The Evolution of Excess/Side A DIC Insurance: Why Non-Profit and Private Companies Should Consider This Essential Coverage

With Directors and Officers (D&O) insurance, the emphasis on Side A coverage has significantly evolved over the past two decades. Originally gaining prominence among U.S. public companies, this specialized insurance product has now become a critical component of all D&O programs. And, as the importance of protecting personal assets of directors and officers has grown, non-profit organizations and private companies should also consider the substantial benefits of incorporating Side A DIC coverage into their insurance programs.

CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

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Understanding Side A risk

Side A risk refers to claims made against a company's directors or officers that are not indemnified by the company. This situation arises in three scenarios:

- Claims that the company is legally prohibited from indemnifying
- Claims that the company is permitted but not required to indemnify
- Claims that the company is financially unable to indemnify

This risk is not exclusive to public companies. For non-profit organizations and private companies, Side A risk can arise in various ways, from legal constraints to strategic or reputational considerations. Securing a robust Side A DIC coverage ensures directors and officers are not left vulnerable to personal liability.

Closing gaps in D&O programs

A critical component of a comprehensive D&O program is the inclusion of a Side A Match coverage feature. This endorsement is designed to align the Side A coverage in the primary D&O policy with the broader protection offered by the Excess/Side A DIC policy. By doing so, the entire D&O program is elevated to provide the maximum possible personal protection for directors and officers.

For non-profit organizations and private companies, this approach ensures that any potential gaps in coverage are effectively closed, offering peace of mind to those in leadership positions. Given the varied and sometimes unpredictable nature of legal claims, having a D&O program that is structured to provide the broadest possible coverage is not just advisable, it's essential as a last line of defense between a D&O and their own bank account.

Why “best in class” Excess/Side A DIC policies matter

To maximally protect against Side A risk, it is crucial to incorporate a “best in class” Excess/Side A DIC policy into a D&O insurance program. This type of coverage goes beyond what is typically offered in a standard primary D&O policy, providing broader protection with fewer exclusions and enhanced policy features. For example, while primary D&O policies often contain multiple exclusions (such as those for pending or prior claims, bodily injury and ERISA), a “best in class” Excess/Side A DIC policy typically limits exclusions to the conduct exclusion – barring coverage only for deliberate fraud or illegal profit.

Moreover, these policies offer unique advantages, such as broader definitions of covered claims, enhanced “other insurance” provisions and better protections in the event of late notice. This coverage is particularly valuable for non-profit organizations and private companies, where the risk of non-indemnifiable claims can be just as significant as in public companies.

Don’t wait to strengthen your D&O program with Side A DIC coverage

The relevance of Side A DIC coverage has been established in the public company sector, but its importance is increasingly recognized by non-profit and private companies. These entities face similar risks and legal exposures, and without the proper coverage, their directors and officers could be left vulnerable to significant personal financial losses.

Incorporating an Excess/Side A DIC policy into a D&O insurance program is not merely a defensive measure—it is a strategic move that can protect the personal assets of those at the helm of the organization. Additionally, by ensuring that the Side A Match coverage feature is correctly added to the D&O program, companies can be confident that they are providing the best possible protection to their leaders.

As the D&O insurance landscape continues to evolve, non-profit organizations and private companies should not overlook the critical importance of Side A coverage. By adopting a comprehensive approach that includes “best in class” Excess/Side A DIC policies and Side A Match coverage, these entities can safeguard their leadership and ensure that they are prepared for any eventuality. Most private companies and non-profit organization do not currently buy this coverage so the time to act is now, before an uncovered claim brings the harsh reality of insufficient coverage to light.

Partner with Amwins for “Best in Class” Coverage

Amwins specializes in tailoring “best in class” Excess/Side A DIC policies, along with Side A Match coverage, for retail brokers and their clients. Let us help you ensure your leadership is protected. Contact us today to place this essential coverage.

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