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Insurance Implications of New Justice Department Policy Directive

October 21, 2015

In September, the U.S. Department of Justice issued a new policy directive that puts the emphasis on individuals, promising an increased commitment to pursuing the individuals within corporations that are responsible for corporate wrongdoing. Corporate executives may, in some circumstances, have a right to indemnification from their company. However, if such indemnification is unavailable, insurance may be the only viable source to fund legal fees associated with the defense of a Justice Department investigation or other proceeding. In light of the Justice Department's commitment to focus on individuals, risk managers as well as directors and officers themselves have reason to be more vigilant with regard to their directors' and officers' (D&O) or management liability insurance policies, making sure that the policies provide them with the best protection available. In this article, SRZ partner Howard B. Epstein and special counsel Theodore A. Keyes review the Justice Department's directive and discuss some of the D&O insurance issues that may now take on heightened importance.

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