2021 D&O Insurance

Market Outlook

In the midst of a new decade, insurance experts anticipate that the directors and officers (D&O) liability market will be the hardest it's ever been. 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 in 2021. Insureds may also encounter various coverage reductions—including extended reporting period terms, the elimination of shareholder derivative demand investigative costs coverage and additional policy restrictions related to Side A insurance. Public entities that belong to high-risk industries may experience more severe rate increases and coverage reductions.

2021 Price Prediction

Private/nonprofit entities:
+10% to +50%

Public entities:
+20% to +70% or more

Trends to Watch

- **COVID-19 concerns**—The pandemic forced many organizations to make operational changes. Such changes can carry various D&O exposures due to the risk of stakeholders or shareholders alleging that senior leaders mismanaged the organization. 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**—The global recession has led to many employers experiencing insolvency issues, which is a key contributor to D&O claims. Such claims can result from stakeholders alleging that senior leaders failed to plan for financial disruption, putting them at fault for economic hardships.
- **Cybersecurity struggles**—Cyberattacks continue to increase in both cost and frequency, which can result in D&O claims. Specifically, stakeholders affected by a cyberattack may allege that senior leaders failed to address cybersecurity threats 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. First, the issue of climate change has motivated organizational shareholders to hold senior leaders accountable for ensuring eco-friendly operations. Second, the Black Lives Matter movement has caused organizational stakeholders to call out senior leaders on their alleged failures to promote equality and inclusion in the workplace. Third, the #MeToo movement has led to a rise in D&O litigation, as stakeholders have alleged that organizations' senior leaders engaged in sexual harassment or were negligent in responding to such allegations.
- **Derivative claims**—These claims—which have become increasingly common in the D&O market—entail one or more shareholders filing a lawsuit on behalf of an organization against a specific individual (or several individuals) on the senior leadership team. Derivative claims often arise from shareholders alleging that senior leaders failed to act accordingly in the midst of major disasters.

Tips for Insurance Buyers

- Examine your D&O program 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 drivers in the market.