

Liability Limit Benchmarks
& Large Loss Profile
by Industry Sector
2018

CHUBB®

Chubb Bermuda



Contents

How Much Liability Limit is Enough?	3
Auto & Auto Parts Manufacturing Sector	4
Chemical Sector	6
Construction Sector	8
Consumer Products Sector	10
Healthcare Sector	12
Industrial Manufacturing Sector	14
Life Science Sector	16
Oil & Gas Sector	18
Real Estate & Hospitality Sector	20
Transportation Sector – Rail	22
Transportation Sector – Road	24
Utilities Sector	26
How Much is Enough for Directors and Officers?	28
Directors and Officers Side A Policy Payments	29
Arbitration vs. Litigation?	31

How Much Liability is Enough?

For too many companies, this question is answered only in hindsight, after the unthinkable occurs. The lithium battery explodes, the car accident kills, the impaired employee maims, the wildfire blazes – and the liability policy limits that were purchased are simply not large enough to absorb the ensuing losses.

Chubb Bermuda created this report nine years ago to give our customers, their brokers and board members the foresight to purchase adequate limits of liability protection before the unexpected occurs.

Our commitment to providing high excess catastrophic liability limits spans more than 30 years. We have had a bird's eye view of the world's worst losses – how they happen, how they escalate, and how the flames of litigation may be either fanned, or mitigated and managed. In this report and in our daily interactions, we draw upon this experience to provide you with information that will help you make an informed decision around how much liability limit is enough.

Every year we publish this report, we ask our customers how we can enhance the content to better assist you with your liability insurance purchasing decisions.

In response to your feedback last year, our 2018 report includes:

- Minimum, maximum and median liability limits being purchased by industry sector, based on Chubb Bermuda's 2017 year-end portfolio data.
- Details on large liability losses that have impacted certain industry sectors, including expanded information on damage amounts.
- Noteworthy and emerging risks to consider as you weigh the options on adequacy of limits to protect your company and stakeholders.
- Preview of results from a separate Chubb Bermuda report that assesses the predilection for Bermuda's hallmark arbitration versus litigation as a preferred dispute resolution mechanism.

Against a backdrop of record securities class action filings and litigation, we've also expanded this year's report to include a new section featuring a sampling of real-life D&O losses resulting in Side A policy payouts. Ensuring your Directors and Officers are adequately protected has never been more important.

The world can be a risky place. Catastrophes can, and do, happen with greater frequency. The plaintiffs' bar remains active and ever vigilant in searching for the next 'big one.' Building a liability tower with the right-size limits to adequately protect your company is critical.

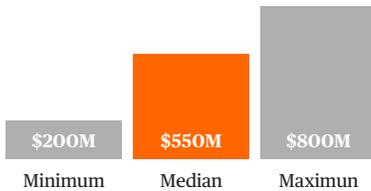
Chubb Bermuda is pleased to be able to provide our 2018 report to inform your decision-making as you weigh how much limit is enough. And as always, we look forward to putting our exceptional balance sheet, three decades of experience and expertise to work to support your large-scale capacity needs as you build your liability programs.

Auto & Auto Parts Manufacturing Sector

Companies engaged in the design, development, assembly, manufacturing, marketing, distribution and sale of motor vehicles and component parts.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



Damages amount:
\$23 million

Product Liability

The plaintiff was rendered quadriplegic in an auto accident that allegedly resulted from the tire tread separating on the car he was driving. The vehicle had been part of an auto and tire manufacturer recall. The plaintiff pointed to design defects in the vehicle. The tire manufacturer and distributor were released from the case prior to trial. A California jury apportioned liability to the auto manufacturer (91.5%), tire distributor (7%), and plaintiff (1.5%).



Damages amount:
\$46 million

Auto Liability

An independent contractor, while working for an auto dealership, was involved in a collision. A California jury awarded approximately 17% (\$8 million) for actual injury, with 83% of the damage award (\$38 million) granted for future pain & suffering.



Damages amount:
Pending

Cyber (Internet of Things) and General Liability

A hacker is alleged to have used a laptop and cellular phone to remotely take control and crash automobiles, exploiting a software flaw.



Damages amount:
\$246 million

Product & Punitive Damages Liability (\$240 million punitive, \$5.6 million compensatory)

The plaintiff alleged that defective steering and design defects caused a car crash that resulted in two fatalities and multiple injuries. A Montana judge ordered the auto manufacturers to pay punitive and compensatory damages. The defendants' bid to reduce the award on appeal was rejected.



Damages amount:
\$125 million



Damages amount:
\$870 million

Product Liability

A driver stopped for a school bus and was rear-ended by another vehicle, which resulted in a serious permanent head injury to a child in the car. The plaintiffs sued the auto manufacturer claiming design and manufacturing defects, negligent failure to warn or instruct regarding use of the vehicle, and gross negligence. The Texas jury found in favor of the plaintiff.

(proposed)

MDL Product Liability

A product defect allegedly deactivated safety features in vehicles over nine years, resulting in a recall of vehicles. Multidistrict litigation in New York was consolidated for nearly 3,200 plaintiffs with claims against the auto manufacturer. The defendant paid 9.2% of the ‘deemed eligible’ claims filed, with an average defense spend of 38% of the total proposed settlement.



While pursuit of ‘deep pocket’ and increased defense costs remain common themes, the auto sector faces heightened risk exposures associated with increased reliance on data, the Internet of Things, artificial intelligence, and robotics. Once unimaginable exposures have become all-too-real threats, from self-driving cars crashing, to terrorists using vehicles to run over pedestrians.

On the Radar

Have you considered these exposures?

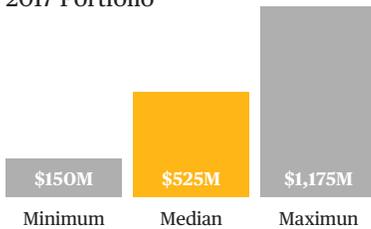
- Deep Pocket
- Increased Defense Costs
- Collective Redress
- Internet of Things
- Electronic Data Events
- Artificial Intelligence & Robotics
- Lithium Batteries
- Impaired Employees (Opioid Crisis)
- Terrorism

Chemical Sector

Companies engaged in research, development, manufacturing, marketing and distribution of petrochemicals, basic and specialty chemicals, agricultural chemicals, and chemical intermediates.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



Damages amount:
\$15 million

General Liability

Lacquer vapors ignited, severely burning two building workers. The plaintiffs took action against the retailer that sold the product and the product distributor alleging failure to warn of flammability of product. The lawsuit against the product manufacturer was resolved via settlement. New York jury found the retailer 60% liable and the distributor 40% liable.



Damages amount:
\$101 million

General Liability

A fire and explosion at a Texas chemical storage and distribution facility resulted in multiple fatalities, over 150 injuries and 150 buildings damaged or destroyed. The award includes third party property damage and personal injury only.



