BEST'S REVIEW
www.bestreview.com April 2016

Insight

D&O on the Cheap

The current underwriting environment offers an opportunity to right-size D&O programs.

By
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D&O buyers are in the driver's seat.

D&O insurance is reportedly more inexpensive, with broader terms, than at any time in the past—on both an absolute and relative basis. Upward of 70 markets now compete to underwrite D&O business for U.S. private and public companies, from insurance platforms in the U.S., London and Bermuda.

A significant driver of this abundant underwriting capacity is reinsurance, which historically has boosted capacity when profitability is high, and reduced reinsurance support when profitability diminishes. However, the fluctuations of hard and soft underwriting cycles may be a thing of the past as traditional reinsurance providers now compete with non-traditional sources of portfolio risk transfer, such as insurance-linked securities and "alternative" investors such as pension, hedge or sovereign funds. A January 2016 market report issued by reinsurance broker Guy Carpenter pointed to these trends as key drivers of lower reinsurance premiums. If they continue, these trends may eliminate historical hard and soft market cycles and fuel a continuing surge in direct capacity in specialty lines like D&O insurance.

As a result, D&O insurers are competing aggressively for underwriting business, and it is a buyer's market for the foreseeable future—even at shrunken profit margins for the insurance industry.

There are some obvious questions about the implications of this trend:

Is the availability of relatively-inexpensive D&O insurance likely to change risk behavior of directors and officers? It would seem both unlikely and unwise for directors and officers to be lax or indifferent, particularly in a legal environment where increased regulation and developing theories of management liability—such as responsibility for data breaches and Sarbanes-Oxley compliance—all point to the need for even more vigilant conduct.

Will the availability of cheap, plentiful D&O insurance motivate companies to purchase higher limits and broader coverage terms, leveraging their insurance purchasing dollars to obtain more and broader D&O protection? Taking advantage of opportunities to purchase additional D&O coverage now can eliminate the potential for gaps created when companies seek to purchase additional insurance protection in the face of an already-occurring company-specific crisis or a market downturn.

This underwriting environment also might be an opportunity for companies to move away from an insurance purchasing process that emphasizes effective allocation of insurance purchasing dollars across different corporate insurance purchasing needs, to one that evaluates likely sources of liability exposure and estimates the defense and settlement costs necessary to address those potential exposures.

Here are some useful questions directors and officers should ask:

How does my current D&O insurance program measure against relevant benchmarks for limits, deductibles, terms and pricing?

How is the liability landscape changing, and how likely is it that the current D&O insurance-purchasing benchmarks will be relevant a year from now?

Is my company taking advantage of the current supply and pricing environment to ensure we have ample D&O insurance protection?

The current underwriting environment for D&O insurance represents a valuable opportunity for companies to right-size their D&O insurance programs to secure the best coverage and terms available in a crowded insurance-purchasing marketplace. D&O buyers are in the driver's seat in terms of dictating the right combination of terms and limits that will provide the optimal insurance protection for the D&O risks they face, and they should take advantage of this opportunity in the current, very favorable D&O market conditions. BR

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