



Directors and Officers Insurance

A concise guide on insuring managerial decisions

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matter of trust.

What is Directors and Officers Insurance?

Directors and Officers Insurance (D&O) is a liability product aimed at protecting senior staff in an organisation from their personal liability as a result of being named in a complaint against the company by an investor, a customer or another party who feels they have a grievance against the named party for something they have done and are directly linked to.

How does it work?

The policy is split into three main areas which are as follows.

Side A Individual Directors and Officers Coverage

This is the direct protection for the director or officer, they will have all of their legal bills paid for and will have the final settlement paid for as well (as long as their action wasn't against the law). This will have no deductible (franchise) and will be paid on a as required basis rather than as a lump sum at the end of the trial. This enables the individual to defend themselves without having to use their own assets such as house, car savings etc.

Side B Company Reimbursement Coverage

This cover provided for the company in the event that they pay for the defence of the individuals in any ensuing court case. The cover is the same as for Side A, but in this case the company can appoint lawyers, consultants etc. and at the end ask for the full bill to be paid by the insurers. This will have a deductible (franchise) as it allows the company to choose their own methods of defence for the individuals so the insurers wish to make the company think about any defence they do make being viable and perhaps settling where there is not a strong case for defence.

Side C Securities Entity Coverage

This covers the company in the event of a problem with their listing on a stock market. This could be due to poor performance making the value of the company drop, an issue with the information at the time of listing, misstatement of the annual report and accounts. In this case it will be the company who are sued, but it is very much tightly bound to the listing on a stock exchange (or debt issue) and the consequences for the holders of these shares (or debt) not the general public.



Note – Side A and B only protect individuals and they must be named in any lawsuit. It is not a protection for the company itself. If the company wants to be protected from mistakes or other such by the company and its staff where the company itself is sued, this is best addressed by Professional Indemnity.



What else can be covered?

D&O is a very wide product and as long as the abiding principle of it being for the individual directors or officers, then most things can be covered as long as they relate to the professional life of the individual at the named company.

Coverage for Fines and Penalties can be included where they are coverable by the law in your country of course (some countries will not allow this as they see the fines and penalties as personal punishments which insurance would negate some or all of the pain from).

Coverage for Individuals when they retire, Non-Executive Directors, Extradition costs, Employment Practices Claims, and many more can be added to the cover. It is a case of asking within the above parameters and most things are insurable as long as they are legal.

Generally what is excluded?

Anything that would be considered criminal is excluded on a settlement basis. It should be noted that the policy will still defend the individual on a presumption of innocence basis, but should they be found guilty there will be no cover for any fines, damages etc. they are liable for.

Deliberate acts of the company will not be covered in general where the company has set out to defraud or deliberately misinform their customers or investors, pollution and know previous issues are all generally excluded from the policy as well.

What is meant by Director or Officer?

Classic policies define this as a member of the main board or supervisory board of the company. However, in the intervening years the definition has become so broad that it generally means anyone with a managerial responsibility within the company, so theoretically this could mean the head of the cleaning team as much as the CEO.



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