

Market Outlook

Although the last few years in the directors and officers (D&O) liability insurance segment were characterized by double-digit rate increases and lowered capacity, market conditions proved more favorable throughout 2022. In the scope of publicly traded companies, rate increases and retentions moderated substantially—with many policyholders even encountering rate decreases. While the D&O segment has also started to stabilize for private and nonprofit companies, these companies are still deemed a higher risk by insurers than their publicly traded counterparts. As such, industry data confirmed that rates for these policyholders increased in 2022, albeit at a decelerated pace compared to prior years. Moving into 2023, industry experts anticipate that favorable market conditions will press on, paving the way for further premium stagnation and potential rate decreases.

Developments and Trends to Watch

- **New market entrants and increased competition**—In light of the increasing capacity and decelerating rates, it's clear that insurers' overall sentiment toward the D&O market has shifted. Looking ahead, insurers are poised to fuel further segment growth, as evidenced by several new entrants in the market and—subsequently—greater competition. D&O insurers have also broadened their underwriting appetites by quoting additional layers of coverage, offering higher limits and undercutting competitors to attract new business—therefore promoting segment conditions that largely benefit policyholders.
- **Environmental, social and governance (ESG) issues**—ESG activism has made a noticeable impact on the D&O market. Specifically, senior leaders have been held increasingly accountable for upholding their companies' commitments to environmental and social initiatives by stakeholders, regulators and the public, thus prompting increased litigation against such leaders and associated D&O claims. Some of this litigation has centered around senior leaders misrepresenting, failing to disclose or neglecting to effectively address topics such as board diversity, equal pay and human rights abuse within supply chains. As stakeholders take more legal action in this area, setting unrealistic ESG targets could lead to additional litigation and D&O claims.
- **Global and economic uncertainty**—Many businesses are facing uncertainty within their operations due to supply chain bottlenecks that have persisted since the initial onset of the COVID-19 pandemic and ongoing international conflicts. Further, the economy has shown signs of trouble throughout 2022, primarily by way of record-setting inflation issues, a volatile stock market and rising interest rates. These trends have led some economic experts to suggest that the nation could enter a recession in the near future. Considering these trends, it has become all the more critical for companies and their senior leaders to consistently monitor the shifting global and economic risk landscape and adjust their business practices as needed—demonstrating to insurers and stakeholders that they are equipped to handle their associated exposures.
- **Cybersecurity concerns**—Cyberattacks continue to increase in cost and frequency for businesses of all sizes and sectors, sometimes leading to litigation against senior leaders and related D&O claims. Potential D&O losses can arise from allegations such as senior leaders failing to take reasonable steps to protect stakeholders' personal or financial information, implement controls to detect and prevent cyberattacks, and report incidents or notify the appropriate parties.

Tips for Insurance Buyers

- Examine your D&O program structure and coverage limits alongside trusted insurance professionals to confirm they are appropriate and take market conditions and trends into account. To gain a better understanding of your specific D&O exposures, consult loss control experts and underwriters.
- Ensure your senior leaders follow safe financial practices. It's also important to be transparent with stakeholders about your organization's economic state to avoid misrepresentation concerns.
- Make sure your senior leadership team is actively involved in monitoring your organization's unique cyber risks and implementing proper cybersecurity practices to help prevent and respond to potential attacks.

