

Directors & Officers and Entity Liability Insurance for Private Companies

Decisions made by the boards of private companies are not immune from public scrutiny. Securityholders, employees, customers, suppliers, competitors, and even the government can sue a privately-owned company and its board of directors. Additionally, as leaders of the company, the directors and officers *can be found personally liable* for their management decisions. The Directors & Officers and Entity Liability insurance (D&O) for private companies is one of a suite of seven insurance coverage parts under *The ForeFront Portfolio* policy and is designed to specifically meet the needs of today's private company, providing flexible coverage that helps protect both the organization and the personal assets of its directors and officers.

Why do you need Directors & Officers and Entity Liability insurance?

| Misconception | Reality |
|--|---|
| D&O insurance is unnecessary because our business is privately-owned. | Privately-owned companies face virtually the same exposures as publicly traded companies, but private company D&O policies can insure much more than securities litigation. |
| We don't need D&O insurance because our business is family owned. | Family driven lawsuits can be more contentious and expensive to defend given their personal nature and the fear for exposure to the public. |
| If my company is sued, the cost to defend the lawsuit will be minimal. | Legal expenses and average settlements have risen significantly over the past 10 years. D&O insurance shields balance sheets and personal assets from expensive litigation costs. |
| I have D&O coverage under other commercial or personal insurance policies. | There may be limited coverage on other insurance policies, but a dedicated D&O policy can provide a broader breadth of coverage tailored to meet your company's specific needs. |

Directors & Officers and Entity Liability for Private Companies Coverage Highlights

- Defense provision optionality built into the form, including Duty to Defend by Chubb
- Submit for Securityholder Inquiry Coverage for Derivative Demand Investigations, Books and Records Requests, and Appraisal Actions
- Defense Costs Coverage for Insured Person Interview requests
- Written Request to Toll or Waive a Statute of Limitation Coverage
- Early Engagement Expense Coverage: pre-matter expense, pre-tender expense, or early settlement opportunity costs
- Additional Limit Dedicated for Executives
- Additional Defense Costs Limits in addition to the aggregate limit are available
- Tailored definition of Insured Persons, including Executives, Employees, and Contractual Independent Contractors
- Expanded definition of Executive, including Advisory Board Members, In-House General Counsel, Board Observers, and De Facto Directors
- Integrated Global coverage and capabilities, with access to our Global network and affiliated broker partners for locally admitted policies, if permissible by law

Directors & Officers and Entity Liability Claims Scenarios

| Summary | Claim Details | Resolution |
|--|---|---|
| Tortious Interference | A competitor sued, seeking \$25 million in damages from ABC Contracting Co., alleging the company was hiring away competitor's employees and interfering with its business opportunities. | The case settled for \$500,000 inclusive of defense costs. |
| Misrepresentation | Several months after a purchase agreement was signed, the acquirer accused an energy company of manipulating its accounts receivable and accounts payable to obtain a higher sale price. The acquirer filed suit against the company and its board for fraud and negligent misrepresentation, alleging damages of \$5.5 million. The Insured countersued, seeking to enforce the sale agreement. | The case settled when both parties withdrew their claims and canceled the sale of the company. Legal fees incurred totaled \$200,000. |
| Fraud and Breach of Fiduciary Duty | A wholesale distribution company, often facing time pressures, needed to sell its products quickly and allegedly pressured a freight hauler to release the goods before the presentation of a bill of lading, evidencing payment for goods. Having not been paid, the suppliers of the products sued the freight hauler, who in turn sued the company. The charges included breach of duty of care, conspiracy, fraud, and misrepresentation. | The parties settled for \$1,650,000 inclusive of defense costs. |
| Breach of Duty of Care, Conspiracy, and Fraud | There may be limited coverage on other insurance policies, but a dedicated D&O policy can provide a broader breadth of coverage tailored to meet your company's specific needs. | The parties settled for \$1,400,000 inclusive of defense costs. |

The ForeFront Portfolio

The ForeFront Portfolio is part of an evolution in one of Chubb's market-leading series of management liability products that have been specifically tailored to meet the individual needs of private companies, not-for-profit organizations, and healthcare organizations. With up to seven optional coverage parts, each coverage part works as a standalone policy or seamlessly together to minimize gaps and reduce overlaps in insurance coverage, providing companies choice and flexibility to help manage their individual and corporate exposures. It is a comprehensive insurance solution specifically designed to help companies not only survive, but thrive despite the most complex threats of litigation, extortion, and other white-collar crimes that may expose their bottom line.



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The claim scenarios described here are hypothetical and are offered solely to illustrate the types of situations that may result in claims. These scenarios are not based on actual claims and should not be compared to an actual claim. The precise coverage afforded by any insurer is subject to the terms and conditions of the policies as issued. Whether or to what extent a particular loss is covered depends on the facts and circumstances of the loss, the terms and conditions of the policy as issued and applicable law.

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