Damages amount:
\$105 million

(including economic loss)

Pollution/Environmental Liability

Extensive application of an agricultural chemical was alleged to have contaminated the local water supply. Significant expense was required to filter the toxic product from the drinking water in approximately 2,000 municipal water systems in Illinois. The award included economic loss as well as third party pollution/environmental liability.



Damages amount:
\$151 million

(including economic loss)

General Liability & Third Party Pollution/Environmental Liability

A chemical spill caused by a company upstream from a water treatment facility allegedly contaminated a West Virginia river. Plaintiffs were exposed to contaminated water and polluted air, requiring medical monitoring. Damages were apportioned 83% to the water treatment plant and 17% to the chemical manufacturer.



Damages amount:
\$450 million

(Demand)

Product Liability

A class action alleges that the defendant's pesticide is harming Canada's honeybee population. The plaintiffs are seeking \$450 million in a Texas court.



Damages amount:
\$18 million

General & Pollution Liability

Multidistrict litigation (MDL) alleging wrongful death or personal injury arose from exposure to drinking water contaminated with perfluorooctanoic acid (PFOA). Pending litigation consists of 46 consolidated actions.



The potentially catastrophic liability exposures of chemical operations are heightened by larger trends, both natural and man-made... from the frequency of extreme weather events to threats of terrorism and cyber intrusions.

On the Radar

Have you considered these exposures?

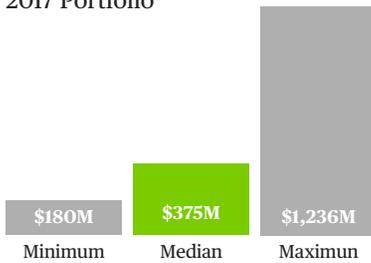
- Supply Chain Risk
- Electronic Data Events
- Artificial Intelligence & Robotics
- Extreme Weather Events
- Political, Regulatory & Risk Reforms
- Drinking Water Contamination
- Terrorism
- Impaired Employees (Opioid Crisis)

Construction Sector

Companies engaged in project design, engineering, development, and construction.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



Damages amount:
\$55 million

Settlement (61% punitive damages, 39% compensatory)

Auto & Punitive Damages Liability

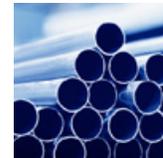
A single collision resulted in a serious permanent injury. A Texas jury apportioned 34% liability to the “deep pocket” construction company; 30% to the plaintiff driver who made a U-turn contributing to the accident; 28% to the company (defendant) driver; and 8% (comparative liability) to the passenger of the u-turning driver who was not wearing a seatbelt.



Damages amount:
\$17 million

General Liability

A scaffold's tin roof collapsed while a worker was standing on it, resulting in paralyzing injuries. The plaintiff (the laborer) sued the owner and manager of the Manhattan premises and the general contractor (the defendants): all possible “deep pocket.” The defendants impleaded the Scaffolding Company (plaintiffs' employer). The scaffolding company paid the total settlement.



Damages amount:
\$107 million

Product & Contractual Liability

The plaintiff contracted with the defendant (a subsidiary of a Fortune 500 company) to supply large quantities of fabricated and welded steel pipes for a new construction project in Washington. The pipes were allegedly defective, with weld & fabrication defects, and ultimately damaged equipment and other property.



Damages amount:
\$15 million

General & Umbrella Liability

As a natural gas line was being purged to install a commercial water heater, an explosion occurred, killing four and injuring dozens. The defendant contractor was found liable for damages paid to seven plaintiffs injured in the blast.



Damages amount:
\$44 million

General Liability

When a crane collapsed at a Texas construction site, a laborer was trapped under fallen equipment and ultimately had to have his leg amputated. The defendant contractor was accused of repeatedly violating safety policies and ignoring employee warnings that the crane was overloaded.



Damages amount:
Confidential Settlement

General Liability

Three workers performing stuccowork on the exterior of a high-rise apartment complex fell from a platform to their deaths. The platform (mast climber) had been leased by a subcontractor to a second subcontractor, who would perform the exterior work on the high-rise. Plaintiff's families claimed that the mast climber was in poor

condition with rusted and damaged parts. The mast climber leasing company was responsible for maintenance and service while the platform was in place. Parties in the lawsuit elected to waive a jury trial. The judge found the equipment leasing company 95% liable and the second subcontractor that hired the workers 5% liable.



The liability landscape for construction companies continues to evolve, as companies push the envelope using innovative eco-friendly materials and creating smart buildings, while struggling with a shortage of skilled labor and worries of impaired employees, further compounded by the current opioid crisis.

On the Radar

Have you considered these exposures?

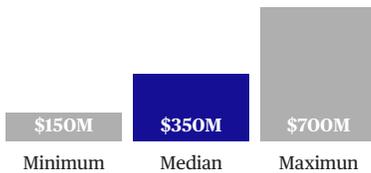
- Eco-Friendly/Green Materials
- Smart Buildings
- Innovative Construction Designs
- Talent Gaps
- Impaired Employees (Opioid Crisis)
- Deep Pocket
- Extreme Weather Events
- P3s

Consumer Products Sector

Companies engaged in manufacturing, distribution, and sale of food, beverage or other consumable goods.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.

Damages amount:
\$63 million

Auto Liability

The defendant's tractor-trailer struck and drove over two minivans, coming to rest on top of a third, after skidding 400 yards on the highway. Ten people were killed, five injured.

Damages amount:
\$662 million

In jury awards

Product Liability

The plaintiffs allege that use of the defendant's product over decades caused cancer. They charge the defendants with negligence, failure to warn, and product liability. Approximately 4,000 lawsuits are pending nationally.

Damages amount:
\$17 million

General Liability

The claims against more than 575 retail locations were twofold: (1) unlawfully handling and disposing of hazardous waste, including biological hazardous waste, and (2) unlawfully disposing of customer records containing confidential medical information.

Damages amount:
Pending

Product Liability

MDL arose from lawsuits in Pennsylvania alleging damages from the pathological and debilitating effects of traumatic brain injuries caused by concussive impacts that have afflicted former professional sports players. The defendant designs, manufactures, and markets sports equipment. Lawsuits allege strict liability for design and manufacturing defects and failure to warn of potential injury. The proposed settlement by the professional sports organization involved in these cases is \$850 million, the defendant equipment manufacturing company is not included in these cases.



Damages amount:
\$31 million

(48% punitive damages)

General & Punitive Damages Liability

A New Hampshire pharmacist filed a gender bias lawsuit alleging that she was fired after reporting patient privacy violations stemming from coworkers who accessed and shared her medical information with other employees.



