THE WESTFLEET INSIDER

2024 Litigation Finance Market Report

WESTFLEET ADVISORS

OVERVIEW

In its sixth iteration of *The Westfleet Insider,* the most authoritative report on the state of the U.S. commercial litigation finance industry, Westfleet observed a further contraction in deal volume that continued from 2023. Capital commitments to new deals fell by 16% in 2024, resulting in a market that is nearly 30% smaller than levels reached in 2022.

In 2024, the commercial litigation finance industry experienced a continuation of trends first observed in 2023 which were driven predominantly by a tighter supply of capital from investors to funders, and in turn, from funders to parties seeking funding. For a variety of reasons, funders continued to ration their limited capital, resulting in an environment in which litigation financing was much more difficult to secure compared with prior years.

What exactly is driving these tight capital conditions? The data we analyzed provides some clues, although much of our assessment is based on a combination of data analysis and anecdotal evidence we accumulate through our primary interface with market players—advising law firms and their clients who seek litigation finance, running competitive fundraising processes across a wide variety of commercial litigation types and deal structures. The fundamental driver appears to relate as much to the challenging environment for raising private capital generally as to any specific issues with litigation finance as an asset class or with specific fund managers.

In response to these difficult conditions, some funders are unable to raise fresh capital for the foreseeable future and have entered a harvest mode. Other funders that are later in their deployment phase have adopted much narrower selection criteria with their remaining dry powder. Yet, some of the funders that are new and relatively early in their deployments are extraordinarily concerned with avoiding early risks, which further constrains their willingness to transact in certain types of deals. Of course, none of these characteristics apply to every funder's approach at each point in its life cycle, however, these tendencies are examples of factors that are driving tight market conditions—tighter than we have observed in at least the last five years.

While admittedly speculative, the sentiment among industry participants is that the tight capital conditions of the last two years will loosen soon as flows of capital increase, particularly as some of the incumbent players with established pipelines and promising track records enter the capital markets to raise additional funds.

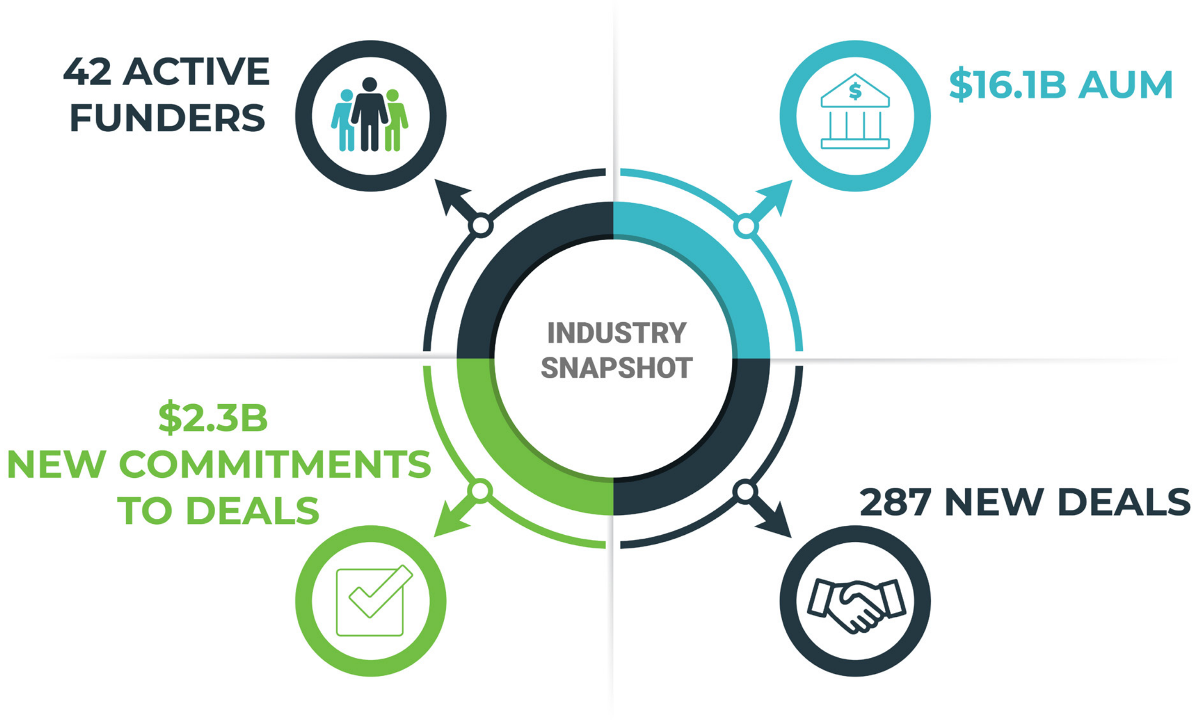
We feel an obligation to set the record straight about the methodology and results of our research, having noticed some instances of our reporting from prior years being mischaracterized in the media and in legislative debates. The most accurate way to describe the size of this industry (or any market for financing) is in terms of annual deal volume, not assets under management (AUM). AUM, while certainly relevant, reflects both the inventory of deals funded in prior years as well as dry powder for deals that may get funded in future years. Annual deal volume is the more accurate reflection of the rate of financing activity.

