

Many private companies have the common misconception that Directors & Officers (D&O) exposure is only for companies with publicly traded stock. However, a private company can be subject to lawsuits and it shouldn't underestimate the loss exposure. Any company can be sued by investors, employees, shareholders, customers, competitors, creditors, vendors and/or suppliers. It is imperative to remember that even if you did nothing wrong, you can still be sued.

Insurers have cited that more than a quarter of private companies report that they have been the target of a D&O claim during the past ten years. The bulk of the suits filed come from customers. Directors and officers may face legal action simply due to their job title and/or based on their actions while operating the company because their business decisions can quickly affect the finances and operations of a company. They can even have personal liability for the same.

The cost of a D&O claim

Losses on D&O claims are high and are more so without insurance. A survey of private and not-for-profit companies with D&O claims showed an average loss of \$129,625 with D&O insurance while a loss without D&O insurance averages \$408,469.

Tillinghast-Towers Perrin has reported that the average cost of defending D&O litigation can range from \$100,000 to \$2,000,000. What if your company does not procure D&O coverage? In the event of a D&O claim and the company is unable to pay the defense costs, a director or officer may have to pay with their own funds which could end up draining their personal assets. Having D&O coverage would protect the assets of not only the company but also the personal assets of the company's directors and officers.

Claim Example

XYZ Company enters into an investment agreement with a third party who agrees not to negotiate with other entity regarding financing or a potential acquisition during a 3-week period. During this time, XYZ entered into negotiations with another investment group. The third party filed a suit alleging breach of investment agreement as well as intentional and negligent misrepresentation. The total cost to defend and to settle was over \$350,000.

Would you be covered if this happened to you? Contact your local Avalon Representative for more information regarding this emerging risk and important coverage to protect your company. Click here to read more: <http://bit.ly/2MOFCDQ>