

Do You Need D&O Insurance?

Exposure to personal liability is not industry specific. Any company, anywhere in the world, is vulnerable to such claims. Traditionally, public companies have suffered from a high volume of directors and officers lawsuits, but an increasing number of lawsuits are now being filed against private and non-profit enterprises, trusts, and partnerships.

Public Company Risk: Security Holder Litigation

As a public company, your greatest financial exposure is probably from security holder litigation. In order to reduce the volume and expense of claims brought by security holders against directors and officers, Congress passed the Private Securities Litigation Reform Act of 1995. However, in a 1999 follow-up analysis, Aon discovered the following:

- The rate of claims filed has **not** only not been reduced, it appears to have **increased**.
- High-tech companies are increasingly targeted.
- NASDAQ high-tech companies are far more likely to be sued than companies listed on the New York Stock Exchange or AMEX.
- The average market capitalization of defendant companies has **decreased** from \$2.083 billion to \$529.3 million.
- Claims are increasingly complex and are taking more time to resolve.
- A vast majority of the federal securities class-action claims filed are based upon two allegations of wrongdoing: fraudulent or misleading financial statements, and/or claims of illegal insider trading.

Consequently, it is extremely important for publicly held companies to carry this insurance, particularly those that are active in mergers and acquisitions or whose stock value or industry are subject to extreme volatility.

Private Company Risk: Non-Security Holder Litigation

Private companies face significant exposure to litigation brought by parties other than security holders. In fact, plaintiffs other than security holders brought the bulk of claims filed in 1999. Any company that employs one or more individuals or deals with customers, clients, competitors, the government, or other third parties has a D&O exposure. In addition, private companies planning an IPO or a private offering of debt or equity in the next 36 months should consider purchasing D&O insurance.

Aon can use its two decades of experience in D&O insurance to craft a policy that matches your business objectives