Damages amount:
\$90 million

Product Liability

A vacationing family was overcome by fumes arising from the illegal use of a pesticide. Defendant has entered guilty pleas to four counts bought by the US Department of Justice in connection with the illegal use of the pesticide and entered into a tentative settlement for all civil claims.



While product liability remains a paramount threat, the integration of technology and use of consumer data and information are bringing cyber-related threats to the forefront.

On the Radar

Have you considered these exposures?

- Artificial Intelligence & Robotics
- Traumatic Brain Injuries

- Lithium Batteries
- Food Safety
- Supply Chain Globalization

- Internet of Things
- Electronic Data Events / Privacy
- Deep Pocket

Healthcare Sector

Hospitals, teaching universities/medical schools, long-term care/assisted living facilities, Managed Care Organizations, Health Maintenance Organizations (HMOs), Preferred Provider Organizations (PPOs), Physician-Hospital Organizations (PHOs), and clinical trial/contract research organizations.

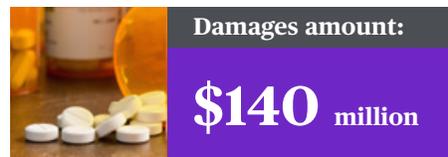
Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



Medical Malpractice & General Liability

As a cost-saving measure, the defendant hospital outsourced medical transcriptions and authorized its vendor to use a non-US transcription service. The plaintiff's discharge summary was outsourced and transcribed in India. When the plaintiff was readmitted to a second hospital, the discharge summary was shown to have errors specific to the plaintiff's drug dosage. The plaintiff was subsequently given an incorrect and fatal drug dose. The Indian transcription company settled the case before the verdict was rendered. The defendant hospital plans to appeal.



Medical Malpractice & General Liability

The plaintiff was treated at the defendant hospital, where she was seen by three doctors, underwent multiple tests and stayed overnight. The next morning the plaintiff's family summoned an independent specialist who determined that she was suffering a myocardial

infarction. She was transferred to another hospital, but had suffered extensive damage to her heart. The jury found that the hospital staff departed from an accepted standard of care and awarded for the plaintiff.



Medical Malpractice & General Liability

A class action was filed against a Delaware pediatrician for sexual abuse of multiple children. Plaintiffs alleged negligence, willful and wanton conduct, and failure to report. The defendants included the hospital, other doctors at the hospital who may have known, and the Medical Society of Delaware, including doctors on its Physician's Health Committee. The pediatrician, who was charged with sexually assaulting scores of children over more than a decade, waived his rights to a jury trial and is serving 14 life sentences without parole.



Medical Malpractice & General Liability

Under the defendant's care, the plaintiff (a minor) underwent blood work and was diagnosed with an infection. Despite the infection, she was not given antibiotics until more than 24 hours after being admitted to the ER at an Illinois hospital.

By the time she received antibiotics, she had suffered septic shock, cardiac arrest, and multiple organ failure. She had all four limbs amputated due to untreated sepsis and gangrene. The plaintiff alleged that the hospital/doctors failed to recognize that laboratory results and vital signs were consistent with sepsis, failed to provide aggressive resuscitation efforts, failed to order broad-spectrum antibiotic coverage within two hours of admission to the emergency room, and failed to admit the patient to a pediatric intensive care unit.



Damages amount:
\$21 million

Medical Malpractice & General Liability

The 80-year-old plaintiff was scheduled for a bilateral jaw displacement. After mixing up her CT scan results with those of another patient, hospital staff thought she had bleeding in her brain and required immediate brain surgery. Doctors at the Michigan hospital mistakenly operated on the patient's brain, rather than performing the simple jaw procedure. The patient never recovered and died sixty days later. Damages were apportioned as \$300,000 for medical/funeral expenses, \$13 million

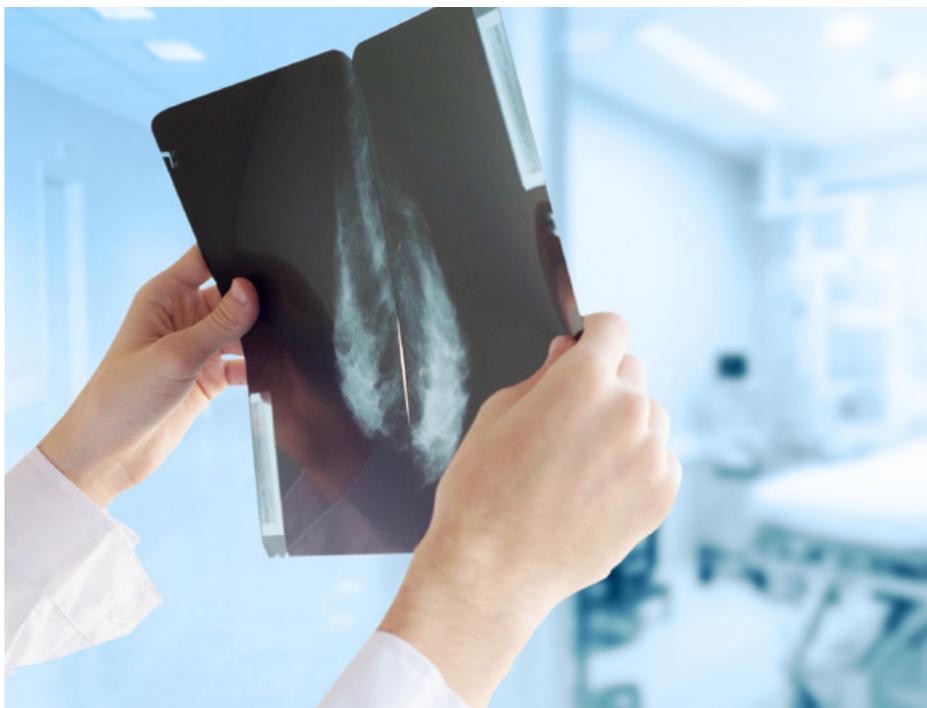
for pain and suffering, \$4.5 million for damages suffered by next of kin, and \$2.2 million for future suffering by next of kin.



Damages amount:
\$190 million

General & Medical Malpractice Liability

A Maryland hospital was sued after a doctor was accused of secretly videotaping patients undergoing pelvic exams in rooms where cameras had been concealed in pens and key fobs. The lawsuit alleged that the hospital should have caught the doctor's actions earlier.



While errors in diagnosis or treatment can have catastrophic consequences, the rise of telemedicine, robotics, and the Internet of Things promise new efficiencies and advances – but also new and unknown complications in both the treatment room and the courtroom.

On the Radar

Have you considered these exposures?

