2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey

July 2018
Cybersecurity and claims by employees were identified as top D&O risk concerns while investor claims failed to rank in the top 5.

In contrast with identified “concerns,” coverage for investigations (both of individuals and organizations) and claims by shareholders/investors will be an important part of insurance programs over the next three years.

Adopting more favorable policy language, and thus achieving broader coverage, is the most common change made to respondents’ D&O insurance programs.

Organizations will continue to place a high priority on the quality of carriers in their D&O insurance program, but price still matters.
About the survey
77 respondents including directors and officers, risk management professionals, treasurers, and legal and compliance professionals

- **Industry**
  - Energy and Utilities: 27%
  - General Services: 12%
  - IT & Telecom: 8%
  - Public Sector & Education: 4%
  - Wholesale & Retail: 3%
  - Financial Services: 26%
  - Health Care: 13%
  - Manufacturing: 13%

- **Company size (Total employees)**
  - Less than 25: 34%
  - 25 to under 100: 32%
  - 100 to under 500: 13%
  - 500 to under 1000: 8%
  - 1000 to under 10K: 8%
  - 10K to under 50K: 8%
  - 50K or greater: 13%
Risk perceptions

What are the leading risk concerns for D&Os and their organizations in 2018?
Cyber risks are companies’ top concern in the coming year…
Though over half also worry about claims by employees

<table>
<thead>
<tr>
<th>Rank</th>
<th>Risk</th>
<th>Concerned (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cyber incident/cyber claims</td>
<td>80%</td>
</tr>
<tr>
<td>2</td>
<td>Claims by employees</td>
<td>55%</td>
</tr>
<tr>
<td>3</td>
<td>Regulatory &amp; enforcement risk</td>
<td>48%</td>
</tr>
<tr>
<td>7</td>
<td>Claims by investors</td>
<td>30%</td>
</tr>
</tbody>
</table>

Surprisingly, nearly 70% of respondents were “not concerned” or “slightly concerned” about claims by investors.

**Note:** Percentages indicate ‘to a moderate extent’ or ‘to a great extent’ or ‘to a very great extent’.
**Source:** 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Balance sheet protection is the main reason to purchase ABC D&O insurance

What are the main reasons your company buys traditional “ABC” D&O insurance or Side-A (Non-indemnified loss) insurance?

### Traditional “ABC” D&O insurance vs Side A (Non-indemnified loss) insurance

<table>
<thead>
<tr>
<th>Reason</th>
<th>ABC</th>
<th>Side-A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board mandates purchase</td>
<td>59%</td>
<td>71%</td>
</tr>
<tr>
<td>Management mandates purchase</td>
<td>47%</td>
<td>42%</td>
</tr>
<tr>
<td>Investor(s) mandates purchase</td>
<td>9%</td>
<td>3%</td>
</tr>
<tr>
<td>Protect the company’s balance sheet</td>
<td>77%</td>
<td>0%</td>
</tr>
<tr>
<td>Protect individuals</td>
<td>72%</td>
<td>72%</td>
</tr>
<tr>
<td>Other</td>
<td>4%</td>
<td>0%</td>
</tr>
</tbody>
</table>

“ABC” D&O insurance commonly refers to D&O insurance products that cover certain: (A) non-indemnified loss of directors, officers and other insured persons, (B) loss of an entity from indemnifying its directors, officers and other insured persons, and (C) loss from an entity’s own liability (for public companies, this coverage is typically limited to Securities Claims). In contrast, Separate “Side-A” (a/k/a “Side-A only,” “dedicated Side-A” “Side-A excess” or “Side-A D-I-C”) insurance commonly refers to specialized D&O coverage only for non-indemnified loss of directors, officers and other insured persons.

**Note:** Responses ‘Don’t buy D&O insurance’ and ‘Don’t buy Side-A insurance’ are not reflected.

**Source:** 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Purchasing decisions

What types of D&O insurance do companies buy?
D&O purchases differ noticeably between public and private companies

What type of D&O coverage do you buy?

For-profit, publicly traded

Both ABC D&O and separate Side A coverage 83%

For-profit, private, not-for-profit

D&O insurance blended with other coverage(s) 68%

Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Cost of coverage

Are companies seeing changes in the cost of D&O coverage? What are the drivers?
Cost is mainly driven by financial performance and industry risk profile.

What were the primary drivers of your program cost changes over the last year?

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall financial performance/outlook</td>
<td>39%</td>
</tr>
<tr>
<td>Overall industry risk profile/outlook</td>
<td>37%</td>
</tr>
<tr>
<td>Market competition</td>
<td>29%</td>
</tr>
<tr>
<td>Company specific adverse news, new claims or adverse loss developments</td>
<td>14%</td>
</tr>
<tr>
<td>Transaction - Mergers, acquisitions and/or divestitures</td>
<td>9%</td>
</tr>
<tr>
<td>Bankruptcy or restructuring</td>
<td>0%</td>
</tr>
</tbody>
</table>

*Suggests market competition is less a factor in pricing than it has been the last couple of years*

Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
D&O program changes and priorities

What will companies focus on in the next one to three years?
Nearly 60% of companies rank more favorable policy language as important.

What are the most important changes your organization made to your D&O program for this year?

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Change Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>58%</td>
<td>Obtained more favorable policy language</td>
</tr>
<tr>
<td>24%</td>
<td>Increased dedicated Side-A limits</td>
</tr>
<tr>
<td>24%</td>
<td>Increased policy sublimit(s) (e.g., derivative investigation costs)</td>
</tr>
<tr>
<td>20%</td>
<td>Added additional coverage(s) to D&amp;O policy (e.g., activist shareholders, books &amp; records demands)</td>
</tr>
<tr>
<td>11%</td>
<td>Increased self-insured retention</td>
</tr>
</tbody>
</table>

Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Premium/purchase costs and carrier claims paying reputation are the main priorities over the next three years.

