

D&O

GLOBAL TRENDS 2025

INCREASED REGULATION,
ESG EXPOSURES AND
MACRO-ECONOMIC RISK
DOMINATE AS MORE
CLAIMS UPHELD



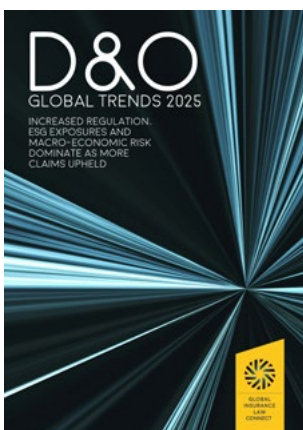
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"REGULATION AND SANCTIONS HAVE BECOME THE PRIMARY CONCERNS FOR MANY, WITH INCREASING BURDENS IN AREAS SUCH AS ESG, SUSTAINABILITY, AND CYBER RISK."



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INTRODUCTION

Welcome to the second Global Insurance Law Connect report on the Directors' and Officers' (D&O) insurance market.

In our first report, released in 2021 in the wake of the COVID-19 pandemic, our members identified trends of increased corporate M&A and a changing risk profile due to remote working and other pandemic-related impacts. There was a consensus that D&O cover prices were rising across the board, driven by factors such as growing cyber exposure, escalating regulatory pressures, and emerging concerns related to environmental, social, and governance (ESG) issues.

In this edition, the range of concerns has broadened since the previous report, with ESG factors and macro-economic conditions joining cyber and regulatory as major issues for directors and officers. Members surveyed this year also identify a growing likelihood that claims against directors will be upheld, along with a significant increase in the demand for broader D&O cover.

In this dynamic and complex environment, we recognise that local expertise is essential, particularly as our data shows a marked polarisation between mature and developing markets, including aspects of capacity and pricing. For more detailed and region-specific insights, we encourage you to contact your local firm within our network.

We hope this report serves as a valuable resource, and we look forward to discussing with you what the future holds for the D&O market in 2025.

Best wishes

Gillian Davidson

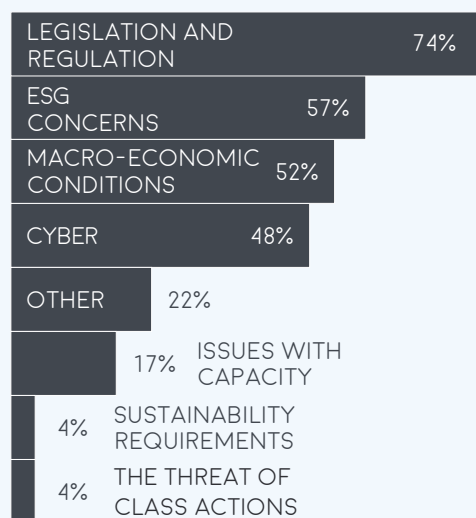
Global Insurance Law Connect – Chair

MARKET OVERVIEW

The 24 markets represented by the member firms surveyed for this report vary significantly, ranging from the highly mature markets to those that are still developing.

This diversity of experience results in different strategies in terms of insurance capacity, policy wordings and pricing. However, there is a clear consensus across jurisdictions regarding the key factors that influence the sector.

WHAT IS HAVING THE GREATEST INFLUENCE ON THE D&O MARKET?



REGULATION, ESG AND MACRO-ECONOMIC ISSUES DOMINATE D&O MARKET SENTIMENT

- The primary concern highlighted by 74% of the members surveyed was legislation and regulation, which was seen as having the most significant impact on markets.
- Over half the respondents expressed concerns around ESG factors (57%) and macro-economic conditions (52%).
- 48% of firms cited cyber risk as having a strong influence on D&O market sentiment.

This situation contrasts sharply with the landscape when the last D&O report was released. At that time, the world was still recovering from the COVID-19 pandemic and navigating significant aftershocks related to pricing and an altered global risk landscape. Regulation was not typically mentioned as a major area of concern, although there were early indications of increasing regulatory pressures coinciding with the growing sophistication of the global D&O market.

In the previous report from 2021, ESG concerns were mentioned only briefly, but there has been a notable rise in the number of respondents acknowledging these issues in 2024. Cyber risk, which many identified in 2021 as a “dominating issue for D&O insurers”, continues to be a significant focus for many jurisdictions in this current report.

MORE CLAIMS BEING UPHELD

Legislation and regulation impact every market. As stakeholders’ expectations regarding corporate governance increase, courts are becoming more assertive, and a growing number of claims are upheld. As a result, directors in every region and in businesses of all sizes are becoming more aware of their responsibilities and the liabilities that come with them.

This trend is equally evident in both emerging and developed markets.

IN THE PAST FIVE YEARS, 61% OF RESPONDENTS REPORTED AN INCREASE IN CLAIMS, WHILE 55% NOTED THAT JUDGES AND REGULATORS ARE MORE LIKELY TO UPHOLD CLAIMS AGAINST INDIVIDUAL DIRECTORS.

INTEREST IN D&O RISING ACROSS THE BOARD

Against this backdrop, many firms have reported rapidly rising interest in D&O cover, with improved penetration within the SME sector, regardless of how developed the insurance market is in their jurisdiction.

 This is the case in a number of European jurisdictions, including Poland. As Jakub Pokrzywniak from WKB Partners comments: "Interest in D&O insurance in Poland has increased, not only among the largest companies – including state-owned companies – but also in the small and medium-sized enterprise segment."

 The Netherlands is seeing a similar trend, says Marijke Lohman from WIJ advocaten: "More and more businesses, including small and medium-sized enterprises as well as non-profit organisations, are aware of the importance of directors' liability insurance. Growing attention to corporate governance and compliance, along with an increase in legal proceedings against directors, is contributing to this rising interest."