- Errors in Diagnosis
- Behavioral Health
- Internet of Things
- Telemedicine

- Artificial Intelligence & Robotics
- Impaired Employees (Opioid Crisis)

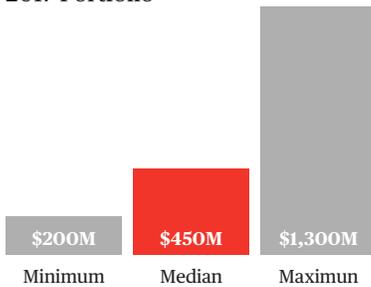
- Electronic Data Events
- Improper Sterilization of Equipment

Industrial Manufacturing Sector

Companies engaged in the design, development, assembly, manufacturing, and sale of industrial equipment and component parts used in various industries.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



Damages amount:
\$17 million

Wrongful Termination/Discrimination

The plaintiff, an employee of the defendant company for 29 years, was terminated without explanation when the company undertook a workforce reduction. The plaintiff claimed that the reduction was done in a discriminatory manner and that he was targeted because of his age (54). The Texas jury agreed and awarded him approximately \$16.5 million, including \$15 million in punitive/exemplary damages, \$579,179 in lost income, and \$1 million for mental anguish.



Damages amount:
\$34 million

Product Liability

While operating a forklift, the plaintiff leaned forward to read a pallet and inadvertently hit the control for the forklift mast, which lowered onto him crushing his torso and rendering him quadriplegic. The lawsuit alleged that the defendant forklift manufacturer failed to address a known design defect, to install necessary safety features in the device and to provide adequate warnings. The parties agreed to settle the case, with 25% of the settlement (\$8.5 million) designated as plaintiff counsel fees.



Damages amount:
\$45 million

Product Liability

The plaintiff was removing a tree stump when one end of the link chain broke, striking him in the face and causing traumatic eye and brain injuries. The Florida plaintiff sued the chain's Chinese manufacturer as well as the product's US retail seller and importer, alleging product liability, including manufacturing defects and strict liability. The retailer and importer reached confidential settlements prior to trial. The Chinese manufacturer did not respond or participate in the trial. The case proceeded in default, with plaintiffs counsel arguing that the manufacturing process resulted in incomplete, weak and ineffective welds. China does not enforce US court judgements.



Damages amount:
\$40 million

Product Liability

Plaintiffs' decedent was operating a bulldozer at a construction site in Texas. At some point, he was trying to signal a truck driver who was about to dump a load of dirt in the wrong place. He brought the bulldozer to a halt, stepped out of the cab and stood on the left wheel-track, and waved his arms to get the truck driver's attention. The bulldozer suddenly began moving in reverse, causing him to fall. He was killed when he was squeezed between

the moving track and the open door of the cab. His estate and family sued the bulldozer manufacturer and the company who sold the bulldozer alleging design defect and gross negligence (his employer was nonsuited from this case before trial). The jury found that the bulldozer had a design defect when it left the possession of the manufacturer and that the defect was a cause of plaintiff's death; but the jury also found the plaintiff was negligent. The jury found the manufacturer was 80 percent negligent and plaintiff was 20 percent negligent, awarding just over \$20 million. The jury also found the manufacturer grossly negligent. In a separate wrongful death suit including the plaintiff's employer, the manufacturer, and the company who sold the bulldozer, a jury awarded the family \$20 million.

Damages amount:
\$51 million

Wrongful Termination/Discrimination/Punitive Damages Liability

The plaintiff worked for the defendant for nearly 30 years and was one of six in his group to be laid off during a workforce reduction. He alleged violations of the Federal Age Discrimination Employment Act and state laws. The defendant said that the plaintiff was terminated because of "...below average performance and lack of future work available for his skill set." The jury assessed \$50 million in punitive damages against the defendant.

Damages amount:
\$23 million

Auto Liability

When driving his employer's truck on an Illinois interstate, the defendant slammed into the rear of the plaintiff's car, pushing it into a truck stopped in front of it, resulting in a fatality. The plaintiff, the wife of the deceased, blamed the accident on the defendant who had drugs in his system while behind the wheel. A wrongful death verdict was reached after just three hours of deliberations.



With rapidly advancing technology, including artificial intelligence and robotics, industrial companies inevitably encounter new, uncharted risks, while continuing to wrestle with potentially catastrophic threats emanating from the single vehicle auto accident to the increasing business continuity exposures of a globalized supply chain.

On the Radar

Have you considered these exposures?

- Aging Asset Infrastructure
- Artificial Intelligence & Robotics
- Electronic Data Events
- Supply Chain Risk
- Discrimination/ Harassment
- Deep Pocket
- Internet of Things
- Impaired Employees (Opioid Crisis)

Life Sciences Sector

Companies engaged in the research, development, manufacturing, marketing, distribution or sale of pharmaceuticals, biologics, and medical products/devices, including biomedical research/technology.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

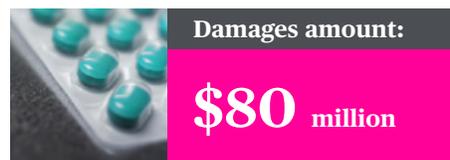
Following is a sampling of large losses typical of this sector.



(\$62 million punitive damages)

General and Punitive Damages Liability

A patient checked into a hospital for chest pain. Days later, a doctor allegedly conducted numerous unnecessary procedures, including implanting a pacemaker manufactured by a non-US company. The lawsuit alleged that the device manufacturer encouraged the doctor to implant more pacemakers and other medical devices, resulting in medical negligence, recklessness and fraud. The doctor and the hospital settled for undisclosed amounts, while the jury awarded punitive, compensatory and loss of consortium damages from the device manufacturer.



Product Liability

Patients that used a drug that controls bleeding during heart surgeries claimed that the drug increased their risk of death 50% compared to competing drugs. Plaintiffs sued the pharmaceutical manufacturer for product liability, alleging design defects and personal

injuries, including renal failure, heart attacks, stroke and death. The lawsuits against the manufacturer were consolidated into multidistrict litigation with approximately 1,450 suits.



Product Liability

The plaintiffs, users of a blood thinning drug, alleged that the defendant, a non-US pharmaceutical company, failed to warn that the drug could cause uncontrollable bleeding and other serious injuries, including death. The defendant agreed to pay \$650 million to settle approximately 4,000 claims in Illinois state and federal courts.



Product & Punitive Damages Liability

The plaintiff who was injured during a surgery when a defective stapler misfired causing serious permanent injuries. The misfire caused the plaintiff to go through 21 days of emergency hospitalization, massive infections and multiple major surgeries to try to fix their injuries. The jury found that a defective manufacturing process reduced the lubrication applied to the stapler, causing it to fire with more force than its specifications. The company knew about the defect for more than 10 years

before it was recalled (the stapler used on Plaintiff was from one of the lots later recalled). The surgeon was also named as a defendant in the suit but found not responsible for the plaintiff's injury because they were not warned of the defect. The same jury that awarded \$10 million to the plaintiff came back with a second verdict, this time ordering the defendants to pay a \$70 million punitive damages judgment for hiding defects of their stapler.



