



Hiscox London Market D&O



The D&O insurance market continues to change at a rapid pace. Hiscox is a lead primary and low excess carrier with market-leading claims and underwriting teams.

An unprecedented environment

The D&O insurance market is often volatile, and an ever-shifting claims environment is no different. Supply chain disruption, restricted capital markets, uneasy geopolitical tensions and a nervous banking sector all have the potential to lead to an influx in D&O claims.

Experience and reputation counts

D&O policies are there to respond to much more than just well publicised corporate scandals. Even routine D&O claims are typically complex matters and not only distract D&Os from the day-to-day running of the company, but can quickly become very personal matters. Whilst today's D&O insurance buyers may have more choice in terms of insurance carrier, it's vital to pick those with the right claims paying experience and reputation to make every claim as smooth a process as possible.

Which is why choosing the right primary carrier is probably the most important decision a buyer will make, alongside how much total limit to buy. A good primary carrier will have deep claims paying experience acquired over a number of years, together with strong financial security, and well-established claims and underwriting teams.

Don't ignore the excess carriers

Much of the coverage determination will be undertaken by the primary carrier and their claims staff, so it's imperative this is a well-respected carrier who other insurers will recognise as experts in their class. Lower excess ABC carriers may also quickly be involved in any settlement negotiations or mediations, so this is another important spot in the tower to focus on. Very often, the lower excess carriers may be a good alternative to the primary carrier.

Not just a US problem

In addition to having a good reputation in paying claims, buyers should look for a carrier who has paid a variety of claims. Insureds – particularly multinationals – can be exposed to cross-border investigations or regulatory actions that can turn rapidly into other, more US-centric claims such as securities class actions or derivative actions.

The London insurance market is traditionally a good home for these types of companies and claims given its familiarity with both SEC and non-SEC actions, licensing capabilities, and established relationships with local law firms across the world.

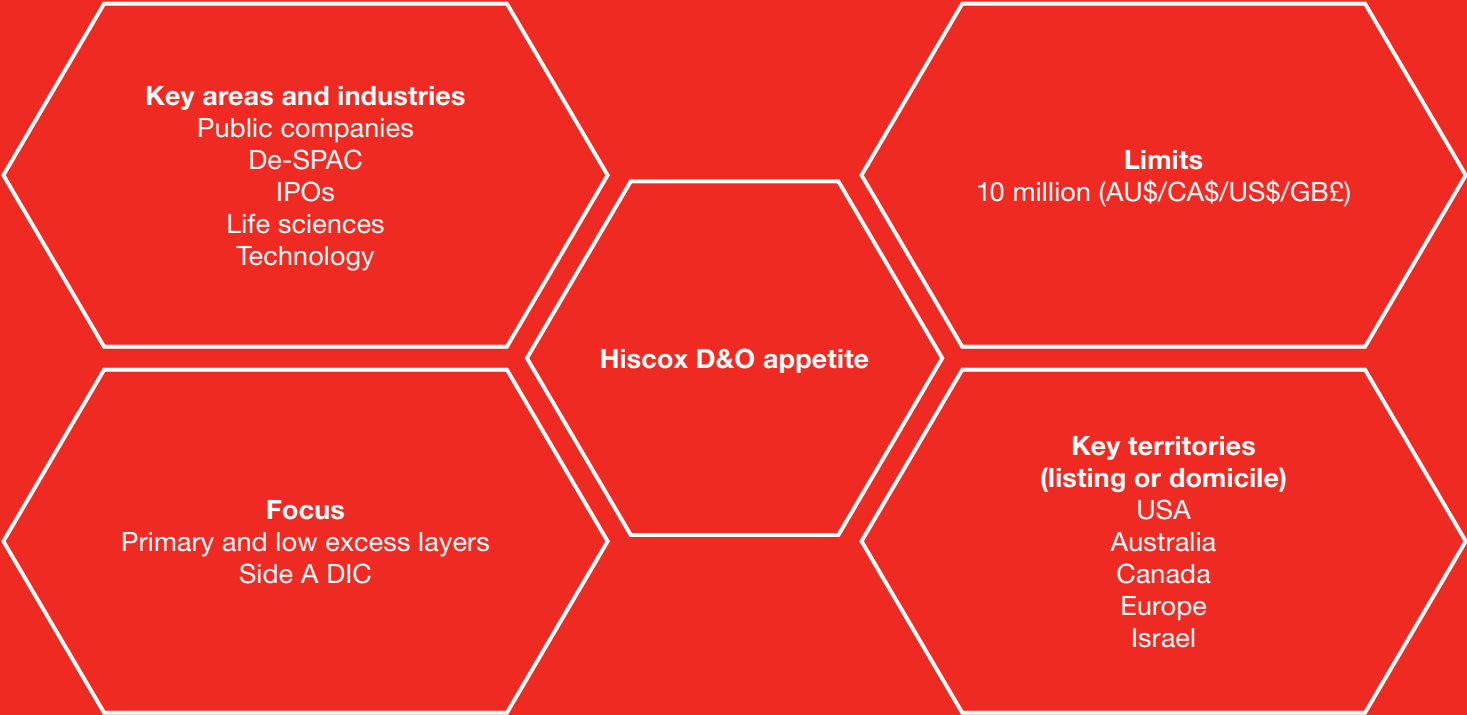
In the past, larger D&O claims were seen as a US public company problem but in recent years we have seen

corporate failures impact more varied geographies including Asia, Europe and Latin America and even creep into the private company world – so it's important your key carriers have a varied claims paying experience across industry, geography and coverage type.