 "The increase of liability of directors and officers, as a consequence of the financial crisis, increased regulation and new legislation, both local and international and also some high-profile corporate scandals have made Greek managers understand the need for insurance cover", adds Konstantinos Issaias, Partner at Kyriakides Georgopoulos.

 In China, Jan Holthuis, Partner at Buren says: "With the implementation of the new company law in 2024, non-listed companies have also begun to recognise the importance of D&O insurance, leading to the emergence of specialised products tailored for them."

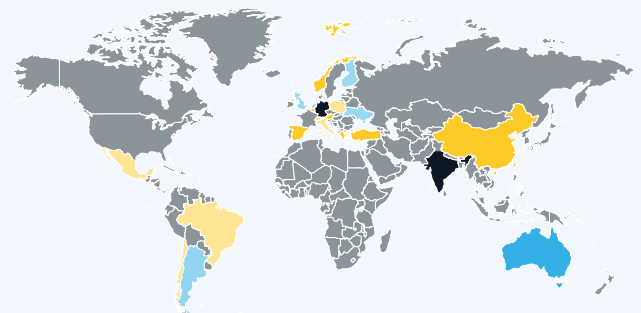
MARKET MATURITY DICTATES PRICING

Responses from the insurance market to changing market conditions in recent years have varied significantly.

On a global basis, 62% of respondents noted that prices have increased. When reviewing individual country responses, many are still in the early stages of insurance market development and are considered relatively immature.

In contrast, mature markets – such as Australia, the UK, the Netherlands (where many multinational businesses are headquartered) and Finland – report price decreases.

HOW MUCH HAS YOUR LOCAL D&O PREMIA CHANGED IN THE LAST COUPLE OF YEARS. AND HOW MUCH HAS THIS IMPACTED CLIENTS APPETITE TO BUY?



 SIGNIFICANT INCREASE (MORE THAN 10%)
 SMALL INCREASE (UP TO 10%)
 ABOUT THE SAME
 SMALL DECREASE (UP TO 10%)
 SIGNIFICANT DECREASE (MORE THAN 10%)

Several factors contribute to the differing pricing dynamics between mature and developing markets.

1. Caution characterises developing markets

Generally, developing markets present a higher risk environment – they tend to be less politically and economically stable, leading to a greater likelihood of litigation and claims against directors and officers. Additionally, legal and regulatory frameworks in these markets are often less mature, resulting in uncertainties and higher potential for increased claims. These factors tend to drive up prices, particularly in the younger insurance markets, where a lack of historical claims data complicates accurate pricing.

Furthermore, in some markets, such as Chile, regulations are hampering the development of a competitive market, despite the rising demand for suitable cover. Patricio Prieto, Partner at Prieto Abogados comments:



“Maybe a key element for lack of development is the ruling by the Comision para el Mercado Financiero (CMF) that coverage can’t be paid by companies in which board members serve. The regulator has also ruled that companies can’t reimburse expenses incurred by the board in relation to reparations or fines due to negligence or misconduct. In addition, The Chilean IRS has ruled that payment by companies regarding such expenses cannot be deducted by companies for income tax purposes.”

2. Mature markets borderline dysfunctional

Mature markets, which have historically experienced significant pricing volatility due to fluid claims experiences, operate quite differently from less developed markets.

Our member firms report that carrier interest in D&O remains strong, largely due to an unexpectedly light claims period during and after COVID-19. Many international insurers still have high volumes of capacity that they are keen to deploy at competitive rates to retain or secure new business. However, while falling prices are good news for insureds, industry veterans have issued stark warnings about the need to maintain underwriting discipline to provide the market with some pricing stability.

In April 2024, Chubb CEO Evan Greenberg referred to underwriting in some US financial lines as “simply dumb”.¹ This followed comments in September 2023 made by Lloyd’s Chief of Markets, Patrick Tiernan, singling out UK D&O underwriting practices as “moronic” “irrational” and “shambolic.”² A significant pricing correction is only expected to occur with either a reduction in capacity or an increase in demand, anticipated from a rise in global deal-making following a series of global elections.