Also, as noted in our methodology section below, *The Westfleet Insider* is only concerned with U.S. commercial litigation financing, not mass tort law firm financing or consumer litigation financing. Thus, the data reported herein relates to business-to-business litigation with a nexus to the U.S. and nothing else. Policymakers in particular should note this distinction.

For the first time in our research, in 2024 we collected data on contingent risk insurance and its role in the commercial litigation finance industry. As noted below, approximately 19% of new commitments by funders in 2024 were fully or partially covered by insurance. This is only a partial reflection of the significance of insurance in litigation finance, i.e., it does not include insurance activities that do not directly involve commercial litigation funders. We hope that the major insurance brokers will participate in next year's report so that the public may have greater transparency into that adjacent market.

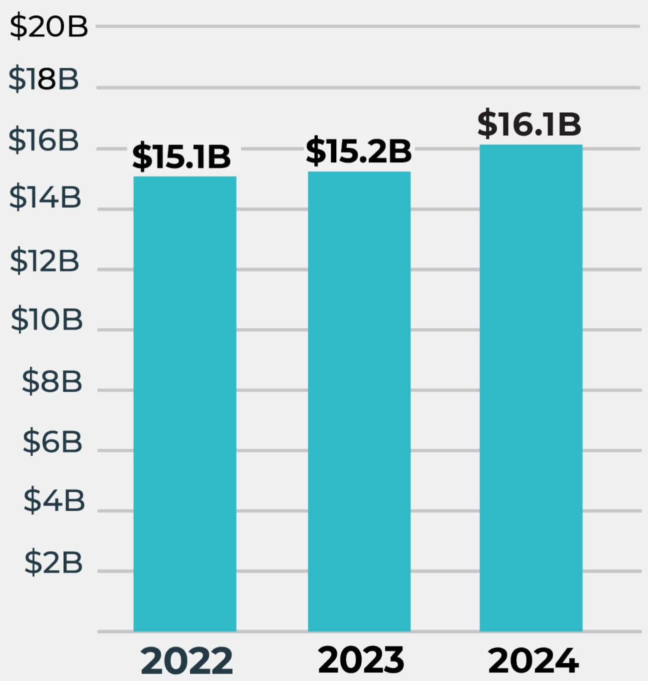
We are grateful for our relationships within the litigation finance industry, without which the data collection upon which this report relies would not be possible. It is with great pride that we present ***The Westfleet Insider: 2024 Litigation Finance Report.***

INDUSTRY SIZE & RECENT TRENDS

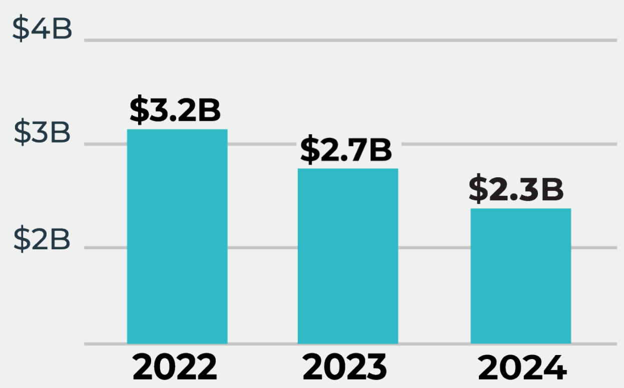


Growth of Industry

Assets Under Management



New Commitments to Deals



TYPES OF **COMMERCIAL LITIGATION FUNDERS**

Litigation funders in the U.S. can be divided into three types: *dedicated*, *multi-strategy*, and *ad hoc*.

