2027 EDITION

Guide to D&O Insurance for IPOs and Direct Listings



Gallagher

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Leverage Our IPO and Direct Listing Knowledge and Expertise

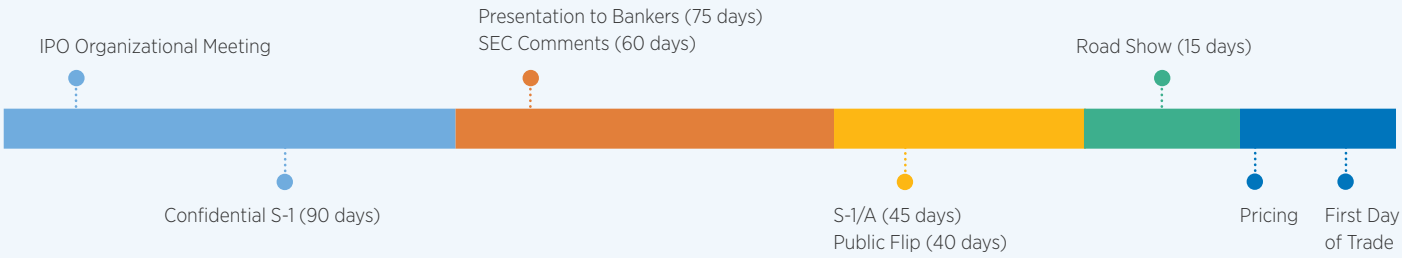
Gallagher is **the market leader** when it comes to placing D&O insurance for companies going public. Experience matters when it comes to IPOs and direct listings. You want a specialist on your insurance brokerage team to work through all the D&O insurance issues that will arise before, during and after the process of going public, as well as during your life as a public company.

There is significant complexity to the process of protecting a company and its directors and officers as they undertake the process of going public. This interactive resource is your guide to the D&O insurance process for IPOs and direct listings.

Private to public milestones timeline

Click/tap an area of the timeline to learn more about the D&O insurance process for companies going public. While the timeline below is specific to IPO companies, the milestones are relevant to both IPO and direct listing companies. Both types of companies must have their public company D&O insurance program ready to be put in place before their stock starts trading on a public exchange, and both types of companies benefit from getting an early start on the process of placing their public company D&O insurance.

IPO Milestones Timeline



D&O Insurance Process

PREPARE

- Develop strategy
- Evaluate
  - Private company insurance
  - International
  - Cyber
  - Other insurance lines
- Governance counseling
  - Corporate governance policies
  - Choice of forum and exculpation provisions

LAUNCH

- Implement carrier NDA
- Refine limits analysis
- Insurance underwriting meeting
- Negotiate with markets
- Preliminary board presentation
- Schedule executive and employee compliance training

BROKER

- Negotiate coverage and pricing
- Negotiate warranty statements
- Present insurance program

IMPLEMENT

- Finalize program
- Execute warranties
- Additional subjectivities
- Coordinate coverage transition
- Bind IPO coverage

SUPPORT

- Counseling
- Training/education
- Market updates
- Claims support

Are you going public through a de-SPAC transaction? Read our Guide to D&O Insurance for De-SPAC Transactions

Source: Gallagher

1 Prepare

A. Develop a strategy

Setting the strategy involves taking a first look at a number of key questions. Some of these questions include the following:

- What is the timing of our public listing and are we on a dual track?
- If doing an IPO, what is the size of our offering, and will we have selling shareholders?
- What is our philosophy on risk transfer and buying D&O insurance limits?
- Which insurance carriers are the best fit for our needs? Do we have any special or unusual risk exposures?
- Who are the key executives who will be involved in the insurance process?
- How involved does the board of directors want to be in making decisions about D&O insurance?

An initial strategy session can go a long way to making the overall process run smoothly and efficiently.

B. Evaluate

i. Private company insurance

Consider ensuring that you have at least $5 million to $10 million of D&O insurance limits in place as a private company. This move protects Ds and Os should the company be acquired instead of going public. It also ensures that the subsequent public company D&O insurance program is not vulnerable to having warranty statements apply to this first $5 to $10 million layer of insurance. Finally, consider whether you need IPO- or direct listing-specific endorsements such as "roadshow coverage" and "failed IPO coverage."

