

The ForeFront PortfolioSM

Directors & Officers and Entity Liability Insurance for Not-for-Profit Organizations

When directors agree to serve on a not-for-profit board or as an officer of a not-for-profit organization, they agree to assume a multitude of duties and responsibilities that can put their personal assets at risk. As not-for-profit leaders, they can be sued for breaches of fiduciary duties, errors, omissions, and negligent acts. The Directors & Officers and Entity Liability insurance coverage part (D&O) is one of a suite of seven insurance coverage parts under *The ForeFront Portfolio* policy and is designed to specifically meet the needs of today’s not-for-profit organizations, providing flexible coverage that helps protect both the organization and the personal assets of its directors and officers.

Why do you need Directors & Officers and Entity Liability insurance?

Misconception	Reality
My organization does not need D&O insurance as we have bylaws requiring indemnification to the fullest extent permitted by law.	D&O insurance helps protect the personal assets of directors and officers and those of their spouses, domestic partners, and estates. This is critical, in situations when the organization is unable or not willing to indemnify you, such as: financial insolvency/derivative claim/violation of “good faith” or in states where organizations are permitted to have articles of incorporation and bylaws limiting the scope of indemnification requirements.
We do not have securityholders, hence we are not a target for D&O litigation.	D&O insurance can help protect against lawsuits brought by members, donors, beneficiaries, regulatory bodies, employees, vendors, creditors, bondholders, etc.
Not-for-profits have statutory immunity.	Statutory immunity applies only to uncompensated directors and officers; and not to the organization itself. It applies only to liability for negligence and does not apply to liability resulting from gross negligence, reckless, willful or wanton misconduct, or a knowing violation of a criminal law. It also does not prevent a D&O from being sued; and incurring defense costs. Statutory immunity applies only to state law claims; and not to claims made under federal law.

Directors & Officers and Entity Liability for Not-for-Profit Organizations Coverage Highlights

- Excess benefit penalties coverage and a Tax Matters coverage sublimit
- Additional Limit Dedicated for Executives
- Additional Defense Costs Limits in addition to the aggregate limit are available
- Sublimit for Member Inquiry Coverage for Derivative Demand Investigations and Books and Records Requests
- Defense Costs Coverage for Insured Person Interview request
- Written Request to Toll or Waive a Statute of Limitation Coverage
- Early Engagement Expense Coverage: pre-matter expense, pre-tender expense, or early settlement opportunity costs
- Outside Capacity Coverage: service by an Insured Person in an Outside Entity for specific types of not-for-profits
- Integrated Global coverage and capabilities, with access to our Global network and affiliated broker partners for locally admitted policies, if permissible by law

Directors & Officers and Entity Liability Claims Scenarios

Summary	Claim Details	Resolution
Improper Revocation of Membership	A worldwide standard setting association was sued by a member who had his membership revoked. The bylaws allowed for the executive committee to revoke a membership as long as it was for good cause and subject to a hearing, which did not occur. The member alleged that his revocation had a negative impact on his reputation and future business interests.	The case settled for \$80,000 in defense costs.
Violation of Civil Rights	A lawsuit was brought against a not-for-profit agricultural association and several individuals. The plaintiffs asserted causes of action for violations of civil rights: free speech, right to assembly and association, equal protection, and conspiracy stemming from allegations that the defendants discriminated against the plaintiffs by denying them access to public space for hosting a gun show.	The case settled for \$570,000 in defense and indemnity.
Patronage Capital Litigation	A class action lawsuit was filed against a member-owned electric utility over patronage capital. The plaintiffs alleged that the electric cooperative refused to refund tens of millions in capital credits that they felt rightfully belonged to the members. The applicable state code provided a guideline as to how revenues should flow through the cooperative and the Board believed that it could be interpreted multiple ways. The litigation resulted from the Board's decision to allocate/reserve the patronage capital rather than distributing it to members.	The case settled for \$218,000 in defense costs.

The ForeFront Portfolio

The ForeFront Portfolio is part of an evolution in one of Chubb's market-leading series of management liability products that have been specifically tailored to meet the individual needs of private companies, not-for-profit organizations, and healthcare organizations. With up to seven optional coverage parts, each coverage part works as a standalone policy or seamlessly together to minimize gaps and reduce overlaps in insurance coverage, providing companies choice and flexibility to help manage their individual and corporate exposures. It is a comprehensive insurance solution specifically designed to help companies not only survive, but thrive despite the most complex threats of litigation, extortion, and other white-collar crimes that may expose their bottom line.

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The claim scenarios described here are intended to show the types of situations that may result in claims. These scenarios should not be compared to any other claim. Whether or to what extent a particular loss is covered depends on the facts and circumstances of the loss, the terms and conditions of the policy as issued and applicable law. Facts may have been changed to protect privacy of the parties involved.

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