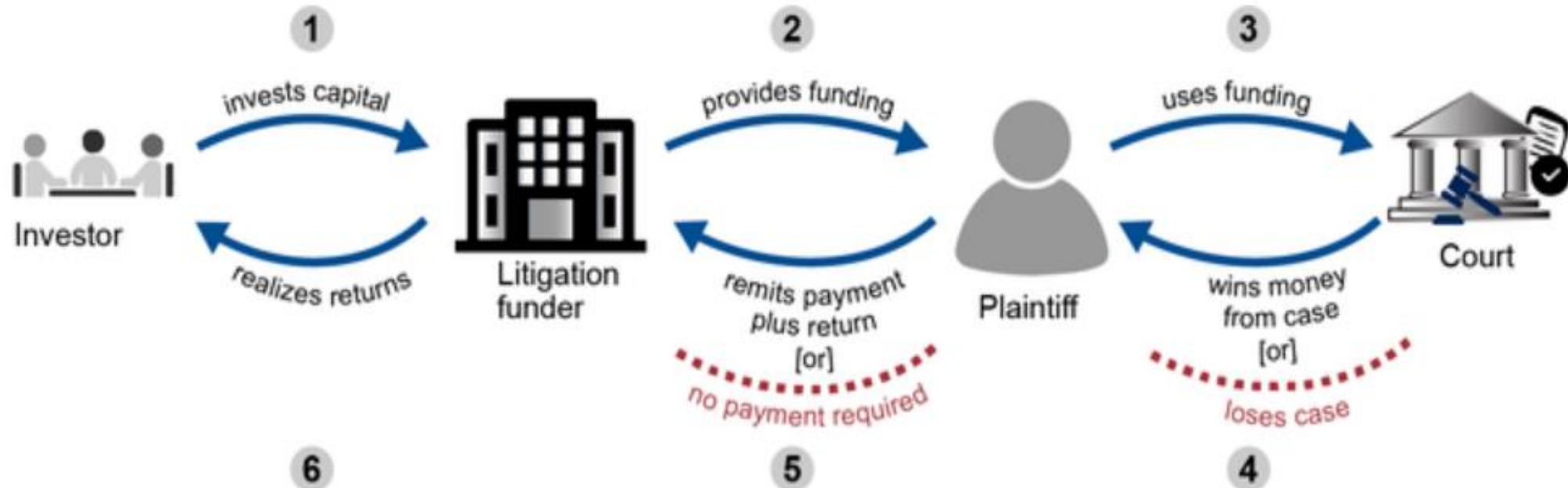
Increase in Severity



Source: Woodruff Sawyer

Litigation Funding

Example of Third-Party Litigation Financing for Plaintiffs



Source: GAO. | GAO-23-105210



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Market Segment Outlook: US D&O Insurance

AM Best is maintaining a Negative outlook owing to the following:

- Rising settlement and defense costs
- Growing exposures due to new, expanding technologies
- Rise in security class action lawsuits
- Economic volatility and potential for Geopolitical instability creating challenges for execution of strategic plans
- Continued price declines could result in inadequate premium to counter adverse loss trends due to social inflation, third-party litigation and other factors

Key offsetting factors include:

- Improved underwriting performance
- Conservative strategies, limits, along with an accommodating reinsurance market

Appendix

Examples of D&O Claims

- Breach of Contract
 - Vendor accused ministry of failing to pay or return its food that was delivered after the ministry was shut down
 - Music festival investor sued the company that ran a music festival, alleging breach of contract that the investor would be the exclusive vendor
- Breach of Fiduciary Duty
 - Hospital was sued for breach of fiduciary duty by patients who claimed they were victims of identity theft because their records were stolen from the hospital
- Fraud and Misrepresentation
 - A recruiter was sued by a medical group – a doctor hired through the recruiter did not conform to regulations

Source: Quadrant Insurance Managers

Examples of D&O Claims

- Unfair or Deceptive Trade Practices
 - Key executives who moved to a competing company took trade secrets and valuable employees
- Regulatory Actions and Fraud
 - US govt sued a medical device company owner for violations of the False Claims Act as the owners submitted false claims about the business, personnel, and systems
 - SEC accused a company of cheating employees: Employees were allowed to acquire company's stock; the valuation by the company during sale was much higher than the valuation given to employees' repurchasing of shares

Examples of D&O Claims

- Shareholders
 - Shareholders sued a medical device maker over the purchase of a health care products company, stating that the reverse merger structure would result in substantial tax liabilities for current investors
 - The CA Attorney General sued a college alleging that it had misrepresented metrics about its programs to students and investors. The shareholder derivative action sought damages from D&O for violating their duties to shareholders for personal gain

Q&A

Thank you!

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