

Insurers Up Scrutiny Of Companies' ESG Strategies, Law360, Ivan Dolowich quoted, May 2, 2022

Insurance companies are looking deeper into businesses' environmental, social and governance programs, but both underwriters and policyholders have struggled to measure ESG risks in the absence of clear and common standards and regulations. ESG risks can range from environmental and sustainability issues to employee health and well-being, cybersecurity protocol, board diversity and a business' handling of sexual harassment claims...

There have been rising ESG-related claims against policyholders in recent years and D&O carriers are "asking very pointed and specific underwriting questions about ESG risks," said Ivan Dolowich, co-managing partner of Kaufman Dolowich & Voluck LLP who represents insurers. Companies' ESG risks would bring more exposure for insurers because "D&O defense costs can be astronomical, and they've dramatically increased over the past several years," said Dolowich of Kaufman Dolowich & Voluck. The legal bills can quickly exhaust the \$5 million or \$10 million retention, or maybe a primary or first excess layer of the policy, the insurer attorney said, explaining that big companies usually have policies that stretch into the hundreds of millions. "We're in a litigious environment," Dolowich said. "Shareholders look under the covers, and if they see any me too, COVID safety-related or data privacy issues and bring claims, even if it's a baseless claim that the insured is able to get dismissed, there's typically going to be a significant defense cost." "With the new SEC enforcement regime, the DOJ has been refocusing on corporate misconduct," Dolowich said. Please read full article at link below