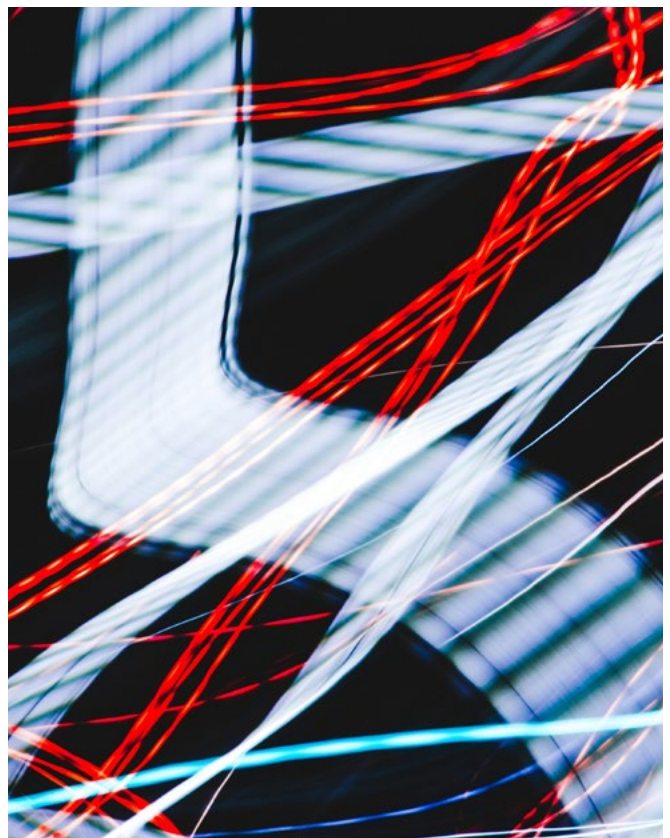
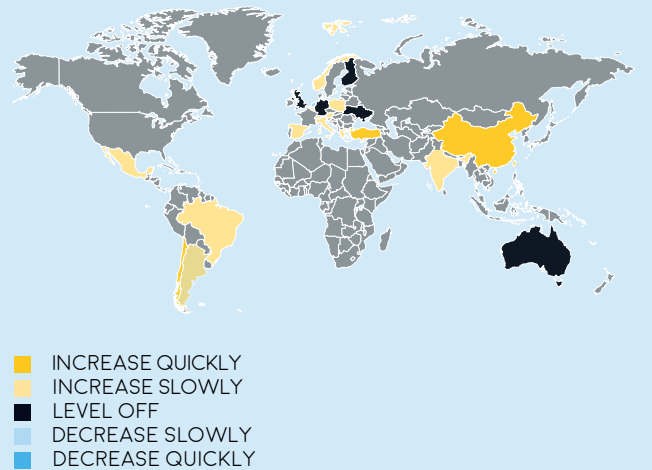
3. What does 2025 have in store?

Looking ahead to pricing conditions in 2025, respondents in more mature markets expect pricing to level off. This perspective applies to countries such as Australia, the UK, Finland, Germany, and Greece, which is a rapidly maturing market.

1. Comments made by Chubb CEO Greenberg in Q1 2024 earnings call. Reported in Insurance Journal.

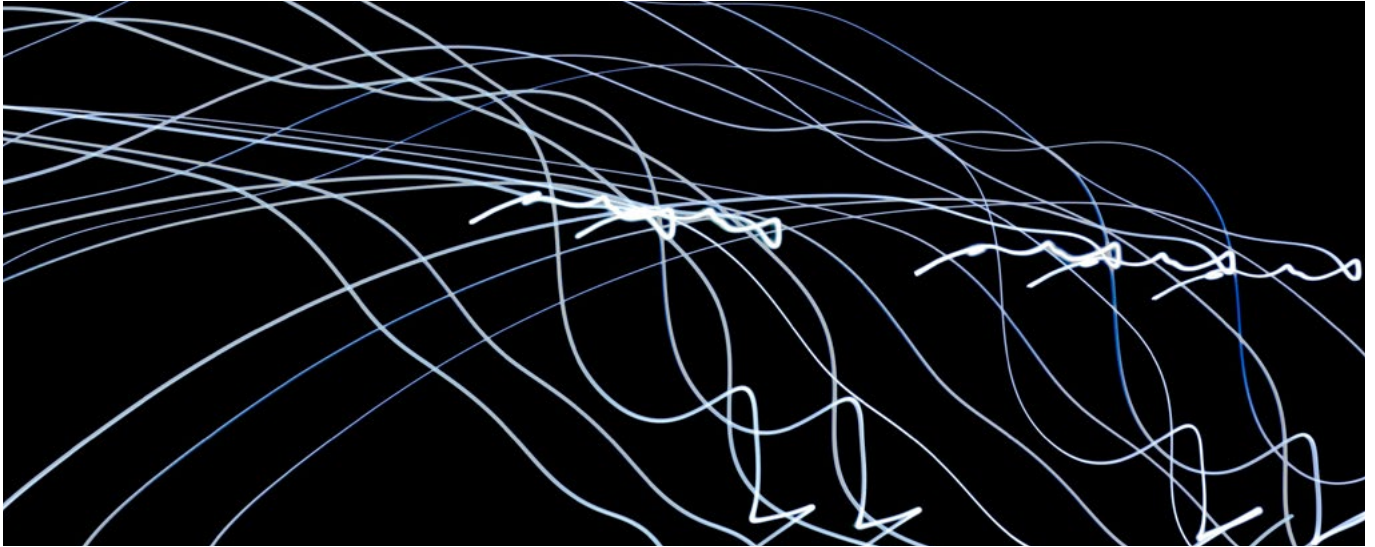
2. “Lloyd’s chief takes aim at ‘moronic’ D&O underwriting”. Insurance Post, 20 September 2023.

HOW DO YOU EXPECT YOUR LOCAL D&O PREMIA TO CHANGE IN THE NEXT YEAR?



IN APRIL 2024, CHUBB CEO EVAN GREENBERG REFERRED TO UNDERWRITING IN SOME US FINANCIAL LINES AS “SIMPLY DUMB”. THIS FOLLOWED COMMENTS IN SEPTEMBER 2023 MADE BY LLOYD’S CHIEF OF MARKETS, PATRICK TIERNAN, SINGLING OUT UK D&O UNDERWRITING PRACTICES AS “MORONIC” “IRRATIONAL” AND “SHAMBOLIC”.

ECONOMIC PRESSURES ARE RESHAPING THE MARKET



Economic pressures are undeniably reshaping the D&O insurance landscape globally.

MATURE MARKETS SEE CASES RISE

An increase in insolvencies has led to a surge in claims brought by insolvency administrators across many regions, particularly in mature markets, according to our member firms.

In Austria, for example, stricter case law on manager liability has led to a sharp rise in lawsuits initiated by insolvency administrators.

Similarly, in the Netherlands, the end of government support measures has triggered a rise in bankruptcies, resulting in more claims against directors. The Dutch D&O market is experiencing a disconnect between macroeconomic developments and insurance premia and capacity.

