Directors and Officers Liability Insurance

PROTECT YOUR DECISION MAKERS

Allianz

QUESTION : ASK YOURSELF THESE

1. Do you **read through every contract** or document **signed on behalf** of the company?

2. Are you fully aware of the **New Companies Act 2016**, and other rules and regulations that govern your business? If yes, do you or your managers fully abide by these rules?

3. Can you **trust that all your managers act honestly** and in the best interest of the company?

4. Do you ensure that all your **employees are treated fairly**? Are you well informed of the well-being of your employees?

5. Can you ensure that the directors or managers of your company **will not make a mistake**?

Have you answered NO to any of the questions above?

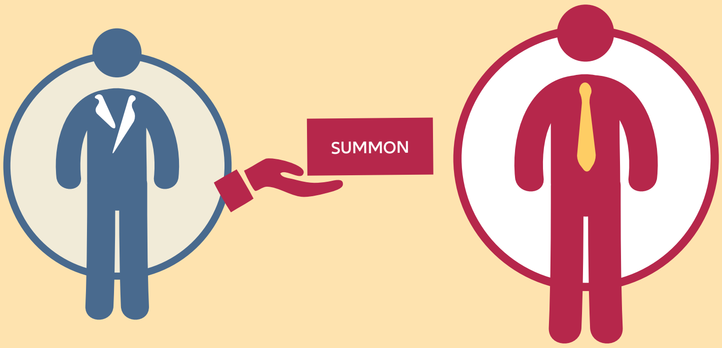
It is important to realise that no matter how prudently you act and how strong your business acumen is, any manager's decision can result in losses for the company or a third party, and the directors and officers who made those decisions can be held personally liable for those losses and can be involved in costly litigations.

SCENARIO

THE LONG AND COMPLEX LEGAL JOURNEY

Claimant

Defendant
(DIRECTOR/OFFICER)



Written Demand/Writ of Summon/Inquiry filed by afffected 3rd party/Claimant

Defendant engages a lawyer

Option A : Settle out of court
Both parties agree to a settlement amount through an Arbitration or Discussion

Option B : Court Proceeding

Legal costs incurred

Judgement

Liable
Defendant to pay the Damages determined by the Court + Legal Costs

Not Liable
No Damages to be paid (only Legal Costs incurred)

A COMPANY NEEDS TO ENSURE THAT ITS DIRECTORS AND OFFICERS HAVE ROOM TO MAKE DECISIONS.

D&O insurance supports good corporate governance by making the risks of these decisions manageable and transparent.

What is Directors & Officers Insurance?