DEDICATED FUNDERS

Dedicated funders, as their name suggests, specialize in litigation finance. These funders account for most of the capital available, and most of the deals completed, in the litigation finance industry. Some dedicated funders enjoy full autonomy to invest in deals that fit their mandate. Others manage their investors' capital but with limited autonomy. For instance, investors may reserve veto authority over financing deals. Several entities that hold themselves out as dedicated litigation funders do not manage a dedicated pool of capital at all, but instead, approach investors on a deal-by-deal basis to raise capital on the fly.

Two of the funders in this category with significant US activities are publicly traded entities, while the other funders in this category are privately held.

MULTI-STRATEGY FUNDERS

Multi-strategy funders are entities—usually hedge funds—that invest in various markets and asset classes and have established a dedicated litigation finance area (or "desk"). This specific litigation finance area typically operates much like a dedicated funder, but these multi-strategy funders often have greater sensitivity to business conflicts and capital markets compliance issues due to the broader activities.

AD HOC FUNDERS

Ad hoc funders are entities like hedge funds or family offices that only occasionally participate in the litigation finance space and do not have dedicated litigation finance desks. Ad hoc funders have an appetite for litigation finance deals, but most do not publicize their participation in the market. No reliable way exists to measure the investment activity within this category of funders.

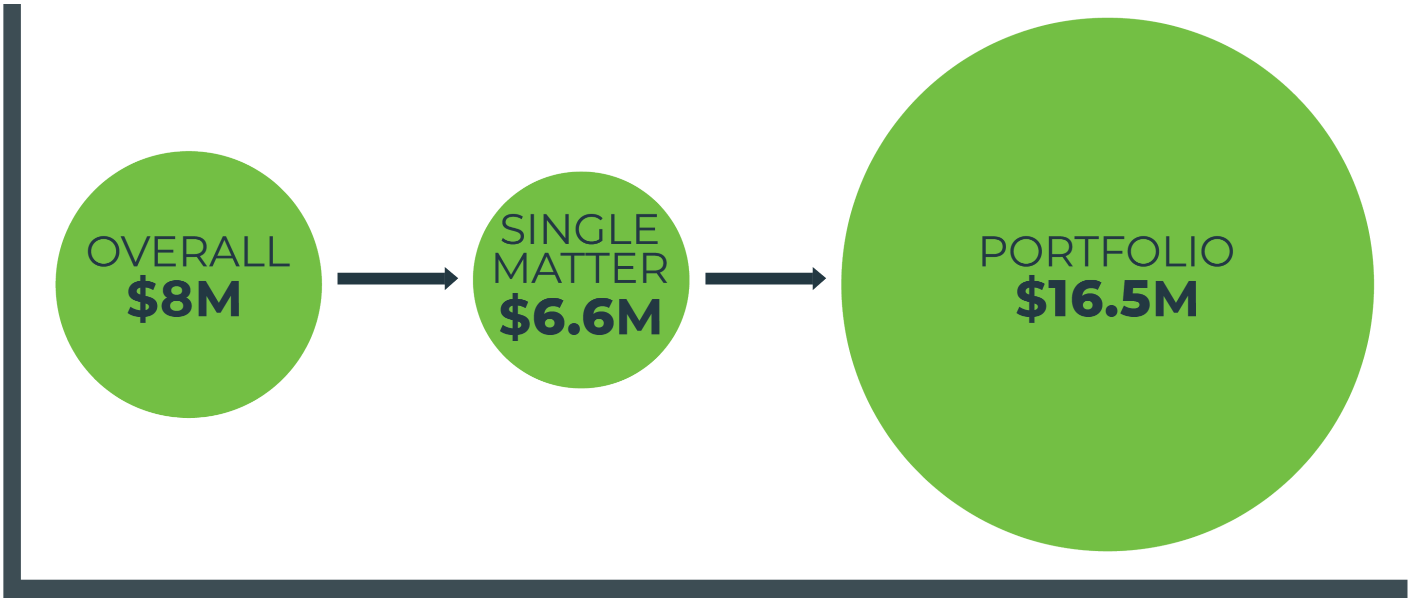
BREAKDOWN OF **NEW CAPITAL COMMITTED**

The following sections provide an overview of some of the key metrics we collect from funders that reflect in greater detail how the capital committed to new deals in 2024 was allocated. Generally, we observed consistency in statistics such as average deal size, breakdown by type of user and by type of deal structure. Notably, allocations to monetization deals increased substantially, and we have observed a steady trend in this regard for the last four years. Big Law utilization was up in 2024 as a percentage of total new commitments, although Big Law commitments were down in absolute terms. Allocations to patent litigation were up substantially on a relative basis, driven almost entirely by patent portfolios as opposed to single-matter deals.