Damages amount:
\$200 million

Product Liability

A compounding pharmacy facility was alleged to have provided contaminated injectable pharmaceuticals for back pain, resulting in infections that caused 64 fatalities and 751 injuries, with 3,300 patients in total impacted. The company filed for bankruptcy two months after the outbreak. The bankruptcy judge approved a class action settlement of \$200 million to compensate victims for wrongful death and personal injuries.



Damages amount:
\$1.4 billion

Product Liability

Multidistrict litigation alleged personal injuries arising from two defective metal hip replacement devices. The plaintiffs alleged product defects, specifically that the devices caused fretting and corrosion and failed early. They also alleged that metal debris shed from recalled hip stems caused painful and debilitating complications, including the need for revision surgery. The manufacturer agreed to a settlement to compensate eligible US patients who had revision surgery.



Increasingly globalized supply chains, shifting political and regulatory climates, an active plaintiffs' bar, and litigation stemming from the nationwide opioid crisis are among many factors heightening uncertainty and exposure.

On the Radar

Have you considered these exposures?

- Supply Chain Risk
- Deep Pocket
- Artificial Intelligence & Robotics
- Internet of Things
- Electronic Data Events
- Political, Regulatory & Risk Reforms
- Opioid & Controlled Substances
- Lithium Batteries

Oil & Gas Sector

Companies engaged in exploration, production, refining, processing, marketing and distribution of natural gas, oil, liquids and derived products, including contract drilling and other oilfield products and services.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



(\$57.5 million compensatory, \$25 million punitive damages)

General & Punitive Damages Liability

When a hot oil treater exploded at a natural gas processing plant, the plaintiff sustained fatal injuries. Liability was apportioned 90% to plant engineers and builders, 10% to the plant owner.



(inclusive of fines, penalties and third-party property damage)

General & Pollution Liability

During the last stages of a planned shutdown, a segment of a 30-inch diameter pipeline ruptured. The rupture was not discovered for over 17 hours, and the total release was estimated to be nearly 850,000 gallons of crude oil. The oil saturated the surrounding wetlands and flowed into surrounding rivers. Local residents self-evacuated.



(\$182 million compensatory damages, \$100 million punitive damages)

Auto & Punitive Damages Liability

The defendant's employee was driving a tractor-trailer when the drive shaft broke off, plowing through the window of the plaintiff's truck. The lawsuit alleged that the break happened because the defendant had not adequately maintained the tractor-trailer. The Texas jury found the company (and not the driver/employee) liable.



(\$25 million punitive damages, \$4 million compensatory damages)

General & Punitive Damages Liability

The plaintiff, an oilfield services technical manager, was killed at work when a high-density lithium battery pack exploded. The lawsuit alleges gross negligence by the defendant, the employer. The plaintiff argued that major oil companies use these batteries once, while the defendant reused them. The jury apportioned negligence 80% to the defendant's employer, the oilfield services company.

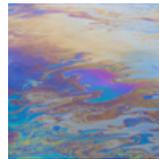


Damages amount:
\$48 million

(settlement to end damage claims and buyout properties)

General Liability

A salt cavern failed, causing a sinkhole which released a foul diesel odor and created a saltwater slurry containing fuel. The incident caused damages to plaintiffs who required medical monitoring. The lawsuit alleged that the defendant caused the release of the toxic, noxious and harmful materials when it drilled into its salt caverns.



Damages amount:
\$269 million

(estimated as of 3/31/16, including first party property damage, economic losses and fines)

Pollution & General Liability

An oil company experienced a release of an estimated 2,935 barrels of crude oil, a portion of which reached the ocean.



Several new exposures have leapt up the risk management agenda this year, including exposures related to an uncertain political and regulatory landscape, the impact of extreme weather events, aging infrastructure, and the pandemic risk of impaired employees due to the opioid crisis.

On the Radar

Have you considered these exposures?

- Hazardous Materials Transport, Storage & Disposal
- Contractual Indemnifications
- Impaired Employees (Opioid Crisis)
- Political, Regulatory & Risk Reforms
- Deep Pocket
- Extreme Weather Events
- Electronic Data Events
- Hydraulic Fracturing
- Aging Assets
- Managing Cycles & Talent Gaps

Real Estate & Hospitality Sector

Companies engaged in the ownership, operation or management of all types of premises/occupancies, including commercial and residential buildings, hotels, and arenas/stadiums.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



Damages amount:
\$51 million

General & Umbrella Liability

The plaintiff was on the job for two months when he was assigned to set up a platform atop existing scaffolding. While laying metal sheets on the scaffolding, he fell 15 feet landing on the back of his neck. The plaintiff was rendered paraplegic with multiple brain injuries and skull fractures. The defendant property agents/managers, are alleged to have not provided any fall protection, such as a safety net or lanyard harness.



Damages amount:
\$33 million

General Liability

The plaintiff was found in the parking lot of an inn with a head injury, skull fracture and traumatic brain injury. Hospital blood tests showed his blood alcohol level at three times the legal limit. After awakening from coma weeks later and with no memory of the incident, the plaintiff sued the inn owner, claiming negligence in property maintenance and that he fell over a second floor balcony

railing which was eight inches below building code. Defense counsel argued that the plaintiff's injuries preceded the hotel accident due to a skateboarding fall nine months earlier. A California jury awarded for the plaintiff.



Damages amount:
\$55 million

General Liability (privacy violations)

The plaintiff's stalker was able to film her through the peephole of her hotel room door. The stalker was told by the hotel staff which room the plaintiff was in and had himself assigned the room next door. The plaintiff's demand was \$75 million, the jury awarded \$55 million, with 49% apportioned to the hotel owner.



Damages amount:
\$20 million

General & Umbrella Liability

A male resident of an apartment complex broke into the plaintiff's apartment, and sexually assaulted her. A few months prior to this assault, another resident had complained to the apartment managers that the male resident had inappropriately propositioned a minor. There was also a previous incident of attempted rape in the apartment complex two weeks prior to the plaintiff being attacked. Local police had warned the apartment complex to notify tenants. The plaintiff sued the building owner for negligent security, Deceptive Trade

Practices (DTPA) violations, and failing to advise her of the assault and attempted rape of her neighbor before she signed a new lease. A jury awarded \$12 million in compensatory damages and \$8 million in DTPA violations and found the building owners 75% liable.



Damages amount:
\$50 million

(demand)

General & Premises Liability

After the restaurant floor under her collapsed, a kitchen employee was trapped in a hole as massive grease fryers tipped over and spilled on her. She will require medical attention for the rest of her life. She sued the fast food franchisee and franchisor for premises negligence. Plaintiff counsel asserted that the restaurant manager had bought a contractor to the incident location to quote on repairing the floor prior to the collapse, but decided it was too expensive and did not fix it.



