

MANAGEMENT LIABILITY LOCKTON APEX: A-SIDE DIC D&O COVER



Side-A of a D&O policy is key to personal protection. A Side-A claim is one made against an individual director or officer when the company is unable to indemnify them due to public policy, law, financial impairment, or because the company simply refuses or is otherwise unable to indemnify them.

A Side-A policy is, therefore, a policy that covers the directors and officers only when they cannot be reimbursed by the company for the defence of a claim and any judgments or settlements.

A Side-A Difference in Conditions (DIC) policy works in two ways:

1. It provides excess Side-A cover above the D&O policy limit.
2. It includes a drop-down and difference in conditions feature which will respond when the underlying insurance fails.

There has been increased attention on how responsive a D&O policy can be and how coverage can be tailored to respond in a worst-case scenario. Side-A DIC policies have been a significant part of this attention and response.

Our Lockton **APEX** Side-A DIC policy provides directors with the reassurance that, if all else fails, they will still be able to rely on protection which cannot be eroded by claims made against the company.

The principal benefits include:

- **A dedicated additional limit** for individuals' non-indemnified losses
- **Broader coverage, including:**
 - **Only one exclusion**, the Conduct Exclusion (which does not apply to NEDs)
 - **Following the form of underlying cover** where this is broader
 - **Insurer's consent** not required to incur defence costs
 - **Fully non-rescindable** (i.e. the policy cannot be avoided by insurers)
 - **Non-cancellable** except for non-payment of premium by the insured
- **Full reinstatement** of the limit for all insured persons
- **Potential "Any One Claim"** limits available
- **Utilisation of Lloyd's direct licences in respect of claims made anywhere in the world**, i.e. Side-A insurers will drop down to pay a loss in countries where an underlying insurer may not be able to pay a claim because they do not hold a valid licence or do not pay within 60 days of a written request. Lloyd's is licensed in more than 80 territories.
- **DIC feature for the previous Side-A DIC policy**, offering peace of mind that no cover will be lost when transferring to the **APEX** wording.
- **Pre-agreed discovery for up to six years** for certain triggers, such as non-renewal by the insured or the insurer, insolvency/bankruptcy, or a transaction whereby the insured is acquired by another entity.
- Non-imputation from one insured to another.

For Specialty enquiries,
please contact Sally Greenwood or Ian Nichol.



Sally Greenwood

T: +44 (0) 207 933 2668
E: sally.greenwood@lockton.com



Ian Nichol

T: +44 (0) 207 933 2670
E: ian.nichol@lockton.com

For Retail enquiries,
please contact David Crow or Jo Newman.



David Crow

T: +44 (0) 207 933 2137
E: david.crow@lockton.com



Jo Newman

T: +44 (0) 207 933 2674
E: jo.newman@lockton.com