Average Deal Size

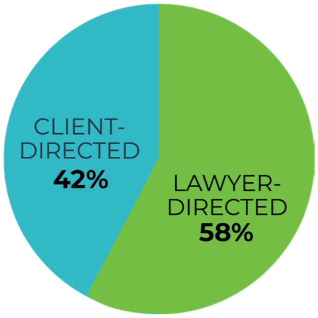
In 2024, the average size of the transactions of all types that we analyzed was $8 million ($7.8 million in 2023). Single-matter deals averaged $6.6 million ($4.8 million in 2023), while portfolio deals averaged $16.5 million ($9.9 million in 2023). Although these figures vary somewhat year to year, our observations reflect a fairly stable pattern. The longer term trend continues to be toward larger average transaction size across all types of deals, however.

2024 Average Deal Size



Type Of User

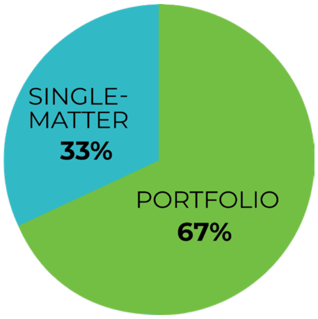
The allocation of capital between client-directed and lawyer-directed deals was consistent with prior years. In 2024, lawyer-directed deals made up approximately 58% of capital commitments versus 64% in 2023.



2024 Commitments By Type Of User

Type Of Deal Structure

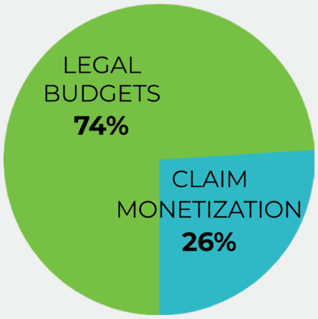
The allocation of capital between single-matter and portfolio deals remained consistent in 2024 compared with prior years, with portfolios comprising 67% of new capital commitments. The ratio of portfolio deals to single-matter deals has remained approximately 2:1 consistently from 2019 through 2024.



2024 Commitments by Type of Deal

Use Of Proceeds

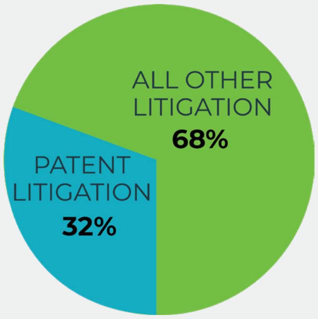
The allocation of capital toward claim monetization has consistently increased during the last four years. In 2024, claim monetization comprised 26% of new capital commitments (versus 21% in 2023, 14% in 2022, and 8% in 2021). Corporate client monetization deals appear to be a major driver of this trend.



2024 Commitments By Use of Proceeds

Patent Litigation

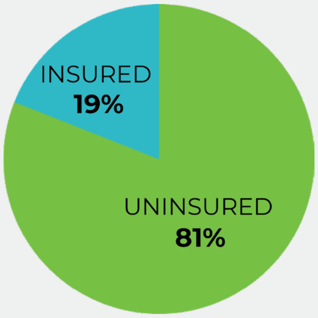
Patent litigation attracted a percentage of new commitments in 2024 that was slightly higher than the previous year, comprising 32% of all capital commitments. This type of litigation continues to be the largest category of funded matters.



2024 Commitments For Patent Litigation

Insured Deals

In 2024, for the first time ever, we gathered data on the percentage of commitments that were either fully or partially insured by a contingent risk insurance policy. Last year, approximately 19% of capital commitments were protected by insurance.

