



management liability

corporate advantage
insurance information



Proprietary companies and their directors continue to face greater corporate governance and increasing regulatory surveillance of the management of their business activities.

Traditionally directors' & officers' policies have been written to only protect the personal interests and assets of individual directors and officers. In the past any available cover for the entity under these policies has been limited only to optional extensions, such as employment practices liability cover and comes with the added risk of eroding the directors and officers' policy limit.

Consequently, some proprietary companies have preferred to remain uninsured, exposing their owner directors and officers to the risk of expensive and time consuming litigation. This has been despite the fact that proprietary companies and their directors are directly exposed to risky litigation from a variety of different sources such as minority shareholders, employees (unfair dismissal, discrimination and sexual harassment), creditors and State and Federal regulatory bodies (i.e. ACCC, ASIC and ATO).

CGU Professional Risks, one of Australia's leading directors' and officers' insurers for over 20 years, has designed a product, Corporate Advantage – Management Liability Insurance Policy for proprietary companies and their directors and officers.

This product is intended to provide protection not only for the assets of the individual directors and officers but cover is also extended to the company for defined exposures. This is done by firstly broadening CGU Professional Risks traditional Directors & Officers ('D&O') coverage and then incorporating it with several wide ranging management liability extensions under the one policy.

In summary, this policy offers in the one convenient cover the following:

- Directors and Officers Cover.
- Corporation Reimbursement Cover.
- Corporation Liability Entity Cover.
- Employment Practices Liability (Corporation and Insured Persons) Cover ('EPL').
- Superannuation Trustees Liability (Corporation and Insured Persons) Cover.
- Corporation Crisis Cover.
- Directors and Officers, Fines and Penalties Cover.
- Fidelity Cover (Optional).

What are the special features of CGU Professional Risks Corporate Advantage – Management Liability Insurance Policy?

1. Premium Directors & Officers cover includes -

- No automatic insolvency exclusion.
- Automatic reinstatement for all insured persons.
- Retired Directors cover.
- Statutory Liability (Fines and Penalties for Insured Persons and/or the Corporation).
- Claims definition (applies to Employment Practices Liability and Trustees) - not just civil but also criminal proceedings.
- Automatic outside directorship cover (Not-For-Profit Organisations) with no automatic insolvency exclusion.
- Attendance at Official Investigations – No sub limit.
- OH&S breaches – no allegation of wrongful act and no sub limit.
- Automatic Joint Venture cover.
- Advancement of Defence costs.

2. Corporate Management Liability cover includes -

- Corporation Liability cover – No automatic insolvency exclusion and attendance at official investigations for breaches of OH&S laws (sub-limited).
- Employment Practices cover – no sub limit and expanded 'employee' definition.
- Superannuation Trustees cover – no sub limit and includes libel, slander and loss of documents cover.
- Corporation Crisis cover.

3. Optional extensions include -

- Corporation Fidelity cover – 'Non Manifest Intent' i.e. no qualification with respect to intent by employee responsible for the theft.
- Current Outside Directorship (other than not-for-profit organisations) with no automatic insolvency exclusion.
- Pre Acquisition liability.
- Pollution Defence Costs.
- Multi Year 'Run-Off' – after merger or sale of company.

Which Directors & Officers Policy should you use?

Corporate Advantage – Management Liability Insurance Policy

- Large number of additional extensions broadening CGU Professional Risks Directors & Officers policy wording, making it specifically designed for proprietary companies (Corporate Advantage cannot be provided for public companies).
- Indemnity limits generally restricted to \$20 million or less in aggregate liability. Any public companies and larger proprietary companies requiring higher limits of indemnity should consider CGU Professional Risks Directors & Officers Policy.
- It is intended to provide protection not only for the assets of the individual directors and officers but cover is also extended to the company for defined exposures. This is done by firstly broadening CGU Professional Risks Insurance's traditional D&O coverage and then incorporating it with five other insurance covers under the one policy.

Directors & Officers Insurance Policy

- Our existing CGU Professional Risks Directors & Officers policy wording is primarily aimed at protecting the personal assets of the directors.
- The policy serves a broad range of companies operating across a wide range of industry types. These entities include public listed (and unlisted), Proprietary (both small and large), cooperatives, mutuals, government entities and not-for-profit organisations.
- Broadened wording including clarity for directors with respect to advancement of defence costs, broader severability cover and limited application of fraud and dishonesty exclusion.

- Indemnity limits of up to \$30 million available.
- Broad range of optional extensions including EPL (Entity) cover at a very competitive premium available to small and larger organisations.
- Additional optional extensions include prospectus liability, reinstatement of limit, pre-acquisition liability and pollution defence costs cover which serve the needs of larger insured's.

Policy Coverage of Corporate Advantage – Management Liability Insurance

1. Policy definitions

'Insured person'

- Any natural person who was or now is or may hereafter become a director, secretary, executive officer or employee of the Corporation by whatever name called and whether or not validly appointed to occupy or duly authorised to act in such position.
- Any natural person who by virtue of any applicable legislation, is deemed to be director, secretary, executive officer or employee of the Corporation.

'Claim'

- Extended to include criminal proceedings for claims brought with respect to Directors and Officers Liability Cover, Corporation Reimbursement Cover, Superannuation Trustees Liability Cover and Employment Practices Cover.
- It shall cover any writ, summons, application or other originating legal (criminal, civil or otherwise) or arbitral proceedings cross claim or counter-claim alleging any wrongful acts, Trustee Responsibility Breach or Employment Practices Breach.