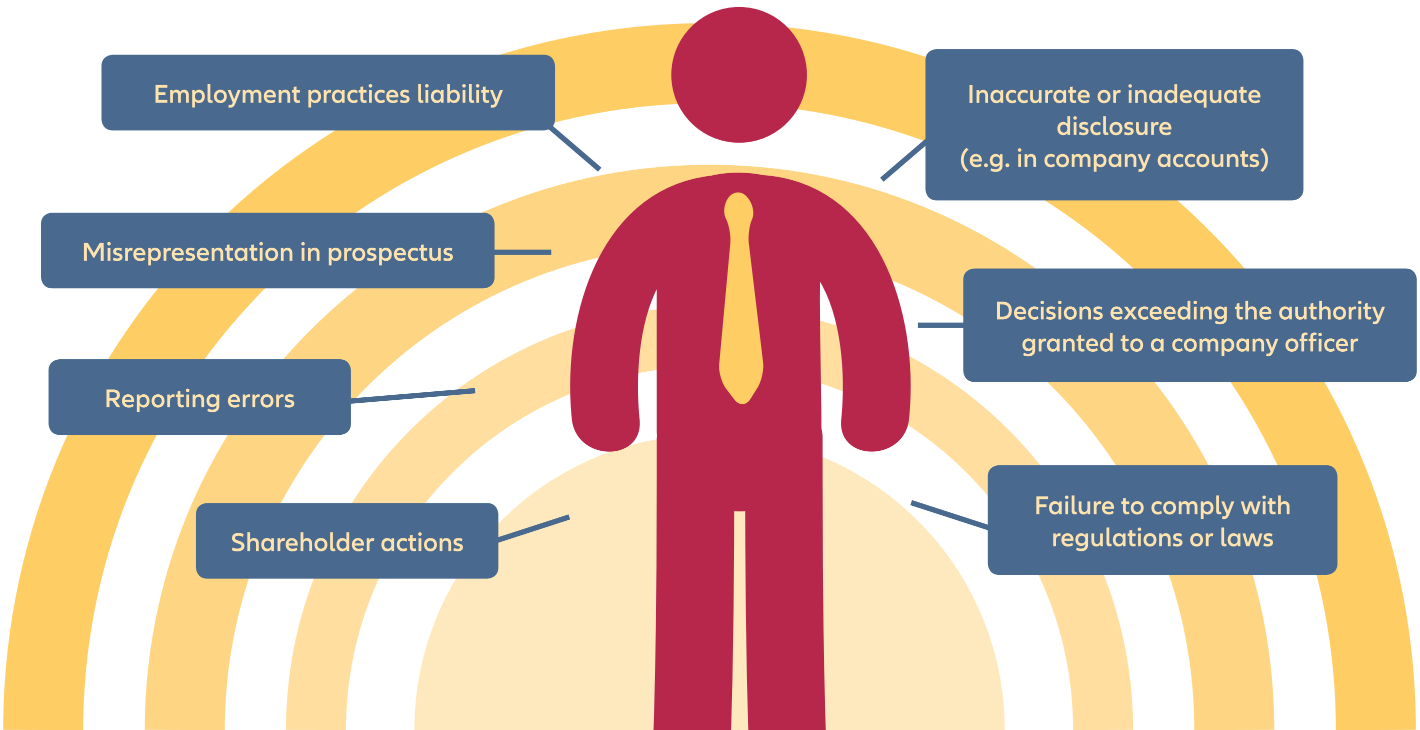
D&O insurance policies offer liability cover for company directors and officers to protect them from claims which may arise from the decisions and actions taken within the scope of their regular duties. Public listed companies can also obtain cover for claims against the company itself for a wrongful act in connection with trading of its securities.

Why do companies purchase D&O cover?

Simply because directors and officers can make mistakes and are often personally legally liable for them. They often have to make tough and complex decisions with huge impacts on the basis of the sometimes limited information available.

More and more companies are operating in a multinational environment; their investors, trading partners or operations are located in jurisdictions all over the world. This means that directors and officers have to keep in mind not only their markets but also compliance regulations, different government bodies, and the latest best practices for corporate governance and risk management in numerous locations.

Common D&O Risk Scenarios



What is covered?

The core purpose of a D&O policy is to provide financial protection for directors and officers against the consequences of actual or alleged 'wrongful acts' when acting in the scope of their managerial duties.

The D&O policy will pay for:

Defense costs

Damages

Costs generated by administrative and criminal proceedings

Costs generated in the course of investigations by regulators or criminal prosecutors

Who is covered?

All current, future and past directors and officers of a company and its subsidiaries are covered. In specific cases, like securities and employment practices claims, the policy will cover claims against the company itself.

How does the D&O policy work?

- The policy grants cover on a claims-made basis. This means that claims are only covered if they are made while the policy is in effect, usually for 12 months.
- Retroactive cover. This means that the policy will have an agreed-on, often unlimited retroactive period, covering claims for wrongful acts that took place before the policy's inception.

Where claims come from?

Who exactly can make a claim varies from country to country depending on local laws and circumstances. In Malaysia, for example, most claims are made over employment practices, many of these are claims made by former employees against companies and even the HR manager. On the other hand, the largest claims are usually made by regulators and shareholder groups.

Third party claims usually jump when a company declares bankruptcy. Claimants will try to hold the executive managers liable for the company's failure in an attempt to recapture investments or debts owed to them. Liquidators are even obliged to look for and pursue promising claims as a source of liquidity.

Common D&O Exclusions

- Fraud
- Intentional non-compliant acts
- Illegal remuneration or personal profit
- Property damage and bodily injury (except Corporate manslaughter)
- Legal action already taken when the policy begins
- Claims made under a previous policy
- Claims covered by other insurance

D&O has long since become a standard product for large corporations. Cover is necessary to enable managers to make decisions without the threat of personal liability constantly hanging over them. Instead of being forced to protect their livelihood by fighting each and every claim through the courts, this cover enables managers to settle these claims quickly and relatively discreetly. Even if a loss is not covered, D&O insurance will be useful because the defense costs for the claim can be covered.

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(Licensed under the Financial Services Act 2013 and regulated by Bank Negara Malaysia)

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