This trend is not limited to developed markets.



GLOBALLY, ECONOMIC UNCERTAINTY DRIVEN BY GEOPOLITICAL SHOCKS, RISING INTEREST RATES, AND INFLATION IS CONTRIBUTING TO AN INCREASED RISK OF D&O CLAIMS. THESE PRESSURES ARE RESHAPING THE D&O INSURANCE LANDSCAPE WORLDWIDE, WITH NO MARKET LEFT UNTOUCHED.

DEVELOPING INSURANCE MARKETS ALSO IMPACTED

 In New Zealand, business insolvencies are currently rising, particularly amongst construction companies, and this is expected to increase claims. Rob Coltman, Partner at Duncan Cotterill reports: "Recent cases in this area, particularly the Supreme Court decision *Yan v Mainzeal*, have called for the Government to update the relevant legislation, and a review is scheduled to begin in 2025. In the meantime, we expect to see more claims brought against directors relating to their actions while the company was failing".

In China, the economic downturn following the pandemic has led to a rise in corporate financial fraud, prompting stricter market supervision and revisions to key legislation. These changes have expanded the responsibilities and liabilities of directors and officers, increasing the demand for D&O insurance.

Similarly in Greece, the prolonged financial crisis has influenced the claims landscape, with many individuals seeking to recover lost profits through D&O claims. Despite the improvement in the economy, international macroeconomic developments continue to raise concerns and lead to claims.

Globally, economic uncertainty driven by geopolitical shocks, rising interest rates, and inflation is contributing to an increased risk of D&O claims. These pressures are reshaping the D&O insurance landscape worldwide, with no market left untouched.

'RESPONSIBILITY FOR EVERYTHING' INCREASES DIRECTORS' ESG LIABILITY

 In the words of Dominik Skrobala, Partner at our Swiss firm, gbf Attorneys-at-law, the trend towards corporate social responsibility and sustainability has created a culture of "responsibility for everything" for companies and their management.

The situation is particularly evident in the US, where UnitedHealthcare CEO Brian Thompson was tragically shot at the end of 2024 after facing personal criticism for the company's rejection of insurance claims. Furthermore, the decision of multiple insurers to cancel policies for properties in California in the months prior to the recent wildfires, due to escalating risks, may result in legal action against D&Os, as homeowners seek to recover their costs through other means.

ESG REPORTING IS RISK AREA

The area of ESG reporting is also a significant risk factor. As businesses respond to increasing expectations from stakeholders – including regulators, investors, and consumers – the importance of corporate reporting and communication has grown. In some instances, this responsibility is attributed personally to directors.

 In France, for example, Robert Byrd, Partner at Byrd & Associates, notes an increasing trend of "regulators more often holding the Directors and Officers personally liable for ESG accountability".

These factors have become key criteria for insurers when assessing a company's risk and are also used by regulators to more easily prove breaches and establish causality in relation to communication standards and expectations.

 In Brazil for example, João Marcelo dos Santos of Santos Bevilacqua says: "Brazil hosts numerous large engineering projects that can significantly impact the environment. As a result, a portion of D&O contracts is focused on liability related to the management of these projects. This issue is typically associated with environmental fines, administrative penalties and class actions initiated by the State Prosecutor."

 There is also the threat of increased claims on the back of more comprehensive reporting requirements. Carolin Schilling-Schulz, Partner at Arnecke Sibeth Dabelstein in Germany, notes that the legislation in Germany goes beyond the requirements of the European directives since the implementation of the Supply Chain Due Diligence Act in 2023. With this in mind, she adds, "it is therefore feared that D&O insurers will react to these requirements with an insurance exclusion".

MARKET VARIATIONS IN ESG-RELATED LIABILITIES

The risks associated with ESG trends are particularly pronounced in certain markets where legislation is more mature. Countries such as Australia, the US, UK, and many EU countries face real risks associated with directors' liability claims.

In contrast, in less developed markets like Argentina, while the Government is starting to recognise the importance of ESG, regulatory frameworks and enforcement mechanisms are still in the developmental stages.

 Matias Ponferrada, Partner at Abeledo Gottheil notes: "The primary driver of ESG initiatives in Argentina often stems from parent companies' directives to their subsidiaries, rather than strong government mandates."

 The situation in Turkey is unique. Given the importance of the European Union as an export market, and their "biggest goal" of joining the EU, comments Kerem Karabucak, Partner at Durukan, "the impact of ESG on Turkey has been very significant. Executives and Directors have had to follow the European regulations which are frequently modified, even if there is no national legislation yet."

D&O policies in Turkey have "boomed" in recent years, as Turkish directors navigate the impact of EU sanctions on Russia, which has historically been a major export market for Turkey.

D&O risks are also influenced by the characteristics of different industries. Directors of companies in sectors with high environmental impacts, such as energy, manufacturing, and chemicals, often face increased liability due to their responsibility for ensuring compliance with environmental laws and regulations. In some markets, exclusions for pollution-related claims have become standard.

What this means in practice is heightened responsibility for companies to ensure that both domestic and international supply chains comply with ESG standards.

WRITING ON THE WALL

These trends indicate that directors and their companies in every market need to pay close attention to ESG compliance. It is prudent for boards to proactively address these issues to mitigate risks and meet the expectations of all stakeholders in an evolving regulatory landscape.

LITIGATION IS RISING

Our survey shows that directors and officers are experiencing a growing volume and severity of claims in most jurisdictions surveyed, with courts and regulators more inclined to support these claims.