Damages amount:
\$39 million

General Liability (workplace violence)

An employee had been suspended after making violent threats, but returned with a loaded gun and killed a co-worker. Security guards failed to protect employees during the rampage.



Real estate operations face pressing liability concerns inside and outside their facilities, from the effectiveness of cladding design, to the obligation to protect occupants from terrorism, and other violent events.

On the Radar

Have you considered these exposures?

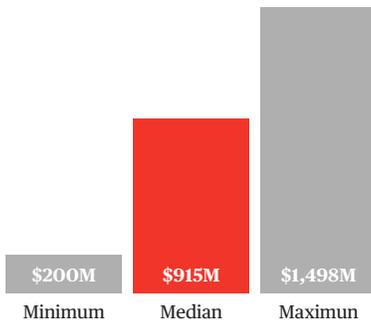
- Cladding Design & Use
- Security and Terrorism
- Smart Buildings
- Airborne Contaminants
- Contingent Risks/ Deep Pocket
- Increased Defense Costs

Transportation Sector – Rail

Companies engaged in the transportation of passengers and/or products by rail.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



Damages amount:
\$372 million

+ other confidential settlements

General & Railroad Liability

After striking a train stopped on a sidetrack, a freight train carrying chlorine gas derailed, releasing a gas cloud that killed nine, injured more than 750, and forced the permanent closure of a nearby mill. Monetary damage awards, inclusive of economic loss, were: \$150 million for liability and defense costs; \$215 million in third party property damage; and \$6.9 million for damage to the trains & tracks.



Damages amount:
\$295 million

General & Railroad Liability

A passenger train near Philadelphia had just entered a curve when the emergency brakes were applied and, seconds later, all seven cars derailed. Eight passengers were killed and over 200 injured. While many legal actions are pending, known losses include this \$295 million settlement of multidistrict litigation which consolidates 39 lawsuits.



Damages amount:
\$44 million

General & Railroad Liability

A couple and their pregnant daughter were waiting for a train to pass a crossing when it derailed. Eighteen cars contained ethanol which caused an explosion and massive fireball, engulfing the car. The father and daughter were injured. The wife and the daughter's premature baby died. Approximately 600 homes had to be evacuated.



Damages amount:
\$49 million

Auto Liability

A coworker was driving the plaintiff in their employer's truck when the truck went up an embankment, through a fence, rolled over and entered an adjacent highway, coming to rest facing oncoming traffic. The plaintiff was wearing a seatbelt and rendered quadriplegic. The employer, a railway company, argued that neither the driver nor the passenger were in the scope of their work duties when the accident occurred, since they were commuting. The jury found that the rail company violated FELA and awarded personal injury damages including: \$2.5 million for past pain and suffering, \$33.2 million for future pain and suffering, \$798,000

for past medical costs, \$10 million for future medical costs, \$61,800 for past lost earnings capability, and \$1.86 million for future lost earnings.



Damages amount:
\$200 million

General & Railroad Liability

A California commuter train with 222 passengers onboard collided with a freight train, injuring 135 and killing 25. The National Transportation Safety Board found that the train engineer sent and received dozens of text messages while on duty the day of the crash, including 22 seconds before impact. The case ended with a settlement that required

the defendant commuter and freight rail companies to pay damages to all affected individuals.



Damages amount:
Pending

General & Railroad Liability

A New Jersey commuter train crashed into the station during the morning rush hour, plowing through a barrier at the end of the tracks and into the wall of the terminal building. A woman standing on the platform was struck by falling debris and killed. Over 100 people were injured.



The burdens on railways are many, as they struggle to keep pace with exposures arising from the unprecedented frequency of extreme weather events on aging infrastructure, advancing technology, and ongoing threats of terrorism and impaired employees.

On the Radar

Have you considered these exposures?

- Aging Asset Infrastructure
- Fatigue & Impaired Employee (Opioid Crisis) Risk
- Electronic Data Events
- Talent Gaps
- Extreme Weather Events
- Internet of Things
- Terrorism

Transportation Sector – Road

Companies engaged in the transportation of passengers and/or products by roadway.

Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

Following is a sampling of large losses typical of this sector.



Damages amount:
\$65 million

Auto & General Liability

A freight trucking company's part-time employee was driving a tractor-trailer on an interstate when he 't-boned' an oncoming sedan while making a turn. The plaintiff's car was crushed from impact, she sustained multiple injuries and brain damage. The plaintiff's mother sued the part-time driver and trucking company for negligent operation of a motor vehicle. The jury rendered a verdict for the plaintiff.



Damages amount:
\$178 million

Auto & General Liability

A company tractor-trailer was allegedly traveling at high speeds when it collided with a family's pickup truck, which had stopped on the interstate with its warning lights on. The accident killed three people, including the truck driver, and left a baby severely injured. The plaintiff filed a wrongful death suit against the trucking company and the court ruled in favor of the plaintiff, awarding \$165 million in damages. The defendant trucking company filed an appeal which was rejected, and the Appellate Court increased the damages award to \$178 million.



Damages amount:
\$104 million

Auto & Umbrella Liability

The plaintiff filed suit against an ambulance service after she was severely injured in an auto accident allegedly caused by the ambulance driver. The plaintiff was pregnant and suffering stomach pain when she called for the ambulance. On the highway en route to the hospital the ambulance rear-ended a truck. The baby was delivered prematurely and survived. The plaintiff severed her spinal cord, resulting in traumatic brain injury and limited mobility in her arm. She has remained in various hospitals since the accident. Evidence at trial showed that the ambulance was travelling at nearly 60 mph with no emergency lights or sirens. The jury awarded \$117 million, which was reduced to \$104 million after motions.



Damages amount:
\$27 million

(\$23 million compensatory, \$4 million punitive damages)

Auto, Umbrella & Punitive Damages Liability

The plaintiff was a front row passenger on an interstate bus that struck the rear of an 18-wheeler. The impact pushed the rear of the truck into the front of the bus, pinning the plaintiff to his seat and resulting in serious permanent injuries, including amputation of his leg. The plaintiff alleged that the bus driver

fell asleep and had operated the bus for 180 miles, which was past the bus company's mandatory stop distance. The Ohio jury found the bus company and driver negligent, saying the bus company was negligent in failing to follow its own rules and requirements.



Damages amount:

\$42 million

Auto & Umbrella Liability

A pickup truck was struck by a tractor-trailer driven by a trucking company employee. The driver and front-seat passenger of the pickup

were killed and the surviving backseat passenger sustained multiple injuries. The trucking company driver was convicted of vehicular homicide. The plaintiff sued the trucking and logistics company on the grounds it was vicariously liable. The plaintiff for the decedent in the front passenger seat settled prior to trial. The surviving passenger plaintiff sought damages for pain and suffering, medical costs, and the emotional trauma of witnessing her husband's death. The jury found that punitive damages were not warranted and awarded \$40 million in compensatory damages. When the defendants appealed, the parties agreed on a \$42 million settlement prior to the Appellate Court ruling.



