2025 **Market Outlook**

D&O Insurance

Experts are predicting a slowdown in rate decreases in the directors and officers (D&O) market for 2025, and newly public and mature companies may experience gradual premium increases moving forward. There's general concern that price decreases have gone too far and may not be sustainable in the long term, necessitating market correction. What's more, several risk trends have the potential to contribute to further shifts in the market for 2025. This concern is driven by rising litigation costs, a surge in derivative action lawsuits and the growing complexity of D&O risks.

Developments and Trends to Watch

- **AI exposures—**Many corporate leaders have begun leveraging AI systems to create organizational files and reports, analyze company data and, in some cases, make important business decisions. According to a recent study, more than two-thirds (69%) of public companies now utilize AI tools in their due diligence processes. If AI systems are implemented incorrectly or rely on inaccurate human inputs, these tools could end up perpetuating biases, producing widespread errors, posing ethical concerns about data privacy and protection, and minimizing overall corporate transparency. In some cases, an organization's board may not be fully aware of how and where AI is used in the business, particularly regarding its application among third-party vendors. Stakeholders may hold senior leaders accountable for AI-related failures in these instances, prompting costly lawsuits and subsequent D&O losses.
- **Litigation shifts—**From 2018-21, publicly traded companies and their senior leaders faced a surge in litigation and related D&O claims, often as a result of alleged breaches of U.S. Securities and Exchange Commission (SEC) requirements or challenges related to IPOs and special purpose acquisition company (SPAC) transactions. This wave of litigation largely subsided throughout 2022 and 2023, but significant concerns may resurface in 2025, especially as they relate to securities class action (SCA) lawsuits. These lawsuits arise when a group of shareholders claims financial losses due to violations of securities laws by the company or its senior leaders, particularly related to inaccurate financial statements and disclosures. Estimates suggest there were over 200 SCA filings in 2024, which exceeds the number of filings from 2023. By the end of 2024, the number of SCA filings could reach its highest point since 2020.
- **ESG issues—**Senior leaders have been held more accountable for upholding their companies' commitments to environmental and social initiatives by stakeholders, regulators and the public, fueling increased litigation against such leaders and associated D&O claims. Due to the ongoing rise in natural disasters, deforestation, and water and biodiversity degradation, climate change has been the focus of ESG-related litigation, with much of it alleging that senior leaders have not fully disclosed the material risks of climate change or promoted eco-friendly operations. Notably, the SEC issued its final climate risk disclosure in March 2024. This rule requires registrants to provide detailed climate-related disclosures in their annual reports, particularly concerning climate-related risks that are reasonably likely to impact operations, greenhouse gas emissions and board oversight.
- **Macroeconomic factors to watch—**The current economic climate is complex and characterized by both uncertainty and resilience. Bankruptcy and insolvency risks are prevalent, with Chapter 11 filings rising nearly 52% from 2023 to 2024, driven by factors like higher interest rates and inflation. The commercial real estate market continues to struggle, and $1.7 trillion of industry debt is expected to mature between 2024 and 2026. Refinancing this debt at higher interest rates could further strain the sector and the D&O insurers that operate within it. Further, geopolitical issues (e.g., the war in Ukraine and tensions in the Middle East) may put increased pressure and scrutiny on directors and officers of global companies, requiring them to demonstrate robust risk preparedness.

Tips for Insurance Buyers

- Examine your D&O program structure and limits alongside your insurance professionals to ensure they are appropriate and take market conditions and trends into account.
- Consult insurance brokers, loss control experts and underwriters to gain a better understanding of your D&O exposures and cost drivers in the market.
- Work with your senior leadership team to carefully review the risks of leveraging AI technology in the boardroom and applicable legislation. Establish clear policies and procedures regarding the proper use of AI tools in corporate decision-making processes.
- Make sure your senior leadership team carefully assesses potential exposures and maintains compliant, honest practices in IPOs and SPAC transactions. Pay close attention to SEC requirements for such transactions.

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