This rise can be attributed, in part, to a growing body of new legislation, noted by 16 countries in our survey. Many respondents also reference a rising culture of litigation, along with an increase in the number of bad faith or meritless claims.

Several countries highlighted significant cases that have made headlines, resulting in substantial pay outs in places like the UK, Brazil, Finland, and Norway.

In the US, the uncertainty following the re-election of President Trump has left many D&Os apprehensive about an uptick in securities litigation and enforcement actions under his administration.

Over the past five years, 59% of respondents reported that claims had been increasing, while 57% noted that judges and regulators were more likely to uphold claims against individual directors.

While traditional areas of litigation, such as breaches of fiduciary duty and economic triggers, continue to dominate, new regulatory areas are emerging. These include ESG, data privacy, cyber issues, and employment law. Additionally, there is a growing focus on protecting corporate reputation in crisis situations, commonly referred to as disaster management.

FOUR TRIGGERS DOMINATE

In our analysis, four primary litigation triggers emerged from survey responses across 24 countries.

Breaches of fiduciary duty

Over half (58%) of the countries reported breaches of traditional fiduciary duties as a leading driver of litigation. The scope of fiduciary duties is clearly expanding, not only due to increasing regulations but also because applicants aim to bring D&Os into cases that would traditionally be corporate litigation, thereby accessing another 'pot' of insurance funds. This trend raises concerns both for the insurance industry and for boards.



Janette McLennan, Partner at Sparke Helmore in Australia, a highly mature market, comments: "Australia's regulatory environment has become increasingly complex, which has an inevitable impact on the risk of liability for both companies and their D&Os. Regulators' powers continue to expand and the penalties that can be awarded against individual D&Os have increased significantly in the years following the Financial Services Royal Commission in 2019. Applicants may add D&Os to proceedings for direct contraventions or as alleged accessories to acts or omissions of the company as a way of seeking to access insurance funds in any settlement or judgment. As well as facing liability for civil and criminal penalties personally, D&Os can be sued for the loss or damage claimed against the company itself. D&O insurers can therefore find insured D&Os facing exposure to loss or damage which would typically sit with the company and can face large claims for defence costs."



In Poland, a market that is in a "growth phase", Jakub Pokrzywniak of WKB Partners cites fiduciary duty as a key consideration for those purchasing D&O coverage, alongside "regulatory violations, employment practice issues, and potential insolvency claims."

Economic stress

D&O coverage comes into sharp focus during times of economic hardship, as we can expect an increase in insolvencies and transaction failures. Twelve countries in our analysis discuss these issues as key litigation triggers. Countries across the maturity spectrum express concerns about various matters, including shareholder derivative actions, insider trading, declarations of interest in transactions,



and the approval of transactions. Stock valuations and financial misstatements related to deals are frequently highlighted.

Even as the economic outlook improves, we can expect the economy to continue to influence D&O actions.

Management consultancy Bain & Company predicted that the overall global M&A deal value would reach \$3.5tr by the end of 2024.³ However, they noted that: "challenges and litigation extended deal close timelines and impacted close rates in 2024. Nearly half (47%) of dealmakers said regulatory concerns impacted the types of deals their company considered this year. In response, many are revising deal strategies and spending more time screening up front."

New areas of regulatory focus

ESG is a dominant topic in boardroom discussions and is fundamentally changing the information companies must report and how they do so. Related areas of regulation, such as employment law, environmental law, and data privacy, have gained heightened attention due to the discussions surrounding ESG.

Among the 24 member firms participating in this report, 11 firms indicated that these new, non-traditional areas of responsibility often serve as triggers for litigation.

 Sakate Khaitan, Partner at Khaitan Legal in India, comments that alongside traditional fiduciary breaches: "We have also seen a rise in employment practices claims, such as wrongful termination or workplace harassment. Additionally, cyber breaches and ESG-related issues, such as environmental violations, are becoming critical litigation drivers."

Insurance coverage disputes

29% of members reference insurance coverage disputes, often concerning the scope of coverage, timeframe of coverage, settlement size, and subrogation. In a complex and fast-paced claims environment, this is not surprising; however, it raises questions about the clarity of policy wordings and how effectively coverage is communicated to buyers. This issue is prevalent across all markets, regardless of their level of development.



MANAGEMENT CONSULTANCY BAIN & COMPANY PREDICTED THAT THE OVERALL GLOBAL M&A DEAL VALUE WOULD REACH \$3.5TR BY THE END OF 2024. HOWEVER, THEY NOTED THAT: "CHALLENGES AND LITIGATION EXTENDED DEAL CLOSE TIMELINES AND IMPACTED CLOSE RATES IN 2024. NEARLY HALF (47%) OF DEALMAKERS SAID REGULATORY CONCERNS IMPACTED THE TYPES OF DEALS THEIR COMPANY CONSIDERED THIS YEAR. IN RESPONSE, MANY ARE REVISING DEAL STRATEGIES AND SPENDING MORE TIME SCREENING UP FRONT."