Damages amount:

\$35 million

Auto & Umbrella Liability

A teenager was riding his bicycle on the sidewalk when a tractor-trailer making a right turn drove over part of the sidewalk, knocking him from his bike, crushing his leg and causing other injuries. The defendant challenged the extent of the plaintiff's damages, telling the jury during closing that the plaintiff should be awarded \$5 million to \$7 million. The jury awarded the plaintiff \$27.8 million for past and future pain and suffering, \$5.9 million for past and future medical expenses, and \$738,639 for past and future lost earnings.



The risk of impaired employees, always a threat to this sector, is compounded by the nationwide opioid epidemic and increased focus on behavioral health issues.

At the same time, technological advances and driverless vehicles open new facets of risk on the road.

On the Radar

Have you considered these exposures?

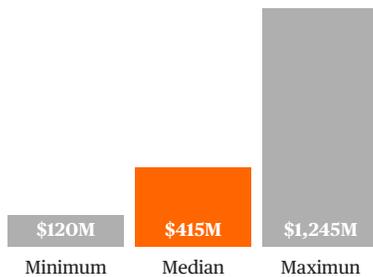
- Impaired Employees (Opioid Crisis)
- Electronic Data Events
- Fatigue Risk
- Terrorism
- Technological Advances
- Behavioral Health
- Driverless Vehicles
- Extreme Weather Events

Utilities Sector

Companies engaged in the generation, transmission, and distribution of electricity, including transmission or distribution of gas.

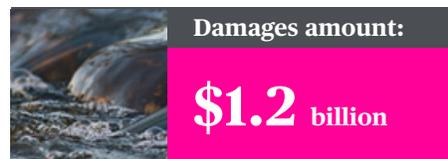
Total Limits Purchased

Based on Chubb Bermuda's 2017 Portfolio



Sample Losses

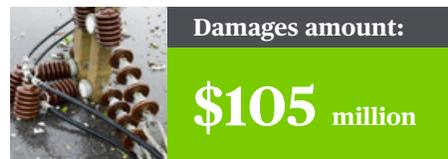
Following is a sampling of large losses typical of this sector.



(estimated, includes first party property damage)

General & Pollution Liability

A dike failure at a power generation facility released approximately 6 million cubic yards of fly ash sludge into a river and the surrounding area. While the state's water and area near the release suffered substantial damage, no one was injured.



(\$61 million punitive, \$48 million compensatory)

Umbrella & Punitive Damages Liability

The plaintiff lost power in her home. Seeing a fire coming from power lines in the backyard, she walked into the side yard to call 911 and was struck by a 7,200 volt power line that fell from the pole. There were no adverse weather conditions at the time. A family member was burned trying to save her. The victim died three days after the event with burns over 85% of her body. The plaintiffs contended that the defendant should have known the power line was in danger

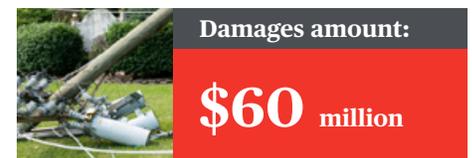
of falling since it had fallen five years earlier. The defendant filed an appeal of the original \$109 million verdict, but later agreed to drop it, paying \$105 million instead.



(estimated) + various confidential settlements

General Liability

A California utility's natural gas transmission pipeline exploded, killing eight and injuring 58. Records revealed that the utility knew of the pipe's defective condition prior to the explosion. The \$650 million estimate includes general liability and third-party property damage as well as economic loss.



General & Umbrella Liability

A toddler suffered burns, a permanent brain injury and loss of a limb when she touched a downed wire near her home after Super Storm Sandy. The proposed breakdown of the settlement includes more than \$34 million for the child, \$4 million for her mother, \$20 million for attorneys, \$400,000 for a sibling, and \$821,000 for medical bills.



Damages amount:
\$22 million



Damages amount:
\$750 million

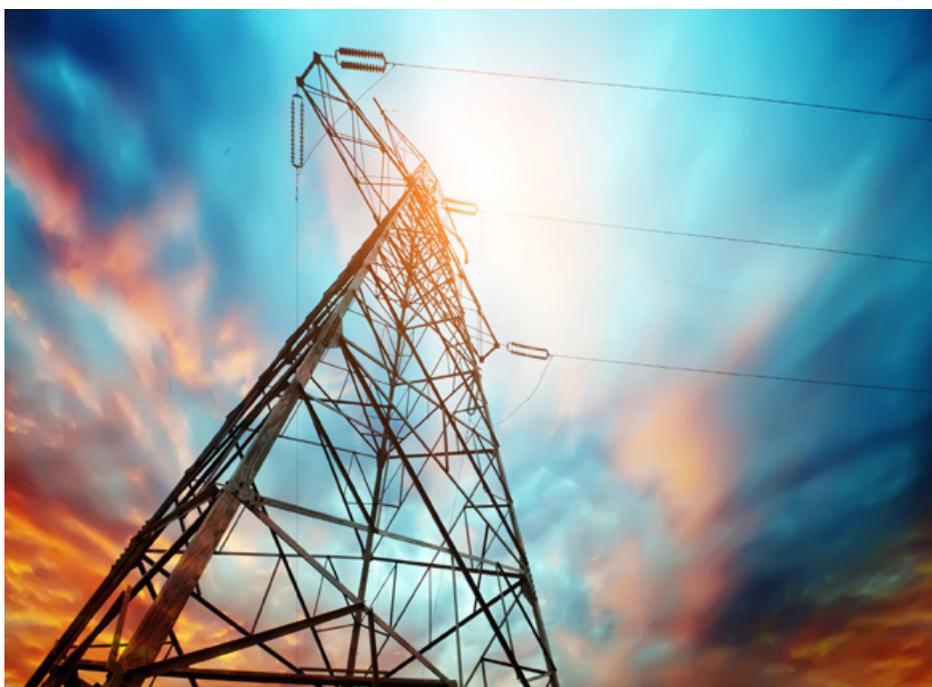
General & Umbrella Liability

A subcontractor employee of an electric company claimed that the company falsely informed him that power in the substation he was to work at had been cut. It was not, and the plaintiff was struck by an electrical shock, resulting in paralysis when he hit the ground, as well as severe burns. He requires full-time, round-the-clock medical care.

(estimate)

General Liability

When a pine tree came into contact with a California utility’s electric line, it ignited portions of the tree and sparked a wildfire that ultimately burned 70,868 acres, resulted in two fatalities, destroyed 549 homes, 368 outbuildings and four commercial properties, and damaged 44 structures. The investigation found that the utility failed to identify potential hazards around the tree during its vegetation management program. Estimate is per the utility company’s 2017 public filings.



