Most companies do not indemnify their in-house attorneys in the event that they are sued for legal malpractice outside the scope of their employment, leaving the attorney uninsured for a potentially catastrophic event. What’s more, most directors, officers and entity (D&O) liability policies do not cover certain exposures for in-house counsel.

**TYPICAL D&O POLICIES OFTEN CONTAIN THESE EXCLUSIONS**

- **Cover the in-house attorney in their capacity as an officer, but not in their capacity as an attorney providing legal advice to the company**
- **Do not provide coverage for disciplinary or disbarment proceedings**
- **May only offer a sublimit of coverage if employed lawyers coverage is granted**
- **Share the limit with the in-house attorney in the event that employed lawyers coverage is granted**
- **Often have higher retentions if employed lawyers coverage is granted**

**SOME COMMON RISK FACTORS TO CONSIDER**

In-house attorneys face certain exposures when working for a company – large or small, public or private – including:

- **Legal malpractice claims unrelated to their employment – especially in cases of moonlighting or providing pro bono services**
- **Significant defense costs and out-of-pocket settlement payments**
YOU GET BROAD COVERAGE PROVISIONS FROM THE HARTFORD

- Claims definition includes failure to comply with Sarbanes-Oxley section 307
- Defense costs for claims brought by the named entity
- Coverage for disciplinary proceedings
- If elected, coverage for securities violations, pro bono and moonlighting services
- Punitive damages covered where insurable
- Severability of conduct exclusions
- Insuring Agreement A coverage is non-rescindable
- Wrongful Act includes personal injury
- Zero retention for non-indemnifiable claims
- Policy acts as an excess D&O policy for a management liability-related claim against the in-house counsel

THREE SIMPLE SUBMISSION REQUIREMENTS

- Application
- Five-year loss history
- Financial statements

EXAMPLES OF CLAIMS YOUR BUSINESS ATTORNEY COULD FACE

CLAIM 1

Scenario: An in-house attorney of a nonprofit organization assisted a director in drafting a pre-nuptial agreement. In the divorce proceedings, the pre-nuptial agreement was found defective.

Outcome: As a result of additional liability, the senior director sued the corporate attorney for damages.

CLAIM 2

Scenario: An in-house attorney represents an unemployed homeowner on a pro bono basis at a foreclosure hearing. The in-house attorney failed to require the bank to produce key evidence.

Outcome: As a result, the home was wrongly foreclosed and the homeowner sued the in-house attorney for breach of duty for the value of the home and emotional distress.

CLAIM 3

Scenario: General counsel of a publicly-traded company was charged by the Securities and Exchange Commission (SEC) for misleading investors and violating securities laws.

Outcome: The action brought by the SEC alleged, among other things, the failure to disclose back dating of options.