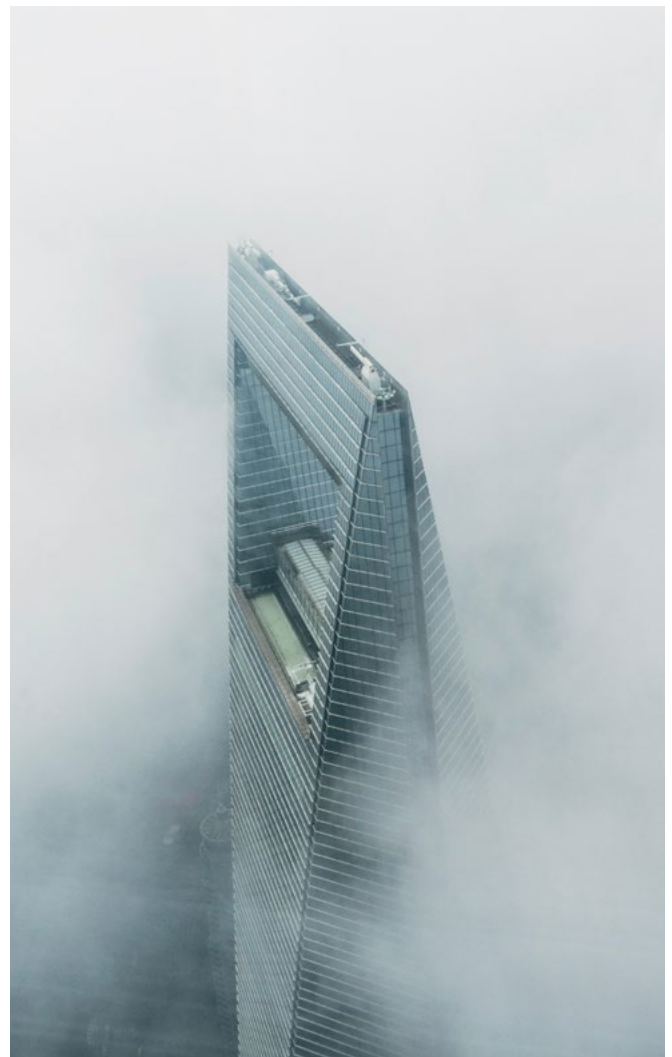
Disaster management

In a world of increasingly frequent misinformation and rising stakeholder expectation, it is surprising that only two countries – Italy and Mexico – identify crisis management as a significant factor driving litigation or as an addition to their cover.

 Giorgio Grasso, Partner at BTG Legal in Italy, comments: "In recent years, reforms related to corporate crisis management have extended directors' obligations, requiring greater diligence in the prevention and management of crisis situations."

 Aldo Ocampo, Partner at Ocampo 1890 in Mexico, says: "Insurance companies are adapting to new requirements, introducing more flexible or specific clauses to cover risks arising from crisis management."

3. Looking Back at M&A in 2024: Dealmakers Adapt as the Market Idles | Bain & Company.



WHAT DO BUYERS WANT AND HOW ARE WORDINGS CHANGING?

Insurers are expanding their policy wordings to address new areas of risk, and there seems to be a strong correlation between shifting market demand and buyers' experiences with new or extended offerings at renewal.

EXPECTATIONS AROUND 'STANDARD' COVER ARE ON THE RISE

When buying D&O insurance, clients are prioritising coverage for legal exposures arising from regulatory scrutiny, shareholder activism, and governance lapses.

Coverage for defence costs, settlements, and damages stemming from allegations of mismanagement or fiduciary breaches is increasingly regarded as crucial, especially as businesses and shareholders become more litigious and regulators more susceptible to influence.

Our member firms report that clients across jurisdictions are also seeking better cover for insolvencies and issues arising during mergers, acquisitions, and disposals. Key considerations for these clients include coverage limits, premium costs, and maintaining retroactive coverage, particularly during management transitions.

 Joachim Skjelsbæk, Partner at RIISA in Norway comments: "When changing from a cover to another, it's important to be sure that a claim does not fall between the coverages." Also referenced is that, in this market at least, policies don't cover what is euphemistically referred to as 'old fun' – damages that were incurred before the inception of the policy, which are judged to fall outside of its scope.

DEMAND FOR MORE TAILORED POLICIES AND ADD-ONS

There is growing demand for tailored policies and add-ons. Many of our member firms report an increasing need for customised policies that address what could be classified as non-traditional D&O risks. These include cyber liabilities, ESG-related exposures, and concerns related to employee mental health and wellbeing, such as protection against harassment and bullying allegations.

 Clemens Völkl, Partner at Völkl Rechtswalke in Austria, comments: "Clients are also often looking for combinations of fully-fledged products from the various financial lines. At present, legal protection and cybercrime supplementary cover are particularly in demand."

 Ross Baker, Partner at Beale & Co in the UK, concurs that buyers are "increasingly looking to D&O policies for protection against ESG, cyber/AI, economic crime and geopolitical/sanctions issues."

 Cyber security is a particular concern in France, notes Robert Byrd, Partner at Byrd & Associates, citing an increase in claims "driven by increased data breaches, hacking and cyber-attacks."

GEOPOLITICAL RISKS LOOMING LARGE

The increase in geopolitical risks, in particularly due to the ongoing war in Ukraine and tensions in the Middle East, has led buyers to pay closer attention to the evolving challenges of corporate governance related to sanctions, Ultimate Beneficial Owners, and associated fines.

In this context, it is not surprising that clients are also placing greater emphasis on territorial coverage, which is crucial for multinational companies that have expatriate officers and are facing heightened regulatory scrutiny.

 Volodymyr Sayenko, Partner at Sayenko Kharenko in Ukraine, comments: "Policy wordings increasingly reflect the risks posed by the ongoing war, with exclusions for war-related claims and occupied territories. Bribery, corruption, and money laundering exclusions are now standard. Sanctions clauses addressing international compliance are ubiquitous, driven by EU, UK, US, and Canadian regulations. Cyber risks and ESG concerns are emerging focal points in policy adjustments. These trends align with geopolitical instability, regulatory shifts, and the global movement toward accountability and sustainable corporate practices."

 As Konstantinos Issaias, Partner at KG Law in Greece commented: "D&O buyers get familiar with the concept that troubles may come without being their fault and this adds to their day-to-day concerns."

