

The Risk of Getting It Wrong: D&O and E&O

From concept to construction, real estate projects face risks at every stage. Developers must navigate financial, regulatory and operational challenges, but many are also discovering that improperly structured Exec Risk and E&O insurance policies are leaving them exposed.

When claims are denied due to gaps in coverage, developers may be left with significant financial losses. Understanding how Exec Risk and E&O insurance policies work together and where coverage pitfalls exist is essential to securing comprehensive protection.



Real Estate Fund E&O/D&O insurance protects corporate leadership from personal financial losses arising from claims related to their decisions and management of the company. This can include allegations of mismanagement, breach of fiduciary duty or regulatory violations, while the E&O component to this policy better addresses professional negligence exposure from an investment asset manager standpoint.



Developer E&O insurance protects against claims of professional negligence and errors or omissions in services provided. For real estate developers, this can include design flaws, contract disputes or project management issues.

While D&O and E&O coverages serve different purposes, the complexity of real estate development means that claims often fall into gray areas, making it critical to have properly structured policies that work in tandem.

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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Avoiding coverage gaps

Many developers assume that simply having some form of D&O and E&O insurance provides them with complete protection. However, improperly structured policies can create significant gaps in coverage. Common issues include:

- **Conflicting exclusions** – D&O only policies specifically exclude claims related to professional services, while E&O only policies exclude claims tied to board/management-related decisions. This can create a scenario where neither policy responds.
- **Mismatched policy definitions** – If coverage does not align with a developer's organizational structure, claims may be denied.
- **Lack of coordination with project-specific insurance** – Developers often rely on multiple insurance products, including general and professional liability policies. Without careful coordination, insurers may dispute which policy applies, delaying or denying coverage.

Comprehensive coverage strategies

Real Estate Fund E&O/D&O and Developer E&O insurance plays a critical role in a real estate developer's risk management strategy.

To avoid common pitfalls, real estate developers should take this proactive approach to their insurance programs. Working with an experienced wholesale broker can help ensure that these insurance policies are tailored to the specific risks associated with real estate development activity.

- **Seamless integration between policies** – Avoid conflicting exclusions that can arise when developers purchase improper/inadequate Exec Risk and E&O insurance.
- **Regular policy review** – As projects evolve, so do exposures. Conducting periodic coverage reviews can help confirm that policies remain adequate and responsive to emerging risks.
- **Partnering with specialized insurers** – Carriers with expertise from an underwriting and claims standpoint in real estate and construction positions them to better understand the unique liability landscape and therefore provide more tailored solutions.

We help you win

Whether your clients operate in the private, public or nonprofit sector, the professional lines specialists at Amwins will work with you to help ensure that coverages are properly aligned, minimizing your clients' exposure and safeguarding their projects from financial and legal setbacks.

Amwins delivers comprehensive and tailored insurance solutions that help protect an organization's directors and officers against lawsuits alleging breach of fiduciary duty. We also have extensive practice-wide expertise in placing E&O coverage for architects/engineers, contractors, manufacturers, lawyers and technology firms, as well as investment advisors, funds and brokers/dealers.

No matter what segment your clients operate in, we've got your back.

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