

D&O ALERT

We are writing to inform you of developments in the directors and officers insurance market that could affect the extent and amount of coverage available for future D&O claims.

Problems in the subprime mortgage markets and related credit issues are likely to result in a hardening of the directors and officers insurance market. In addition to raising prices, D&O insurers may begin to restrict coverage or require exclusions for certain types of activities. For example, insurers could impose exclusions for subprime-related subject matters, or for claims related to circumstances that may have been notified under previous policies. Limits may also be reduced on future policies.

Clients who have subprime or other potential problems that could give rise to D&O claims should consider notifying their insurers of those circumstances under their current D&O policies. Early notification under current policies may mitigate the risk that a claim will be subject to subsequent policies with diminished coverage or limits. This is not to say that all policyholders should necessarily give notice to their insurers of all potential claims as there are potential pitfalls to that strategy. Rather, we are suggesting that clients carefully review their present and potential claims issues and make a studied decision on whether or when notices should be given.

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If you have any questions or require any assistance, please contact Mitchell J. Auslander, Chair of our Insurance and Reinsurance Practice Group, at (212) 728-8201, email: mauslander@willkie.com or the attorney with whom you regularly work.

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