

# Directors & Officers Liability

## MARKET UPDATE Q4 2023



### WHAT TO EXPECT

- Ongoing softening of the Directors and Officers (D&O) market into the final quarter of 2023 and early 2024.
- Up to double-digit decreases for accounts affected by the most recent hard market. Premium decreases in early 2024 may be single digit and level off to FLAT through the remainder of the year.
- Continued diligence demand by underwriters for strong corporate governance and a clean balance sheet.

The D&O space is growth-challenged compared to other lines of coverage, but insurers have seen decent profits in the first half of the year, almost at pace with 2022. The first two quarters were mainly flat, but at least insurers aren't losing money.

Insureds may not feel the impact of these industry growth challenges, with capacity opening across the board. Following on the trend of a rapid softening in excess D&O liability, we're now seeing aggressive competition and quotes for primary business, as new and existing insurers look to build back market share in the primary space.

Don't expect underwriters to relax when it comes to due diligence, however. There's a continued focus on the balance sheet, with underwriters looking for evidence that clients can weather the storms of inflation, labour constraints and supply chain disruptions. Ramped up conflict in the Middle East and the war in Ukraine continue to destabilize predictability.

The backdrop to all of this is a spike in US bankruptcies, and US securities class action filings at their highest rate since 2020. D&O Insurers are feeling the effects of the banking crisis south of the border, a continuation of COVID-19 filings, as well as Cryptocurrency and Special Purpose Acquisition Companies (SPAC) related filings. Canada isn't immune, with a notable 19.6% year-over-year increase in corporate bankruptcies between June 2022 and June 2023.

We're seeing, however, that bankruptcies are both detrimental and provide opportunity for our clients. Those on our book of business that have low debt loads are taking advantage of rock-bottom-priced acquisitions of competitors to boost revenues.

*"Things are changing so fast. Boards cannot be asleep at the wheel. They must continually ask questions of the C-Suite. A D&O program should never be stagnant."*

- Danielle Gorst

### FOCUS ON ESG

Last year, the industry focus was on "greenwashing", the trend of companies boasting about commitments and impact on climate change, without supporting evidence to back it up. In 2023, some companies are getting quieter about their environmental commitments, fearing backlash from shareholders and regulators. This new phenomenon is called, "greenhushing", with many organizations not publicly reporting on (or downplaying) their climate action activities. Despite this, companies will continue to feel pressure on environmental issues, as we get closer to mandated climate change disclosure regulation in Canada and the US.

### RISK MITIGATION

#### STAY INFORMED

Boards need to pay attention to the fast-moving economic climate and its impact on planning and decision-making. This means continually monitoring external factors, asking questions of the C-suite, and early identification of potential issues that can arise.

#### REVIEW D&O INSURANCE FREQUENTLY

Regularly review insurance coverage within the context of the broader economic environment that's so unpredictable right now. Determine whether a limit change or structure change is required to respond to external events, or whether any exclusions have been added to preclude coverage.

LET US HELP YOU MANAGE YOUR RISK

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