... security and experience



2. Special policy features that automatically provide extensive coverage

Insuring clauses

- Directors and Officers Liability Cover

The policy provides cover to an Insured for any loss which the insured may not be legally indemnified by the Corporation arising from a claim as a result of a 'wrongful act' committed while performing their role as a company director or officer.

A 'wrongful act' includes any breach of duty; breach of trust; neglect; error; misstatement; misleading statement; omission or breach of warranty of authority. Where allowed at law, the policy will also reimburse the corporation for any amounts paid to an Insured Person in the defence of a claim made against them.

- Corporation Reimbursement Cover

The policy provides cover to a Corporation for any loss which the Corporation is legally permitted to indemnify an Insured Person arising from a claim as a result of a 'wrongful act' committed by an Insured Person while performing their role as a company director or officer.

- Corporation Liability Cover

The policy provides cover to a Corporation for any loss arising from a claim as a result of a 'wrongful act' made against the Corporation during the period of insurance.

- Employment Practice Liability (Corporation and Insured Persons) Cover

The policy provides cover to an Insured Person and Corporation for any loss arising from a claim as a result of an employment practices breach.

- Superannuation Trustees Liability (Corporation and Insured Persons) Cover

The policy provides cover to an Insured Person for any loss arising from a claim as a result of a Trustee Responsibility Breach.

- Corporation Crisis Cover

The policy provides cover to a Corporation for any crisis loss arising from a crisis which occurs during the Policy period (sub-limited).

- Directors and Officers, Fines and Penalties Cover

The policy provides cover to an Insured Person for penalties arising out of a Claim under the Directors and Officers Liability and Corporation Reimbursement insuring clauses.

3. Automatic extensions

- Reinstatement of Aggregate Limit

In the event that the policy limit is eroded by a claim, the Insured will have the benefit of a further policy limit.

- Advancement of Defence Costs

CGU Professional Risks will generally conduct on behalf of our Insureds the defence of a claim. This is of great benefit to Insureds, especially to small Proprietary companies which may not have the expertise or resources available to handle complex legal disputes.

- Attendance at Official Investigations or Inquiries

The policy does not sub limit this type of cover, but instead makes available the entire aggregate limit of the policy with respect to defence costs in attending any official investigation, examination or inquiry. Cover under the policy does not require the allegation of a wrongful act.

- Occupational Health & Safety

The policy provides \$500,000 in defence costs for the Corporation in attending any official investigations, examinations or inquiries involving an allegation of breach of Occupational Health & Safety legislation.

- Retirement Cover

If the Corporation does not renew this policy or replace it with another insurance providing cover for its directors and officers or purchase an extended reporting period extension, then any Insured who retired prior to expiry of the policy will be automatically entitled to a once only 12 month extension for a wrongful act committed prior to the date of retirement.

- Extended Reporting Period

Enables the Insured to purchase an additional 12 month reporting period in the event that CGU Professional Risks does not offer renewal terms. This extension allows the Insured to notify claims which relate to matters arising prior to the expiry date of the policy.

- Continuity of Cover

The policy provides cover for known circumstances arising prior to the period of insurance, as long as the Insured was continuously insured with us and was insured with us at the time they first became aware of the known circumstance.

- Insured vs. Insured Cover

Despite the existence of an Insured vs Insured exclusion, the policy provides cover for claims made by an Insured Person against another Insured Person in certain circumstances.

Other automatic policy extensions include:

- Current outside Directorships (Not-For-Profit Organisations).
- Run-off Cover for Subsidiaries.
- Joint Venture Cover.
- New Subsidiaries.
- Run-off Cover for Outside Directorships.
- Preservation of Indemnity.
- Estate and Legal Representatives.
- Spousal Liability Cover.

4. Optional extensions

- Corporation Fidelity Cover (Non Manifest Intent Wording)
- Current Outside Directorships (Other than Not-For-Profit Organisations)
- Pre Acquisition Liability
- Pollution Defence Costs
- Multi-Year Run-Off after Merger or Consolidation

5. Exclusions, general conditions and definitions

Please refer to CGU Professional Risks Corporate Advantage – Management Liability Insurance Policy wording for full details of cover conditions and exclusions. A copy is available from our website at www.cgu.com.au/professionallrisks.

6. Target market

Proprietary companies in the following industries with no more than \$100m in assets:

- Agricultural.
- Manufacturing.
- Not-For-Profits.
- Retail / Wholesale.
- Schools or Hospitals.
- Services (other than financial services).

Proprietary companies with either more than \$100m in assets or not in the above industry groups can also be considered. Please contact us to discuss further.

Market security and experience

1. Security

CGU Professional Risks:

- Has over the past 20 years underwritten over \$1.2b in premium.
- Managed over 32,000 claims for our policy holders.
- Insures each year over 35,000 Australian business' or individuals.

2. Expertise

Over 20 years of experience in providing directors' and officers' insurance to the Australian market.

3. Service

CGU Professional Risks prides itself on its excellent service and claims reputation and proudly supports the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry.

4. Product range

In addition to CGU Professional Risks Corporate Advantage – Management Liability Insurance Policy, CGU offers the following products;

- Professional Indemnity Insurance.
- Directors and Officers Liability Insurance.
- Employment Practices Liability (stand-alone wording).
- Information Technology Liability Package.
- Superannuation Trustees Liability Insurance.
- Defamation Insurance.
- Office Bearers' Liability Insurance.
- Associations and Not-For-Profit Organisations Liability.
- Medical Malpractice Insurance.
- Professional Indemnity + Broadform Liability Insurance.

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