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IMPACT OF COVID-19 ON MANAGEMENT LIABILITY INSURANCE MARKET

The COVID-19 pandemic has dramatically altered the landscape of the insurance market. Underwriters of Directors & Officers and Employment Practices Liability Insurance are concerned about the uncertainty regarding the extent of COVID-19 related litigation and the additional risks faced by organizations in navigating the ripples of the economic downturn, complying with health safety protocols and supply chain disruptions. Organizations may make statements about their financial condition that later appear to have been overly optimistic. The overall economic impact of the pandemic remains to be seen, and the toll the health crisis and economic downturn could have on businesses, especially in terms of the number of bankruptcies, is still unknown.

Privately held companies and non-profits face similar challenges. But what about their D&O coverage? Do they carry sufficient insurance limits and is their coverage designed to protect key decision-makers from the unanticipated claims arising from this unprecedented global health crisis? Our experience tells us that companies will be faced with the following situations:

1. Business slowdowns and contract defaults causing weakened profits which can lead to breach of loan covenants or bankruptcy filings.
2. Bond rating downgrades if public debt is part of the company's profile.
3. Class action lawsuits, particularly problematic in the present scenario for healthcare and nursing home companies alleged to be liable for failure to respond quickly and "appropriately" to manage the virus impact for



vulnerable residents.

In response to this uncertainty, we are seeing the following impact to the Management Liability insurance market:

1. Increased underwriting scrutiny in order to determine the COVID-19 impact on financial performance projections and internal management's reaction to the fallout. Based on those findings, underwriters may be forced to offer policies with reductions in limits coupled with increased retention rates. Many projections see at least a 24-month lag on unforeseen claims and unanticipated financial impacts, so this trend is likely to continue.
2. With no guarantee that legislators will offer any protections to directors and officers (particularly in healthcare related fields and other essential workplaces, for decisions made during the pandemic) tort reform is currently unforeseen mid-crisis, with no real relief in sight.
3. Restricted coverage terms such as the addition of anti-trust, debt holder, bankruptcy or communicable disease exclusions.
4. Premium increases for public companies of over 50% and increases of 15-20% or more for private companies will be commonplace. Many of the primary D&O carriers are reducing their limits which requires getting additional layers of coverage and some of the largest increases have been in these excess layers. In addition, the total premium increases for policyholders in certain industry segments perceived as higher risk are seeing overall increases of as much as 100% or more. With only limited new insurance carriers entering the market, this diminished competition suggests prices will continue following this trend.

At Graham Company, we work hard for our clients in reviewing the details of each renewal and advocate for our clients to ensure that in the event of a claim, there are no adverse surprises in coverage terms.

There are many carriers to choose from in the insurance marketplace. Graham



Company is committed to exploring and employing every coverage option available for our clients to make sure that choice is simple and clear as well as individually tailored to best fit your organization. One way we do that is by incorporating our touchstone strategy, P²RIME™ into every risk assessment and coverage proposal we design. Identifying the problem, proposing a fix and providing the safety and peace of mind of an effective insurance program.

Please contact your Graham Service Team if you have questions regarding your Management Liability Program or contact Anthony Cafagna (information below) for a comprehensive evaluation designed with your company's future security and success in mind.



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