MARKET BECOMING MORE INTERNATIONAL

One key trend noted by our member firms is the increasing globalisation of the D&O market. The presence of global broking houses and London Market underwriters is becoming omnipresent.

While this trend may enhance the range of coverage options available, the result is not universally beneficial.

 Clemens Völkl of Völkl Rechtswalze in Austria warns that brokers' wordings "harbour risks for policyholders, because ambiguities in these conditions are not attributable to the insurer, but to the policyholder. Secondly, special terms and conditions have been used more and more in recent years, particularly in the case of contract renewals or new cover. This can result in particularly complex terms and conditions that are difficult to interpret." Australia likewise notes the increase in the number of London-led placements.

 Sandra Lodewijckx, Partner at Lydian notes that in Belgium this is having a positive effect by making take up by the SME sector much easier: "for middle-market clients it is now generally possible to take out insurance through an entirely digital acceptance process, which implies more standardised policy wordings for certain risks."

 This is similar, notes Michael Molitor, Partner at Molitor Legal, to the situation in Luxembourg. While the domestic market is not as large as its neighbours, the highly sophisticated financial sector in the country requires tailored solutions. As such, he concludes: "Local brokers collaborate with global insurers to meet these needs, ensuring competitive and adaptable coverage in this expanding market."

INTERNATIONAL WORDINGS GENERALLY WELL RECEIVED

Other markets, including Chile, Finland, France, Greece and India note the rise of international wordings with approval.

 Justus Könkkölä, Partner at Socrates in Finland sums up the mood: "D&Os in larger companies are better protected by policies designed for global operating companies that offer broader coverage."

Spain and Switzerland are both highly approving of new wordings now available to directors and officers.

 Fernando Blanco Gamella, Partner at Blanco y Abogados in Spain notes how "the advancement of regulations, such as those directly related to sustainability and climate change, has led to a much more detailed focus on coverage for certain regulatory risks." The firm is also pleased to note the inclusion of "more specific clauses related to cybersecurity" adding that "the policy wording is closely linked to the progress of society and, therefore, to the new and constant challenges we face."

 Switzerland has also welcomed new cyber extensions and extended cover for ESG reporting and issues related to "sustainability-related" liability.

NOT ALL MARKETS SATISFIED

Not every market is satisfied with the current trends in D&O wordings, however.

 In the UK, Ross Baker, Partner at Beale & Co, notes: "Wordings from traditional D&O insurers have tightened considerably since the Covid period (2020-22) as insurers look to keep a tight rein on their potential exposures." Although an influx in MGAs has helped with the introduction of more bespoke policies, Baker points out how insurers are cautious to exclude specific risks, such as cyber, where specific separate cover is available, a trend which is likely to increase complexity for insureds.

On the plus side however, the prevalence of broker-driven wordings is welcomed. "Many brokers have sophisticated claims consultant teams that protect their insured clients' interests on issues such as fair presentation and scope of exclusions and extensions."

COVERAGE FOR DEFENCE COSTS, SETTLEMENTS, AND DAMAGES STEMMING FROM ALLEGATIONS OF MISMANAGEMENT OR FIDUCIARY BREACHES IS INCREASINGLY REGARDED AS CRUCIAL, ESPECIALLY AS BUSINESSES AND SHAREHOLDERS BECOME MORE LITIGIOUS AND REGULATORS MORE SUSCEPTIBLE TO INFLUENCE.

NEW YEAR. NEW RULES

What does 2025 have in store? A review of member firms' responses suggests that in 2025, there will be a significant number of new rules and increased scrutiny, heightening the pressure on directors and officers.

NEW LEGISLATION IN AUSTRALIA, BELGIUM, GREECE AND INDIA

Australia

In Australia, the Australian Prudential Regulation Authority (APRA) is introducing a new Financial Accountability Regime (FAR). Seen as one of the biggest regulatory changes in a generation, the FAR will impose a range of obligations on directors and senior executives, aimed at enhancing the risk and governance cultures within Australia's financial institutions.

 Janette McLennan, Partner at Sparke Helmore, comments: "From a D&O insurance perspective, individuals will be able to insure against defence costs they incur if prosecuted but they can also now face career-ending disqualification orders preventing them from acting as a director or executive in the future."

Belgium

In Belgium, new legislation in the form of Book 6 of the Civil Code, which governs extracontractual responsibilities, is expected to increase both the volume and value of claims. It is anticipated that this will lead to higher defence costs and may require a shift in procedural strategies, potentially making them more complex.

Greece

In Greece, reforms to the judicial system are under way, aimed at streamlining procedures and timelines in both civil and criminal proceedings. Additionally, new obligations introduced as part of the European regulatory framework will sharpen the focus on cyber security and increase the responsibilities for directors and officers. Recent legislation has also made natural disaster insurance mandatory for businesses with a turnover exceeding EUR 500,000, further extending the scope of D&O responsibilities.

India

India's legal and regulatory landscape is evolving to emphasise corporate transparency, accountability, and ESG compliance. In the near future, the digitisation of compliance processes, enhanced cybersecurity mandates, and regulations specifically focused on ESG-specific regulations will all impact businesses in India.

 In light of the evolution of regulatory landscape, Sakate Khaitan, Partner at Khaitan Legal believes "directors are likely to face greater personal accountability."

CASE LAW MOUNTING UP IN ITALY AND THE UK

Italy

Recent case law trends in D&O insurance in Italy point to an inevitable expansion of directors' liabilities, resulting in the need to adapt insurance policies to provide adequate protection.

BTG Legal anticipates an increase in the frequency and number of claims arising from actions by shareholders and the company, by creditors and liquidators (or receivers) against directors and auditors, as well as by the state and workers.

