

From the desk of Jeanne M. Kerkstra, Esq., CPA

**Viewpoint
D&O Insurance: Are You Covered?**

We go into business with certain expectations - both as to what we expect to get out of it and at what cost. To sleep well at night, it is necessary to have your personal affairs in order including with perhaps a properly-structured family limited partnership or a multi-series family limited liability company. However, with your business assets, the first line of defense against any allegations of wrongdoing is insurance.

There have been a lot of questions raised about the action or inaction of executives at large companies concerning their involvement in the plummeting of their company's assets due to their investments in subprime assets. For publicly-held companies, shareholders have been vocal. We continue to see high-profile executives voted off the Board because of this. Both for those who have been terminated and for those who remain, certainly they are going to want to confirm that the D&O insurance premiums are up to date and, albeit late, to evaluate the terms of their actual coverage. Hopefully, they carefully scrutinize the insurance coverage prior to taking the Board position. Because of the subprime debacle, it was speculated that the cost of D&O coverage would increase. However, so far this year, supply continues to be greater than demand.

An important note that has come to light is how most D&O insurance policies do not cover claims made by shareholder lawsuits in other countries. In other words, the overwhelming amount of D&O insurance is merely national in scope, when indeed we have been transformed into a global marketplace. It is necessary for all executives to realize that they need international coverage with their D&O insurance. In a recent survey, virtually no one polled had separate policies for the individual countries where their companies operated. More countries are beginning to permit shareholder lawsuits. This increases the executives' exposure to lawsuits.

Before the need arises, do you know what your insurance coverage actually is? Give us a call, and we will help guide you through it.

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