2021 D&O Insurance

Market Outlook

Following a turbulent year in 2020, insurance experts anticipate that the directors and officers (D&O) liability market will remain hard in 2021. Last year, D&O rates increased drastically and line sizes were substantially reduced. This trend is expected to continue. With this in mind, we predict that many businesses will experience significant rate increases, fewer markets, lower available limits, more robust underwriting and higher retentions. Insureds may also encounter various cover reductions—including extended reporting period terms, the elimination of shareholder derivative demand investigative costs cover and additional policy restrictions related to Side A insurance.

Trends to Watch

- **COVID-19 concerns—**The pandemic forced many organisations to make operational changes. Such changes can carry a variety of new or enhanced D&O exposures due to the risk of stakeholders or shareholders alleging that senior leaders mismanaged the organisation. A lack of changes can also cause D&O concerns, as stakeholders could allege that senior leaders failed to respond appropriately to COVID-19.

- **Insolvency issues—**Claims related to insolvency have historically been one of the largest sources of D&O losses. What's more, the COVID-19 pandemic and subsequent global recession have further exacerbated these claims. Insolvency-related D&O claims can result from stakeholders alleging that senior leaders failed to plan for financial disruption, putting them at fault for economic hardships. With many organisations struggling to make ends meet, insolvency rates have risen and—in turn—resulting D&O claims may become more frequent as well.

- **Cyber-security struggles—**Cyber-attacks continue to increase in both cost and frequency, which can result in more D&O claims. Specifically, stakeholders affected by a cyber-attack may allege that senior leaders failed to implement proper cyber-security measures or establish a plan for responding to an attack.

- **Environmental, social and governance (ESG)—**Multiple ESG activism topics have made an impact on the D&O market in recent years. Climate change has motivated organisational shareholders to hold senior leaders accountable for ensuring eco-friendly operations. In addition, the Black Lives Matter and #MeToo movements have caused stakeholders to call out senior leaders on a variety of potential allegations—namely, sexual harassment (as well as negligence related to such harassment) and failures to promote diversity, equality and inclusion.

- **Derivative claims—**These claims—which have become more common in the D&O market—entail one or more shareholders filing legal action on behalf of an organisation against a specific individual (or several individuals) on the senior leadership team. Derivative claims often arise from allegations that senior leaders failed to act accordingly in the midst of major disasters.

Tips for Insurance Buyers

- Examine your D&O programme structure and limits alongside your insurance professionals to ensure they are appropriate and take market conditions and trends into account.

- Consult insurance professionals to gain a better understanding of your D&O exposures and cost factors in the market.

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