Privacy, occupational safety, ESG and cybersecurity cases are also expected to loom large.

UK

The UK market is also likely to be influenced by high profile recent cases.

 For example, following the recent Post Office scandal, Ross Baker, Partner at Beale & Co suggests there will likely be an: "increased impetus to look into imbalance of power between large corporations and individuals, and the role of lawyers and other advisors within corporations."

Beale & Co also highlights the potential for significant changes in AI regulation in the wake of the EU AI Act, along with considerable increases in fines and penalties for professional firms and corporations to discourage unethical behaviour, particularly dishonesty.



TRENDS TO WATCH

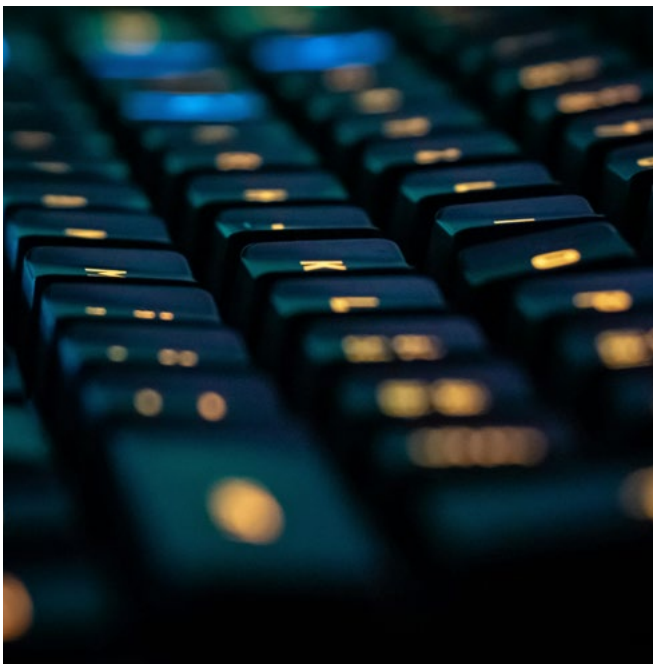
Looking ahead, there is a clear divide in the trends that firms identify as “ones to watch”, between the developed and developing markets.

CYBER

Cyber remains a concern in many markets, and this focus is expected to continue.

In Australia, AI has emerged as an area of D&O risk. Janette McLennan, Partner at Sparke Helmore, noted: “AI use by corporates, and how that use is managed and publicly disclosed.” Similarly, Ross Baker, Partner at Beale & Co in the UK, anticipates that issues will arise regarding AI’s ability to ‘hallucinate’ facts that are not based on reality.

Given the rapid evolution in the wider cybersecurity landscape, particularly concerning cybercrime, many firms mention this area as one to watch in coming years. It will be important for D&Os to consider the risks of being held liable for failing to mitigate and protect against cyber threats.



REGULATION

GILC’s 2021 report on the D&O market noted that the UK and North America tend to set global regulatory trends. Contributions this year indicated that this trend is expected to continue. Many markets, both developed and developing, are experiencing similar movements.

🇫🇮 In Finland, the market anticipates the adoption of trends already present in the US and EU. Justus Könkkölä of Socrates Attorneys notes that stricter reporting requirements on ESG brought in by the EU are likely to reshape corporate governance, “exposing directors to potential claims for non-compliance or greenwashing.”

This trend is mirrored in Spain and Mexico, both of which have a history of following the US market’s lead. For example, a decade ago, Mexico imported the concept of punitive damages from the US. More recently it modified the Case Precedent System to align it with the system in the US and in 2024, changes were made to the Constitution to bring about the voting-in of judges and justices.

In jurisdictions with sophisticated regulatory environments, there is an emerging trend of exposure to class actions, either through US-listed companies or through individual countries’ legislation. In the Netherlands, WIJ advocaten notes that Dutch companies with a US listing are becoming more concerned about the risk of class actions. This trend is echoed in Switzerland, Australia, and Italy especially concerning cases around financial instruments. As Norway began allowing class actions in 2008, such actions have become more common there as well.

In jurisdictions with less developed D&O insurance markets, the trends are more general. As these markets evolve and become more sophisticated, many expect regulation to follow. This is particularly true in Brazil, Greece, and India, where “the market is evolving to meet the demands of an interconnected corporate landscape”, driving change particularly for companies straddling multiple jurisdictions. In Mexico, there is a recognition that it is “foreseeable” for the country to follow the US trends regarding liability.

CONCLUSION

The D&O market has evolved significantly since GILC last surveyed its members on this topic in 2021. At that time, the COVID-19 pandemic's shadow loomed large over the sector, impacting pricing and exposures for D&Os. ESG reporting requirements were less stringent, and while cyber exposures and regulatory pressure were factors to consider, they were among many other considerations for D&O insurers.

Since then, regulation has emerged as a primary concern for our surveyed members, with ESG topics featuring more prominently this year. The impact of cybersecurity on D&O insurance, which was noted by many in 2021, has continued to evolve, presenting new challenges for our members and the insurers they advise. As we progress through 2025 and beyond, we can expect that the themes of cyber risk, regulation, and ESG will remain at the forefront of insurers' minds. We hope that the findings detailed in this report provide insights. Please engage with your local GILC firm if you wish to discuss any of the issues raised in this report.

METHODOLOGY

In November and December 2024, we surveyed practitioners in 24 GILC member firms for their views on the D&O market in their country. This report is based on their responses, combining a mix of quantitative data with qualitative market observations, supplemented by desk research. Not all respondents answered all questions, so responses do not always sum to 24.



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