Along with an aging asset infrastructure and potential asset decommissioning, utilities face large-scale exposures ranging from electronic data events, to wildfires and extreme weather events, to shifting political and regulatory environments.

On the Radar

Have you considered these exposures?

- Aging Asset Infrastructure
- Pipeline Maintenance/Cleaning
- Political, Regulatory & Risk Reforms
- Asset Decommissioning
- Urban/HCA Footprint
- Unmanned Aerial Vehicles
- Electronic Data Events
- Extreme Weather Events
- Vegetation Management

A man in a dark suit, white shirt, and patterned tie is shown in profile, looking out a window. His hands are clasped in front of him. The background is a blurred view of a city skyline under a bright sky.

How Much is Enough for Directors and Officers?

2017 saw a record number of federal securities class actions filed, more than double the number filed just four years ago. With individual accountability at all-time highs, personal asset protection for directors and officers is critical. But how much protection is enough?

We offer the following cases of real-life Side A policy payouts to provide insight when contemplating this pivotal question.

Directors & Officers Side A Policy Payments



Paid: \$54 million

Shareholder Derivative Lawsuits, Consumer Products & Services Sector

Shareholder derivative litigation arose from accounting irregularities, including improper recognition of fictitious revenues and manipulation of merger reserves. Ultimately, 10 directors and officers (D&O) resigned from the company, the company restated its financial statements for multiple years, and certain D&Os were criminally convicted. The Side A policy paid the \$54 million settlement. The related shareholder class action lawsuit settled for \$2.8 billion.

Paid: \$90 million

Shareholder Derivative Lawsuits, Financial Services Sector

Shareholder derivative litigation alleged that directors and officers breached fiduciary duties in connection with accounting problems at the company and bonus payments made to company executives. The Side A policy paid the \$90 million settlement. A related securities class action lawsuit settled for \$725 million.

Paid: \$62.5 million

Shareholder Derivative Lawsuits, Financial Services

Shareholder derivative litigation arose from a company's alleged failure to conduct adequate due diligence in connection with a corporate acquisition and to disclose potential weaknesses in the acquired company's financial condition. Shortly after the acquisition, the acquired company reported over \$15 billion in losses, which caused a 50% decline in the price of the acquiring

company's stock. The Side A policy paid the \$62.5 million settlement. A related securities class action lawsuit settled for \$2.43 billion.

Paid: \$137.5 million

Shareholder Derivative Lawsuits, Industrial Goods

Shareholder derivative litigation alleged that the company's directors and officers breached fiduciary duties in approving the acquisition of another company owned by the CEO for an allegedly excessive amount. D&O insurers contributed \$115 million to the settlement and the company's investment bank contributed an additional \$10 million, bringing the total settlement to \$147.5 million. The settlement amount, net attorneys' fees and costs, will ultimately be paid to company shareholders as a special dividend.

Paid: \$139 million

Shareholder Derivative Lawsuits, Media Sector

Shareholder derivative litigation alleged that the company's directors breached fiduciary duties in approving the acquisition of another company through an unfair process and at an inflated price. The plaintiffs also claimed that the directors did not implement controls that would have prevented the company's misuse of certain private electronic data, which in turn resulted in significant negative publicity and harm to the company. The Side A policy paid the \$139 million settlement.

Paid: \$55 million

***Financial Insolvency,
Consulting Services***

A Side A policy paid to settle a lawsuit by a litigation trust against the former directors of a bankrupt company for breaches of fiduciary duty in failing to oversee the sale of certain company assets, which was purportedly necessary to avoid bankruptcy.

Paid: \$40 million

FDIC Claims against the D&O's of Failed Banks, Financial Services

The FDIC alleged that a bank's directors and officers mismanaged the bank by allowing it to engage in high risk lending to subprime borrowers. The Side A policy paid \$40 million, which was in addition to \$150 million paid by underlying insurers to defend and settle related class action securities litigation.

Paid: \$42 million

DIC Coverage, Financial Services

A director of an investment bank faced allegations of insider trading, including an SEC civil lawsuit and a criminal prosecution. Verdicts against the director in both proceedings were upheld on appeal. In addition to civil penalties, restitution, and a criminal fine, the director incurred approximately \$42 million in defense costs, which the investment bank's board voted not to indemnify. The underlying Side A-only insurance carriers denied coverage based on the conduct exclusion, prompting the insured to seek coverage from its lead DIC carrier.



Board members face heightened personal accountability across the globe – with the globalization of litigation, borderless cyber threats, and increased diligence by regulators in pursuing individuals.

On the Radar

Have you considered these exposures?

- Globalization of Litigation
- Borderless Data/Data Privacy Claims

- Cyber Security
- Increased Federal Action & Guidance
- Reputational Risk

- Converging of Financial & Technological Advances

Arbitration vs. Litigation?



The Verdict is Clear



Since the creation of the Bermuda insurance market over 30 years ago, arbitration clauses have been a pillar of Bermuda insurance products – not just as a means to avoid US courts, but for the flexible, friendly, and expedited resolution this alternative dispute resolution affords.

Examining our wealth of data and digging into other industry information, including law firm survey and scholarly research, we set out to assess if the Bermuda arbitration model continues to effectively serve large corporate clients in a changing world. The answer was a resounding “yes.” Our key findings:

- Contentious disputes in our experience are extraordinarily rare and the choice of dispute mechanism should be a relatively minor consideration when making insurance buying decisions.

- Companies overwhelmingly prefer arbitration/alternative dispute resolution (“ADR”) over litigation for resolution of international commercial disputes.
- The Bermuda arbitration/ADR model has been shaped over decades to be more likely to deliver efficiency and fairness (substantively and procedurally) than traditional litigation.

Learn more

See the data behind the findings in our report: *The Not So Great Debate: Arbitration vs. Litigation*.

https://www2.chubb.com/bm-en/_assets/documents/bermuda_arbitration_vs_litigation_4.9.pdf



Contact Us

For additional information about Chubb Bermuda's insurance products please contact your Bermuda or non US-based broker.

Published 4/2018

Chubb. Insured.SM

The information contained in this document is intended for general marketing purposes and information only. For terms and conditions of coverage, please refer to the specific policy wording.

Chubb Bermuda is regulated by the Bermuda Monetary Authority. It is not licensed in the U.S. as an admitted insurer nor is it an eligible excess and surplus lines insurer.

This information is intended to be illustrative of the average limits of liability being purchased by companies within particular industry sectors, and of notable large loss industry events which have given rise to liability claims. The Estimated Loss Amounts may or may not include defense costs. The Estimated Loss amounts shown for earlier years have not been trended or developed.

No inference should be drawn from the loss information that such an event or resultant liability claims would (or would not) be covered by a Chubb Policy.

© 4/2018