▶ Read more in our
Overview of D&O Risks and D&O Insurance Policies

▶ Learn more about
Building a Tailored Public Company D&O Program: Risk Management Trade-Offs

▶ Learn more about
Private Company Litigation



ii. International

Newly public companies can suddenly find themselves subject to intense scrutiny, including in non-US jurisdictions. Before going public, make sure that you have analyzed your non-US subsidiaries and made a determination as to whether a local D&O policy might be warranted. Just because your US-issued policy says in the text of the contract that it is supposed to respond worldwide does not mean that it actually will. Many foreign jurisdictions require that D&O insurance policies, if placed, be placed locally.

iii. Cyber

This is an exploding area of concern for many companies, and in some cases, effectively managing this exposure is fundamental to the success of a company. This is a board-level issue that needs to be addressed in a timely and comprehensive way.

Learn more about Cyber Liability Insurance.

iv. Other insurance

A newly public company has to be ready for public-company scrutiny and having a buttoned-up insurance risk management program across all lines of insurance (not just D&O insurance) is critical. This is something the board will care about at least by proxy season given the required disclosures concerning a board's role in enterprise risk management.

▶ Read now

Guide to D&O Insurance for Foreign IPOs and Direct Listings

This guide serves as a roadmap for foreign private issuers seeking to list on a US exchange.

▶ Learn more in

Foreign Subsidiaries and D&O Insurance: Are You Prepared to Place?



C. Governance counseling

i. Corporate governance policies

D&O insurance is important — and consideration should also be given to implementing corporate governance policies that tend to help mitigate D&O risk. Examples include: insider trading policies (including the correct implementation of 10b5-1 trading plans), corporate communications policies and appropriate indemnification agreements.

ii. Choice of forum provisions

Your charter documents (certificate of incorporation and corporate bylaws) are a place where you can make strategic choices about where you will be sued in the future. State choice of forum provisions are a must.

Equally important are federal choice of forum provisions. Including this Delaware law provision (which can be influential for other states as well) in your charter documents may help you avoid having a suit challenging the disclosure being brought in state court in addition to federal court.

iii. Exculpation provisions

Delaware law has, for many years, allowed companies to include a provision in their certificate of incorporation that has the effect of shielding directors from monetary liability in some circumstances. In 2022, the Delaware legislature expanded this protection in a limited way to officers. Still, some protection is better than nothing. You will want to include "exculpation" provisions in your certificate of incorporation before you go public.

Learn more about:

- Exculpation Provisions
- Officer Exculpation Under Delaware Law

▶ Read about the
Benefits of 10b5-1 Trading Plans

▶ Read about the
State Forum Selection Provisions

▶ Considering reincorporation?
Read about Alternatives to Delaware

▶ Learn about
Can Shareholders Just Agree Not to Sue Directors and Officers?



2 Launch

A. Implement carrier NDA

Companies that choose to file confidentially will want to have their broker ask each insurance carrier to sign an NDA before being sent the confidential S-1 filing. Ask your Gallagher account executive about how we have greatly streamlined this process.

B. Refine limits analysis

Choosing D&O insurance limits shouldn't be limited to peer data benchmarking and reference to overly broad cuts of settlement data that may not be directly relevant to you. Consider a customized approach, the type of approach that Gallagher is able to offer clients through its proprietary database, D&O Databox.

C. Negotiate with markets

Given the current litigation environment for IPO and direct listing companies, you need significant lead time and a clear strategy to optimize your insurance coverage. Management and the board will want to consider issues like what level of self-insured retention (like a deductible) makes sense given current market pricing for IPO and direct listing company D&O insurance.

The good news is that the market for D&O insurance for an IPO company is relatively favorable. With a good process, a company can expect a range of options customized to their appetite for risk.

D. Brief board of directors

Even very sophisticated boards of directors may not be familiar with all the current issues at play when it comes to protecting themselves and their companies against the types of claims that are filed against newly public companies. A good practice is to have your broker brief your board on the current litigation environment as well as D&O insurance market dynamics.

E. Schedule executive and employee training

Being employed by a public company can be very different from being an employee of a private company. Schedule your "We're public. Now what?" training to fall either right before or right after the date the company starts trading in the stock market so that employees gain a timely understanding of things like tipper-tippee insider trading liability and the like. This training can be provided by your outside counsel, Gallagher or both.

▶ Read more in
D&O Insurance 101: Choosing the Right-Sized Limits

▶ Learn more in
Our 2026 D&O Databox Mid-Year Report



3 Broker

A. Negotiate coverage and pricing

The D&O insurance market for IPO companies is currently a constructive one. It's true that the cost will be more than for a similar mature public company, but that makes sense given that new public companies are statistically much more likely to be sued than mature public companies.

