



EXECUTIVE RISK

Berkley Canada offers flexible coverage options on a combined Directors & Officers and Employment Practices Liability form, incorporating the latest coverage enhancements to meet the needs of a wide variety of private, public, and not-for-profit organizations.

PRODUCTS

- Directors & Officers Liability
- Employment Practices Liability
- Excess D&O Liability
- Dedicated wordings for private, public, and not-for-profit organizations

CAPACITY

\$25 Million

TARGET SEGMENTS

- Broad appetite
 - Capable of underwriting all industry classes
 - Expertise in handling everything from small businesses to the largest companies in Canada
 - Proficient in managing cases from low to high complexity
 - Skilled in accommodating a range of premiums, from modest to substantial
- Program business for EPL, D&O, Condo Corps

HIGHLIGHTS

- Employment Practices Liability coverage, shared or separate limits
- Entity Coverage for securities claims
- Investigative costs for shareholder derivative actions (sub limited)
- Additional Side A excess limit
- Bi-lateral Extended Reporting Period
- Notice of circumstances allowed in Extended Reporting Period
- Expanded definition of Claim including arbitration proceeding, investigative proceeding and extradition coverage
- Subsidiary acquisition asset threshold 35%
- Pollution carve out for Securities claims & Side A claims
- Non-rescindable Side A
- Automated renewals for low-risk accounts

CONTACT

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W.R. BERKLEY CORPORATION

Total Assets: **\$33.8 billion USD**

Common Stockholders' Equity:
\$6.7 billion USD

Reserves for Losses and Loss Expenses:
\$17 billion USD
40+ years of casualty market experience

Berkley Canada writes on Berkley Insurance Company paper

Rated A.M. Best A+ and S&P A+
Ranked as a fortune 500 Company since 2019-2023



SIDE A DIC

ALL RISK APPROACH

- All Risk policy construction as opposed to Follow Form with Drop Down Triggers
- Other DIC forms employ a Named Perils approach which places the burden on the insured to prove that one of the named perils has been triggered
- Named Perils approach can never describe the entire universe of potential claims scenarios while the All Risk approach can respond to currently unknown exposures

HIGHLIGHTS

- No Pollution Exclusion
- No Application requirement, non-rescindable
- Loss does not exclude clean-up costs
- No BI/PD exclusion
- No ERISA Exclusion – Side A Fiduciary Coverage
- Late reporting language – must show material prejudice
- No pending and prior litigation exclusion
- Conduct Exclusion:
 - Do Not Apply to Defence Costs
 - Do Not Apply to Independent directors
 - Final non-appealable adjudication
- No I vs I or O vs I exclusion
- No presumptive indemnification wording
- No prior notice exclusion
- No consent to defence costs, only consent to settlements
- No acquisition clause
- SOX 404 / Dodd-Frank 954 “Facilitation” Costs
- No Arbitration Clause. Insured is not forced to use ADR as a method of resolving coverage disputes.
- Taxes, fines, penalties where insurable by law included in Definition of Loss; carrier agrees not to challenge legal opinion of Insured’s counsel as to insurability of punitive, exemplary, or multiplied damages
- Deemer clause: Carrier to advance within 60 days in event of failure or refusal for any reason of Company to indemnify or failure or refusal of insurance to respond
- No stacking of limits clause
- Liberalization to Underlying Clause—where primary policy is broader than DIC policy, DIC adopts most favorable coverage for Insured Persons
- Extended Reporting Period Enhancements for Bankruptcy and Insolvency, Retired Directors

Underwriting Considerations

- Ability to indemnify
- Credit Quality
- Corporate By Laws or Indemnity Agreements
- Other Insurance
- Prior litigation and Claims

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