Public offering of securities insurance

Offering securities to the public is an opportunity for companies to raise capital and elevate their profile, but it comes with a significantly increased risk and potential exposure for a company and its directors. Insurance solutions play a key role in addressing that increased risk.

What are the key risks that an offering might bring?

An offering of securities to the public can lead to greater scrutiny by regulators and therefore heightened exposure to regulatory investigations.

Post-offering, an investor may bring a claim after they have relied upon on a statement (or an omission) in your prospectus that the investor later considers to be untrue or misleading.

Directors, the company, the underwriters, and/or the selling and controlling shareholders can be held liable for information provided within the prospectus. The chances of having a claim are much higher when organisations have public investors.

Will the issuer's directors and officers (D&O) policy respond?

A typical D&O liability insurance policy excludes cover for public offerings, or requires the offering company to pay an additional premium as a precondition to cover. If cover is extended under the D&O policy for a transaction, often this will only be available to the individual directors and officers and not the company or selling shareholders.

What is a public offering of securities insurance (POSI) policy?

A POSI policy offers bespoke cover for public offerings including initial public offerings and debt or equity rights issues, and specifically responds to the risks associated with the offering faced not only by your directors but also your organisation and any controlling or selling shareholders.

Most importantly, a POSI policy operates to ring-fence the transaction exposure away from your organisation's conventional D&O programme, leaving the D&O programme to respond to "business as usual" risks faced by the directors.

When undertaking a public offering, the majority of organisations listing outside of the US purchase a POSI policy alongside their existing D&O policy to ring-fence the initial public offering (IPO) exposures.

Marsh's POSI policy

Developed exclusively for Marsh clients, our POSI product is designed to complement and run in parallel with your existing D&O policy. This innovative approach to POSI drastically reduces the risk of gaps occurring in cover between the POSI programme and the D&O programme, and enables the POSI programme to be placed quickly and efficiently.

In addition to sitting seamlessly alongside any D&O policy, Marsh POSI provides extremely broad coverage, with only three limited exclusions.

Key benefits

Fits seamlessly with existing D&O arrangements

- Marsh POSI includes a difference in conditions clause to ensure the POSI policy automatically reflects the terms and conditions of your D&O policy.

Broad cover

- Cover is provided to your organisation, its individual directors and officers, and also for controlling and selling shareholders.
- Cover is also available for any indemnities provided by the directors to the deal underwriters.
- Cover includes full limit cover for:
  - Official investigations and preclaim inquiries.
  - Derivative shareholder costs.
- All covered claims relating to the offering will be provided for under this one policy. This includes the management decisions leading up to the offering, as well as the roadshows and investor presentations, thereby truly ringfencing transaction exposures away from the D&O programme.
- An additional limit for non-executive directors is also available when indemnifications are unavailable and the policy limit of liability has been exhausted by payments advanced by the insurer.
- Short response and favourable reporting times.
- The term of Marsh's POSI policy is six years to align with the UK statute of limitations.
- Marsh's POSI policy is fully non-rescindable, non-cancellable (except for non-payment of premium), and non-renegotiable; once incepted, there is no risk of changes to cover mid-term, even following notification of a claim.
- Coverage can be extended to automatically include subsequent offerings on the same exchange within the 12 months following the initial transaction, subject to a threshold percentage of the value of the initial offering.

For more information about Marsh's POSI policy and other solutions from Marsh, visit marsh.com, or contact your local Marsh representative.

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KEY FACTS

Capacity available

Limits can be purchased up to £350 million (subject to risk profile, transaction, and market conditions).

Insurers underwriting Marsh POSI

Marsh's POSI policy is underwritten by a number of insurers consisting of both company markets and Lloyd's syndicates.

Claims

Marsh has a dedicated financial lines claims team which Marsh POSI clients can access.

About Marsh

Marsh, a business of Marsh McLennan(NYSE: MMC), is the world's top insurance broker and risk advisor. Marsh McLennan is a global leader in risk, strategy and people, advising clients in 130 countries across four businesses: Marsh, Guy Carpenter, Mercer and Oliver Wyman. With annual revenue of $24 billion and more than 90,000 colleagues, Marsh McLennan helps build the confidence to thrive through the power of perspective. For more information, visit marsh.com, or follow on LinkedIn and X.