



**Accurate Risk Managers
& Insurance Brokers**

Directors & Officers Insurance Policy



Agenda

- Duties of Directors
- Management of D&O Liability Risk
- Risk Transfer by Directors
- Director & Officer Liability Insurance
- D&O – A “Claims – Made Policy”



Duties of Director

Directors can be held liable both jointly and severally, for any act, commission or omission which is prejudicial to the interest of the company and violates any of the duties to be discharged by them

Stakeholders include :

- Shareholders
- Employees
- Regulatory Authorities
- Customers
- Creditors



Management of D&O Liability Risk

- Risk Identification by the company and directors – probability and severity based on Industry, Company, History, Listing Status, Regulatory Aspects, etc.
- Risk Control through corporate governance, internal audit, controls and review
- Risk Transfer to third party/parties through

Corporate Indemnification

Insurance



Risk Transfer by Directors

Corporate Indemnification

- Interests of the company and directors are closely aligned.
- Erstwhile Companies Act 1956, S.201 – company can indemnify its director for any liability incurred by him in defending civil or criminal proceedings, ***only if he is acquitted or discharged.***
- Companies Act 2013 – no provision corresponding to S.201. The premium paid on an insurance policy shall be treated as part of the remuneration of the officers only if such officer is found guilty.



Risk Transfer by Directors

Insurance Protection

- Secure a second line defense to protect D&Os against personal liability.
- Covers Directors & Officers for loss that they incur as a result of claims made against them personally by third parties for wrongful acts that they have committed or are alleged to have committed while managing the company.
- Includes legal costs they incur in defending the claims.
- The policy also reimburses the company for Corporate Indemnification



Directors & Officers Liability Insurance

Scope of Cover

This policy pays for the loss of the Directors & Officers of a company that arises out of their wrongful act or omission committed in their capacity as director or officer of the company

Wrongful Act Includes:

- Misstatement
- Misrepresentation
- Breach of trust or duty
- Breach of warranty/authority



Directors & Officers Liability Insurance

Scope of Cover

Loss include:

- Damages, judgements and settlements.
- Defense costs and expenses.
- Cost of legal expertise.



Directors & Officers Liability Insurance

Coverage Extensions

- Blanket Subsidiary Cover
- Employment Practices Liability
- Intellectual Property
- Libel and Slander
- Official Investigations and Enquiries



Directors & Officers Liability Insurance

- Previous Securities Offerings
- Retired Director & Officer cover
- Severability and Non-Imputation
- Pollution Defense Costs
- External Positions/Outside Directorship Liability
- Entity Protection for Employment related matters
- Entity Protection for Securities Claims



Directors & Officers Liability Insurance

Main Exclusions

- Prior and Pending Litigation
- Bodily Injury Claims
- Professional Services related claims
- Loss arising out of Property Damage
- Claims arising out of Security Offerings



Directors & Officers Liability Insurance

Main Exclusions

- Action brought by Major Shareholders
- Claims caused by unscrupulous behavior of any Insured Person



D&O – A “Claims-Made Policy”

- D&O liability insurance policy are written on a “Claims-Made and Notified” Basis.
- The Policy will only respond to claims made against the insured and notified to the insurer during the policy period.
- If the insured becomes aware of circumstances that may give rise to a claim, the insured shall notify the insurer of those circumstances and subsequent claims arising out of those same circumstances will be covered under the same policy.
- For a claim to be covered it must arise from acts of the insured on or after the retroactive date as mentioned in the policy schedule.



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Thank You