In addition, coverage terms can be very favorable if negotiated upfront by a skilled broker. If you are working with a carrier that has panel counsel, you will want to vet this list before finalizing your carrier decision. If you are asking outside counsel to review the terms and conditions of your D&O insurance policies, you will want to loop outside counsel into your broker's process sooner rather than later.

B. Negotiate higher limits warranties

Higher limit warranties are conditions precedent (subjectivities) to a new layer of D&O insurance being placed for a company. When a company buys an additional, new layer of insurance (a higher limit) that it did not purchase the previous year, the insurance carriers may require that the buyer affirm the following with respect to that new layer or layers: the buyer's directors and officers know of nothing that's likely to give rise to a claim. Exceptions must be disclosed, and coverage for the disclosed exceptions will normally be excluded from the new layer or layers of insurance being placed. Should a claim arise, the warranties will be tested. In some circumstances, carriers may assert that no coverage is available because the warranty was inaccurate (i.e., something that should have been disclosed was not). The stakes are high and insurance carrier warranty language can vary dramatically. You will want to review any proposed higher limits warranty language carefully.

C. Present insurance program

D&O insurance is personal to board members. In our experience, most boards like to hear about the proposed insurance program directly from their insurance broker. This allows the board to have a robust discussion about personal liability and the proposed D&O insurance program.



4 Implement

A. Finalize program

Almost there. Now is the time to ensure that all involved stakeholders have agreed to the final form of the D&O insurance program that will be implemented. For many companies, this includes a sign-off from the full board of directors or at least a committee of the board of directors.

B. Execute warranties

Each newly purchased layer of insurance may require a warranty statement that says, in effect, that the company and its directors and officers know of nothing that is likely to give rise to a claim. Companies have a duty to update any material changes in risk before the program is bound.

C. Address subjectivities

Subjectivities are carrier-imposed condition precedents to their insurance becoming effective. Common subjectivities for a company first going public include: (1) the initial offering or reference price, (2) the offering's registration statement being declared effective by the SEC for trading to begin, and (3) higher limits warranties.

Even these sorts of housekeeping items can have complications. For example, sometimes insurers attempt to impose a restriction on the final offering size to give themselves the opportunity to increase their premium if the offering size increases dramatically in the final hours. The most critical subjectivity, however, is usually the higher limits warranties.

D. Coordinate coverage transition

Some brokers recommend sending your private company insurance program into run-off. This may or may not be the right choice in your case. If you can get it, the better coverage path is almost always for the public company policy to provide "look-back" coverage. This path is also more cost-efficient because it lets you avoid purchasing private company runoff.

E. Bind the public company D&O insurance program

The SEC has declared your registration statement effective and you have either priced your IPO or set the reference price for your direct listing — Congratulations! Before you pop the champagne, call your broker to convey the price and your authorization to bind the D&O insurance program. You want the insurance to be in place before your first trade the next morning. Now you are done with the insurance process — but if anything changes, for example if the company is unexpectedly sued immediately after pricing (it has happened), call your broker right away with this update.

▶ Learn more about

Do You Need a Tail Policy For Your Private Company D&O Insurance?



5 Support

A. Counseling

One of the reasons companies hire Gallagher is the ongoing support we are able to offer on topics ranging from insurance and claims to corporate governance as it impacts D&O risk. Talk to your account executive to find out more.

B. Training/Education

Congratulations on going public — now the challenge of life as a public company begins. Keeping directors, officers and the company on track includes training and education. To help our friends and clients, Gallagher provides a variety of resources, including webinars and white papers. You can also sign up to receive our weekly blog on topics related to D&O risk and corporate governance, the D&O Notebook. In addition, your account executive can send you our latest Board Education Resource Guide, which includes information about a variety of resources, including Gallagher's own customized sessions.

C. Market update

The insurance market is a dynamic system, and the IPO and direct listing D&O insurance market can be very different from the market for more mature public companies.

D. Claims advocacy

All companies hope that paying for D&O insurance will turn out to have been a waste of money — but sometimes claims arise and the policy is triggered. Claims, and even the possibility of a claim, should be reported to your broker as soon as possible. In the midst of everything else, you do not want to find out that you had a misstep when it comes to your compliance with the terms of your D&O policy.

▶ Learn more about
The Biggest D&O Themes of 2026: Disruption (AI, Regulation, Corporate Law)

▶ Learn more about
How Insurance Underwriters View D&O Risk



Questions about this Guide? Comments? Compliments?

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▶ Additional resources

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Ongoing series providing practical, actionable insights on directors and officers liability (D&O) risk, shareholder litigation trends, SEC enforcement actions and corporate governance developments.

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