Side A – a growing concern

Whilst Side A claims are typically less frequent than Side B or C, there is a growing concern with a heightened risk of bankruptcies and increasingly severe regulatory fines providing fertile ground for larger derivative settlements. Handling Side A claims can be incredibly sensitive given personal assets at risks, so having a nimble, experienced and empowered claims team is vital.

The Hiscox D&O portfolio is one of the most established in the Lloyd's market, with the ability to write primary and excess in high-risk sectors and territories.



Primary claims examples

Biotech

Alleged violations of sections 10b and 20a of the Securities Exchange Act of 1934 and section 11 of the Securities Act of 1933. Plaintiffs claimed that the D&Os deceived shareholders during their IPO, as well as in future financial statements about the contents of their FDA application.

Outcome

\$13 million settlement of the suit following mediation with Hiscox's paid share of the claim being \$5 million.



Healthcare

The insured changed business operations from healthcare to crypto-related activities and did not trigger any change in control within the policy. Whistleblower raised concerns about D&Os. SEC subpoenas and shareholder litigation followed.

Outcome

Multiple directors hired separate counsel in response to subpoenas, leading to rapid defence cost spend with Hiscox paying over \$3 million.



Retail

SEC investigation into an alleged pump and dump scheme. SEC later took action against two individuals where defence costs were covered by Hiscox.

Outcome

No shareholder action, but Hiscox advanced over \$2 million defence costs for covered D&Os.



Primary claims examples (cont.)

Insurance

Alleged violations of sections 10b and 20a of the Securities Exchange Act of 1934. Plaintiffs alleged that a substantial portion of the company's revenues were derived from third parties and that these third parties used deceptive tactics to sell policies.

Outcome

\$11 million settlement of the securities class action following mediation, with Hiscox's paid share of the claim being \$5 million.



E-commerce

Alleged violations of sections 10-b5 and 20 under the 1934 Act following disclosure of lower customer retention levels and adjusted guidance.

Outcome

Settlement of over \$20 million of both securities class action and derivative following mediation with Hiscox contributing \$10 million.



Medical devices

Medical devices company was served with a securities class action following allegations its products were the result of misappropriated trade secrets. Despite the company being within in the three-year IPO window only Section 10(b)5 and Section 20 violations were alleged.

Outcome

Hiscox contributed \$5 million to the settlement following a failed motion to dismiss.



Excess claims examples

Manufacturing

Whistleblower report questioned some accounting practices leading to stock drop of over \$700 million. SEC/DOJ launched various investigations. Several securities class actions and shareholder derivative actions were also filed.

Outcome

Settlement of securities class actions of close to \$100 million on top of significant defence cost spend with Hiscox contributing a full limit of \$10 million.



Finance

Following announcement of a de-listing and go private transaction share price dropped almost 50% and a securities class action was filed and notified to the run-off policy for the public policy and the 'go forward' private policy. Coverage was granted under the run-off policy.

Outcome

Settlement of circa \$20 million for the securities class action with Hiscox paying just under \$5 million.



Technology

Allegations of failed cyber security measures. Section 10b claim filed due to drop in share price.

Outcome

\$5 million policy limit paid by Hiscox.



Excess claims examples (cont.)

Entertainment

Fraudulent transfer suit brought against the insured D&Os. Plaintiffs alleged that the D&Os conspired to transfer the company's most profitable subsidiary to a new entity but saddled the company with all the subsidiary's debts.

Outcome

\$126 million settlement of the suit following mediation with Hiscox's paid share of the claim being \$11 million.



Retail

Following an ASX announcement concerning declining sales and a subsequent stock drop, securities class actions were filed alleging breach of continuous disclosure.

Outcome

Hiscox excess policy eroded by defence and discovery costs.



Energy

Following an SEC probe into the sector, share price fell just under 10% leading to various securities class actions.

Outcome

Settlement of securities class actions for over \$30 million with Hiscox paying a full \$10 million limit loss on the first excess.



Side A claims examples

Finance

Following bankruptcy of insured various lawsuits filed vs. D&Os. Primary carrier was an MGA and capacity providers disagreed over which year of account the claim sat in.

Outcome

Hiscox lead DIC policy dropped into primary layer to advance defence costs following delays in payment by primary carrier. Hiscox paid \$250,000.



Internet

Securities class action and derivative action filed following a cyber security breach. Settlement of securities class action eroded the ABC tower and Hiscox leading the Side A DIC tower paid almost a full limit loss.

Outcome

Derivative action settled for over \$25 million. Hiscox paid \$8 million.



Entertainment

Company filed for C11 and various claims including derivative action were filed implicating various year of accounts.

Outcome

Hiscox lead DIC policy contributed to derivative settlement. Hiscox paid \$7 million.



Constantly evolving D&O environment

In an unprecedented directors and officers' claims environment, partnering with a strong and trusted insurer who understands your risk has become more important than ever.



Why choose Hiscox?

Hiscox is one of the leading D&O carriers in the London insurance market. All risks are underwritten exclusively on Hiscox Syndicate 33 paper – rated A (Excellent) by A.M. Best.



Innovative underwriting solutions

With an innovative approach to writing complex D&O business, we offer tailored policies reflecting the coverage required to meet today's demanding litigation environment.



Claims handling in the USA and London

Our expert claims managers handle some of the largest and most complicated claims in the market. They are also integral to our product design and risk appetite – delivering consistency between underwriters and claims, and ensuring an unparalleled claims service.



Broad claims paying experience

Our broad underwriting appetite is matched by our extensive claims paying experience including; securities class action claims in the USA and Australia, US derivative actions, Chapter 11 and IPO-related claims, as well as claims from Europe, Latin America and Israel.



What we cover

Public company D&O.
IPOs and De-SPAC.
Primary and low excess ABC.
Side A.
Financial institutions.
Commercial institutions.



The Hiscox D&O team

Leadership



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