

Directors and Officers Liability Insurance – Sales Literature

The recently enacted **Companies Act, 2013 (the New Act)** is a landmark piece of legislation and is likely to have far reaching consequences on all companies in India. New Act brings additional focus on the below mentioned

- Higher Auditor accountability
- Wider Director and management responsibility
- Increased reporting framework
- Easier restructuring
- Emphasis on Investor Protection
- CSR agenda

Who files claims against Directors and Officers ?

- **Shareholders** -alleging financial loss attributable to failure by Directors or Officers responsible
- **Employees** -alleging unfair dismissal, discrimination, sexual harassment or mismanagement of pension funds
- **Customers** -alleging that they have suffered financial loss following wrongful advice on the application or suitability of products
- **Competitors** -alleging that their businesses have been adversely affected by a restrictive trade-practice e.g. price fixing
- **Members of the public** -failure to effect and maintain adequate control services
- **Regulatory Bodies** -for offenses under the Companies Act or breaches in similar legislation

Some facts –

- **50% of all claims are filed by shareholders, brought as derivative actions or class actions against D&Os. Claims based upon improper disclosure and financial reporting are the most frequent.**
- **30% of all claims are filed by employees, alleging discrimination or wrongful termination, etc. Claims against D&Os based upon employment practices (EPL) are increasing**

Potential allegations –

- Errors in annual accounts
- Mismanagement of funds
- Allotment of shares
- Unauthorised or imprudent loans or investments
- Unwarranted dividend payment, salaries or compensation
- Wrongful dismissal of an employee
- Inaccurate statements of financial conditions
- Mis-statements in prospectus

Why Indian Companies should have Directors and Officers Liability cover ?

- Protects personal fortunes of the Director in case of a claim
- Huge Defence costs
- Indian companies going global, protection against global exposure
- Increasing shareholder awareness
- Increasing mergers and acquisitions
- Helps the company to attract and retain independent directors
- Big size of claims

IFFCO Tokio General Insurance Company's Directors and Officers Liability policy covers

- Actual or alleged breach of trust
- Breach of duty or warranty of authority
- Neglect or omission
- Error or mis-statement or misleading statement
- Failure to supervise or regulate properly
- Employee Practice Liability
- Crisis Communication
- Spousal Liability
- Retired Directors Liability