

News Release

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THE WILLIS COMMENTARY ON...

EXECUTIVE RISKS: HOW GLOBAL IS YOUR GLOBAL DIRECTORS & OFFICERS POLICY?

New York, NY, March 31, 2004 – An important recent lesson learned is that Directors & Officers (D&O) claims are not the exclusive province of the US. So it may be important to note that while most D&O policies are generally designed to provide worldwide coverage, this may not be sufficient for multinational companies. Despite the global wording of many D&O policies, typically they do *not* specifically address the unique exposures of directors and officers in foreign jurisdictions. As these individuals may face additional personal liability in foreign locales, their D&O policies may require tailoring in order to address these distinct exposures. Consequently, multinationals should closely examine their D&O policies to ensure that their foreign exposures are properly addressed and most importantly, that their directors and officers are properly protected.

Some country-specific modifications require revisions to numerous policy sections. Here are some examples of issues affecting specific countries.

- UK companies may seek coverage for employees serving as shadow directors.
- Australian companies may also want additional amendments including modifications to the Subsidiary definition and the “Insured versus Insured” Exclusion.
- In the Netherlands, public-company D&O policies may need to be modified to include any duly elected or appointed member of the management of the company, and interestingly enough, employment practices extensions may be included, along with punitive damage coverage.
- German subsidiaries may require a special provision addressing their unique supervisory boards and management committees.
- Italian directors and officers may want to inquire whether they have an endorsement that addresses their unique tax liabilities.

- Canadian directors facing personal tax and benefit liabilities may be curious as to whether their D&O policy has the required specific extensions.

Foreign endorsements are not the only issues to keep in mind if you are part of a global company. In various countries (Spain, Brazil, and Hungary to name a few), a locally issued D&O policy may be required as well. In many cases, these policies reflect small limits that serve as “filler” for the broader, global D&O program. They are tailored to address local requirements, are issued in the language of the local country and usually include a minimum premium. The master global D&O program then responds on an excess basis.

These issues are usually best addressed by a broker and an insurer with international capabilities and expertise in local policies. Designing the most effective endorsements and policies requires partnering with the right insurer as well as the right broker.

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