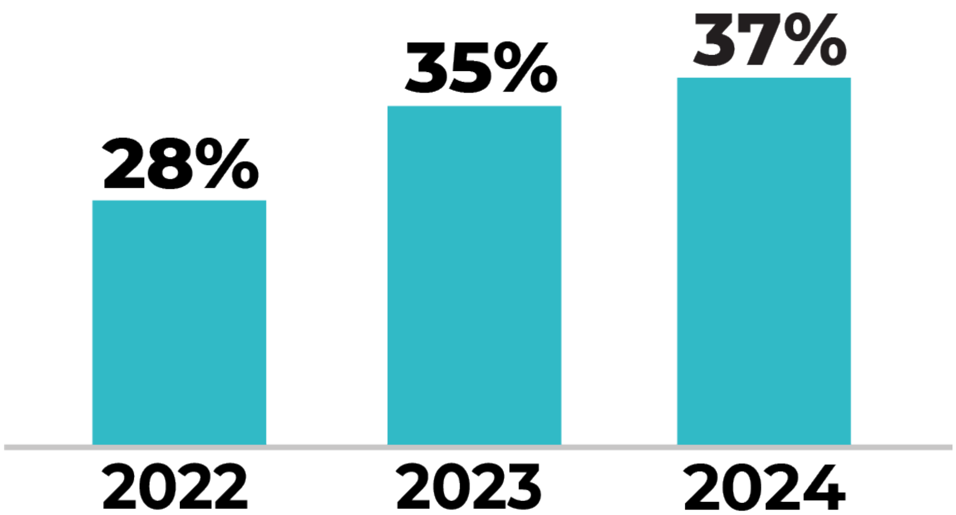


2024 Commitments Insured Deals

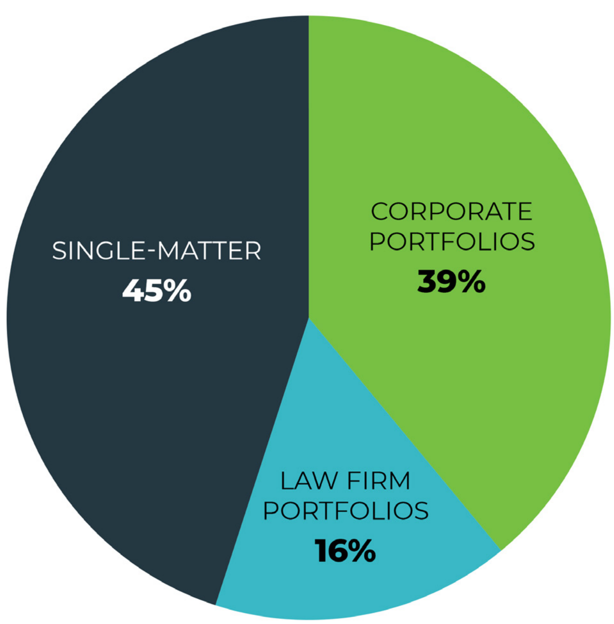
Big Law

Utilization among the largest 200 US law firms (Big Law) in 2024 increased in relative terms but decreased in absolute terms. As a percentage of total new commitments, Big Law represented 37% in 2024. With the total commitments decreasing in 2024, new commitments of approximately $850 million last year were allocated to Big Law compared to approximately $960 million in 2023.

Percentage of Total Commitments Allocated to Big Law



Allocation of Commitments to Big Law



WESTFLEET'S METHODOLOGY

This report would not have been possible without the participation of most of the major litigation funders, which provided thoughtful responses to our requests for information, and, through a third party, submitted confidential information from which we aggregated a complete picture of the industry's size and scope. By design, that third party shared no attributable data with anyone, even with Westfleet, which only received the aggregated information found in this report.

Further, much of the data relating to transactional volume and AUM is available online for the publicly traded entities, as these firms are required to adhere to a certain level of transparency in their operations. The more granular data included in our report was only gathered from those funders that directly participated in our survey. Nonetheless, based on the scope and composition of these participants, we believe these more granular data points accurately reflect the broader industry's activities.

The methodology used in this guide was as follows:

- Funder data was included in this report if the organization had substantial participation in the U.S. commercial litigation finance market as of the report's publication.
- The transaction data we collected relates to the 12 months from July 1, 2023 to June 30, 2024.
- As used in this report, "litigation finance" refers only to commercial litigation finance, which we define as transactions between commercial entities in which the financier's repayment is contingent upon the outcome of one or more legal matters. Other forms of finance — including consumer litigation finance, law firm finance (including mass tort and personal injury firms), receivables factoring, and other legal finance in which repayment is not contingent on the outcome of legal matters—are excluded from consideration in this report.
- Only commercial litigation finance activities with a nexus to the U.S. (i.e., transactions that involve a U.S. law firm as lead counsel, a U.S. counterparty, and/or U.S. litigation or arbitration or related proceedings) are included in this report.
- Law firm portfolio transactions are included even where the underlying cases may contain cases that are not commercial (e.g., cases involving bodily injuries) if the nature of the law firm's repayment obligations are contingent upon recoveries in the underlying cases.
- Some funders manage capital that is not exclusively dedicated to U.S. commercial litigation finance. For these funders, we have adjusted to exclude any capital not dedicated or allocated to U.S. commercial litigation finance from our estimate of industry-wide AUM.

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