

Introduction:

Directors and Officers have an exposure from claims or losses arising out of actual or alleged wrongful acts while performing their duties. It can be a personal liability on the Directors and Officers. This insurance offers crucial protection for individuals serving as directors or officers within a company or organization. It shields their personal assets from legal repercussions stemming from lawsuits and alleged wrongful acts committed in their managerial or supervisory roles.

Who can avail of “Executive Shield Liability Insurance”?

This Policy can be availed by Directors and Officers serving on a company's board of directors or in a key managerial positions (e.g., CEOs, CFOs) as they face significant personal liability risks.

Persons in Key Managerial positions can also avail this policy as they make crucial decisions for the organization.

Individuals involved in handling legal and administrative matters for the company can also avail this policy.

What is the coverage under the policy?

If a Director/officer (insured) fails or allegedly fails to perform their role (such as inaccurate disclosures, reporting errors, regulations violations, lack of corporate governance) the claimants (such as Shareholders, investors, customers/clients, Government bodies) may sue the insured.

- This policy pays to or on behalf of each insured persons any loss when the company cannot indemnify its directors for any claim. This can occur, for example, if the company has declared bankruptcy. The individual officer is the one who's insured, and it's their personal assets that are at risk.
- The policy reimburses the company when it does indemnify the insured person for any loss. Here, the company is insured while its corporate assets are at risk.
- It also insures the company itself for any loss arising from securities claim.

In addition to covering the insured, the policy also covers loss resulting from allegations against the following members of the company:

- Non – Executive Directors
- Outside entity Directors

What is payable under the policy?

- Defense costs and any other awards of damages (including punitive and exemplary damages), awards of costs or settlements (including Claimant’s legal costs and expenses), pre- and post- judgment interest on a covered judgment or award, legal fees, settlements, and financial losses when the insured is held liable.
- Civil and administrative fines and penalties, awarded against Insured Persons
- Extradition costs - expenses involved in fighting a request to move an insured person from one jurisdiction to another for legal action.
- Investigation costs - reasonable fees, costs and expenses, incurred for the principal purpose of representing an Insured Person by the legal advisor/ in connection with preparing a report (and any supplementary reports as necessary) to any Official Body.
- Bodily injury and property damage defense costs payable if directors are sued for Bodily injury or property damage resulting from an alleged wrongful act or breach of duty.

- Assets and liberty expenses
 - (i) Bail Bond and Civil Bond Premium - These costs include the reasonable premium for bonds or financial instruments, but does not the collateral required for the bond.
 - (ii) Prosecution Costs - reasonable fees, costs and expenses incurred by an Insured Person, to bring legal proceedings for a declaration and/or an injunction in connection with any Asset and Liberty Proceedings.
 - (iii) Asset and Liberty Expenses - reasonable fees, costs and expenses incurred to defend against investigations or orders aimed at confiscating, freezing, or restricting a director's personal or real property.
- Public relations expenses - reasonable fees, costs and expenses incurred to mitigate the adverse effect or potential adverse effect on that Insured Person's reputation from a Claim.

What are the additional covers under the policy?

The policy has the following additional covers: -

1. New Subsidiary: This policy will automatically extend to cover any entity which becomes a Subsidiary during the Policy Period.
2. Discovery: The insured shall be entitled to a Discovery Period automatically for a period of 90 days if this policy is not renewed or replaced.
3. Lifetime Run Off for Retired Insured Persons: extended coverage for retired directors and officers for wrongful acts committed during their tenure, even if claims arise years later.

Subject to terms and conditions under the policy.

What are the exclusions under the policy?

The Insurer shall not be liable under any Cover or Additional cover for any Loss:

1. Conduct

arising out of, based upon or attributable to:

- (i) the gaining of profit or advantage to which the Insured was not legally entitled; or
- (ii) the committing of any deliberately dishonest or deliberately fraudulent act, in the event that either of the above is established by final adjudication of a judicial or arbitral tribunal or by any formal written admission by the Insured.

For the purposes of determining the applicability of this Exclusion 3.1, the conduct of any Insured shall not be imputed to any other Insured Person.

2. Prior Claims and Circumstances

arising out of, based upon or attributable to:

- (i) facts alleged or the same or related Wrongful Act(s) alleged or contained in any Claim which has been or could have been reported or in any circumstances of which notice has been or could have been given under any policy of which this policy is a renewal or replacement or which it may succeed in time; or

- (ii) any pending or prior civil, criminal, administrative or regulatory proceeding, Investigation, arbitration or adjudication as of the Continuity Date, or alleging or deriving from the same or essentially the same facts as alleged in such actions.

3. Bodily Injury and Property Damage

for Bodily Injury and/or Property Damage, provided however; that any Claim for emotional distress shall not be excluded with respect to an Employment Practice Violation. This Exclusion 3.3 shall not apply to Cover 1.7 – Bodily Injury & Property Damage Defence Costs or any Insured Person's Loss in respect of any proceeding for a gross breach of duty causing the death of a person.

4. US Claims Brought by Insureds

arising out of, based upon or attributable to any US Claim which is brought by or on behalf of any:

- (i) Insured; or
- (ii) Outside Entity in which an Insured Person serves or served as an Outside Entity Director.

This Exclusion 3.4 shall not apply to:

- (a) any Claim against any Insured Person:
 - (i) pursued by any Security holder or member of any Company or Outside Entity; whether directly or derivatively, or pursued as a class action; and that has not been solicited or brought with the voluntary (rather than legally required) intervention, assistance or active participation of any Insured;
 - (ii) for any Employment Practice Violation brought by any Insured Person;
 - (iii) pursued by an Insured Person for contribution or indemnity, if the Claim directly results from another Claim otherwise covered under this policy;
 - (iv) pursued by any past director, officer or employee of either a Company or Outside Entity; or
 - (v) pursued by an insolvency administrator, receiver, trustee or liquidator of any Company or Outside Entity either directly or derivatively on behalf of a Company or Outside Entity;
- (b) Defence Costs of any Insured Person; or
- (c) any Insured Person engaged in any protected activity specified in 18 U.S.C. 1514(A) ("whistle-blower" protection pursuant to the Sarbanes- Oxley Act of 2002) or any protected activity specified in any other "whistle-blower" protection pursuant to any similar legislation.

What is the claims procedure?

Claim intimation:

All notifications relating to Claims or circumstances must be in writing or sent by facsimile to
Royal Sundaram General Insurance Co. Limited
Vishranthi Melaram Towers", 2/319, Rajiv Gandhi Salai, Karapakkam, Chennai 600 097.

Claim process:

- The insurer will appoint a Panel counsel for the settlement of claims who may seek for additional information/evidence or clarification
- The insured must fully cooperate with the insurer during the investigation process.
- The insured should not admit liability or incur costs without the insurer's prior written consent, as this may jeopardize coverage.



- It is important to keep us updated regarding the status of the claim and provide us with all relevant information (key correspondences).
- The claims will be settled as per the terms and conditions of the policy.

Section 41 in the Insurance Act, 1938

41. Prohibition of rebates

(1) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance in respect of any kind of risk relating to lives or property in India, any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing or continuing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer: Provided that acceptance by an insurance agent of commission in connection with a policy of life insurance taken out by himself on his own life shall not be deemed to be acceptance of a rebate of premium within the meaning of this sub-section if at the time of such acceptance the insurance agent satisfies the prescribed conditions establishing that he is a bona fide insurance agent employed by the insurer.

(2) Any person making default in complying with the provisions of this section shall be liable for a penalty which may extend to ten lakh rupees.

Note: In case of any conflict, the terms and conditions mentioned in the policy document shall prevail.