How important will the following priorities be to your organization’s insurance program over the next 3 years?

<table>
<thead>
<tr>
<th>Top 6 priorities identified</th>
<th>99%</th>
<th>97%</th>
<th>96%</th>
<th>95%</th>
<th>94%</th>
<th>92%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premium/purchase costs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carrier claim-paying reputation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coverage breadth</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Even if it costs more)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carrier consistency/relationships</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contract (contract certainty, contract readability)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carrier financial ratings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: Percentages indicate ‘Moderately important’ or ‘Important’ or ‘Very Important’.
Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Investigation coverage and claims by shareholders/investors will be top coverages over the next three years.

How important will the following coverages be to your insurance program over the next three years?

<table>
<thead>
<tr>
<th>Primary coverages</th>
<th>Secondary coverages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigation coverage for the entity</td>
<td>Insurable punitive damages</td>
</tr>
<tr>
<td>77%</td>
<td>63%</td>
</tr>
<tr>
<td>Claims by shareholders or investors</td>
<td>Book and records coverage</td>
</tr>
<tr>
<td>(securities class actions, derivative claims, M&amp;A)</td>
<td>63%</td>
</tr>
<tr>
<td>72%</td>
<td>Coverage for foreign exposures</td>
</tr>
<tr>
<td>Investigation coverage for individuals</td>
<td>55%</td>
</tr>
<tr>
<td>74%</td>
<td>Shareholder activist demand coverage</td>
</tr>
<tr>
<td></td>
<td>55%</td>
</tr>
</tbody>
</table>

Surprisingly, 77% consider entity investigation coverage important. Although, current purchasing habits do not appear to be aligned with that concern. Is this a sign companies will buy more in the coming year?

Note: Percentages indicate ‘Moderately important’ or ‘Important’ or ‘Very Important’.
Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Claims experience

What are companies’ experiences with D&O insurance claims?
Employee claims topped the respondents’ experience and the extent of unreported incidents is concerning

In the past year, did your organization experience any of the following, and did you submit a claim?

- Lawsuit or demand by a current or former employee: 34% submitted, 21% did not submit.
- Lawsuit or demand by a customer: 20% submitted, 24% did not submit.
- Cyber incident/breach: 7% submitted, 24% did not submit.
- Regulatory/government investigation or proceeding: 7% submitted, 15% did not submit.
- An internal investigation: 1% submitted, 16% did not submit.

92% of respondents who experienced an internal investigation did not submit a claim.

Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Two-fifths of companies are very likely to recommend their carrier’s claims service...

A correlation exists between a negative claim experience and respondents considering whether they should stay with their carrier.

How likely would you be to recommend your primary D&O carrier’s claims service to a colleague? (10 = most likely, 0 = least likely)

- Unlikely (0-6)
- Somewhat likely (7-8)
- Very likely (9-10)

For those who had a negative claims experience, how likely would it be for your organization to change its primary insurance carrier?

- Not at all
- Somewhat likely
- Very likely

Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Appendix
### Profile of respondents’ purchased limits

**D&O coverage**

<table>
<thead>
<tr>
<th>Total program (ABC D&amp;O + Side A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
</tr>
<tr>
<td>&lt;$5M</td>
</tr>
</tbody>
</table>

**Related coverage**

<table>
<thead>
<tr>
<th>Fiduciary Liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
</tr>
<tr>
<td>&lt;$5M</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employment Practices Liability (EPL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
</tr>
<tr>
<td>&lt;$5M</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Professional Liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
</tr>
<tr>
<td>&lt;$5M</td>
</tr>
</tbody>
</table>

Sample: Companies that purchased D&O insurance.
Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey
Profile of respondents’ range of deductible/retention

<table>
<thead>
<tr>
<th>D&amp;O: Securities claims</th>
<th>Fiduciary</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Less than $100K</td>
<td>Less than $100K</td>
</tr>
<tr>
<td>$100K to under $250K</td>
<td>$100K to under $250K</td>
</tr>
<tr>
<td>$250K to under $500K</td>
<td>$250K to under $500K</td>
</tr>
<tr>
<td>$500K to under $1M</td>
<td>$500K to under $1M</td>
</tr>
<tr>
<td>$1M to under $2.5M</td>
<td>$1M to under $2.5M</td>
</tr>
<tr>
<td>$2.5M to under $5M</td>
<td>$2.5M to under $5M</td>
</tr>
<tr>
<td>$5M or greater</td>
<td>$5M or greater</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D&amp;O: All other loss</th>
<th>Professional</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Less than $100K</td>
<td>Less than $100K</td>
</tr>
<tr>
<td>$100K to under $250K</td>
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<td>$500K to under $1M</td>
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<tr>
<td>$1M to under $2.5M</td>
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<tr>
<td>$2.5M to under $5M</td>
<td>$2.5M to under $5M</td>
</tr>
<tr>
<td>$5M or greater</td>
<td>$5M or greater</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employment Practices</th>
<th>Crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Less than $100K</td>
<td>Less than $100K</td>
</tr>
<tr>
<td>$100K to under $250K</td>
<td>$100K to under $250K</td>
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<tr>
<td>$250K to under $500K</td>
<td>$250K to under $500K</td>
</tr>
<tr>
<td>$500K to under $1M</td>
<td>$500K to under $1M</td>
</tr>
<tr>
<td>$1M to under $2.5M</td>
<td>$1M to under $2.5M</td>
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<td>$2.5M to under $5M</td>
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<tr>
<td>$5M or greater</td>
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Sample: Companies that purchased D&O insurance. Source: 2018 Willis Towers Watson Management Liability (Directors and Officers) U.S. Survey