

Monitor's Solution for Managing Directors and Officers Liability Risk

Excess Non-Indemnifiable Loss Insurance

Monitor Liability Managers' Excess Non-Indemnifiable Loss Insurance Policy is designed to protect the interests of directors and officers where insurance and corporate indemnification leave off.

Monitor's Excess Non-Indemnifiable Loss Insurance Policy provides financial protection to directors and officers for claims where corporate indemnification is either prohibited or unavailable. The policy features two insuring agreements: Excess Non-Indemnifiable Loss ("Excess Side A") and the optional Uninsured Non-Indemnifiable Loss Coverage with Difference in Conditions ("DIC") coverage.

Excess Non-Indemnifiable Loss (Excess Side A)

Excess Side A provides coverage in accordance with the underlying Directors and Officers Liability (D&O) policies for non-indemnifiable claims and attaches upon exhaustion of the underlying limits.

Uninsured Non-Indemnifiable Loss Coverage with Difference in Conditions (DIC) Coverage

The optional DIC feature expands coverage to respond to non-indemnifiable claims where the underlying D&O policies do not pay due to any of the following circumstances: rescission of an underlying policy; terms and conditions of the underlying policies that preclude coverage; financial insolvency of an underlying insurance carrier; or U.S. bankruptcy court ruling that the underlying D&O policies are frozen as assets of the corporation in bankruptcy proceedings.

Policy Highlights

- ▶ Excess Side A follows the coverage provided by the underlying policies.
- ▶ DIC provides coverage if the underlying insurers:
 - Rescind the underlying policies; or
 - Wrongfully refuse to indemnify the directors and officers pursuant to the terms and conditions of the underlying policies; or
 - Are unable to indemnify the directors and officers due to the financial insolvency of the insurer.
- ▶ The optional DIC feature provides coverage if the underlying insurers are not liable for such portion of the non-indemnifiable loss.
- ▶ The DIC feature provides coverage if the underlying D&O policy proceeds are frozen as assets of the corporation in bankruptcy proceedings.
- ▶ Policy exclusions apply only to the optional Uninsured Non-Indemnifiable Loss Coverage with Difference in Conditions and are fully severable.
- ▶ Optional DIC coverage extends to directors and officers of the company serving as directors, officers, trustees or governors of non-profit boards at the request of the company.
- ▶ No pollution exclusion.
- ▶ Policy is non-cancelable and non-rescindable.

Coverage is available for publicly held companies with up to \$3 billion in market capitalization.

For More Information

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