

D&O Insurance & Insolvency: Navigating the Intersection

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The primary purpose of procuring insurance coverage for a company's directors and officers (D&O Insurance) is to protect the personal assets of directors and officers from lawsuits arising out of their service to the company. Unfortunately, D&O Insurance might not protect directors and officers in their time of greatest need: when their company files for bankruptcy. At the same time the company is least likely to be able to honor its indemnity or reimbursement obligations, its directors and officers are most likely to face lawsuits and investigations.

This article addresses several key insolvency-related issues that should be considered by companies negotiating D&O Insurance policies, even if insolvency seems unlikely.

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