



In late May we sent you a *CNA Management and Professional Liability News* which provided a perspective on EPL. The current mailing, third in the series, discusses Directors' & Officers' Liability Insurance, another popular product about which many of you requested additional information.

Over 2,000 companies were recently surveyed<sup>1</sup> to determine how many were sued for mismanagement in 2001 and what the related costs were. The results provide an insight into a portion of the world of privately held, closely held or small companies. The survey indicates that indemnity and defense costs have reached dramatically high levels, and that insurance protection is more important today than ever before.

### Survey Composition

The Middle Market segment (small, privately held companies and Not for Profit organizations), comprised a significant portion of the survey.

- Over half the companies sued were privately held or Not for Profit organizations.
- While the survey represented a wide range of companies, 67% were small:
  - 42% had fewer than 100 employees
  - 14% had 101 to 250 employees
  - 11% had 251 to 500 employees

### Litigation Targets

- While it is well recognized that larger companies have increased risks of getting sued, it was found that smaller companies have a fairly high likelihood of being sued for mismanagement:
  - 10% of companies with assets under \$100 million reported one or more claims;
  - 21% of companies with assets between \$100 and \$400 million had claims;
- Within certain industries, as high as 45% of companies reported being sued at least once in 2001.

- Health Services, Banking	30 - 45%
- Personal and Business Services, Durable and Non Durable Goods, Merchandising, Non Bank Financial Services, Utilities, Mining, Petroleum, Agriculture	20 - 30%
- Technology, Communications, Transportation, Construction	10 - 20%

### Source of suit

- Employees, customers, clients, and competitors are responsible for nearly half of all claims, while shareholder suits comprise most of the rest.

### Costs of suits

- The overall payment size increased 75% from '00 to '01, to an average of \$5.6 million per claim.
- For non-shareholder claims, the average recovery ranged from just under a quarter million dollars to over \$12 million.

- Regardless of winning a case, defense costs account for additional significant costs, ranging from one hundred thousand to nearly \$2 million.

In conclusion, a small to mid-size company has a significant chance of being sued for mismanagement liability. Once sued, the amount in defense and indemnity costs ranges from over \$350,000 up to \$14 million, depending upon the category of claim.

Therefore, to manage these types of risks, a company needs protection. It is now more important than ever before that a company consider both the amount and breadth of insurance coverage.

We hope that you found this information valuable and it provides you additional insights in meeting your customers' needs. If you would like to learn more about our D&O product offering, please click on [http://www.cnapro.com/html/Our\\_Products/OurProducts\\_DO.html](http://www.cnapro.com/html/Our_Products/OurProducts_DO.html)

<sup>1</sup>Tillinghast-Towers Perrin 2001 Directors' and Officers' Liability Survey.



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