



# The Chubb Investigative Response Policy

Insurance for securities-related  
investigative action response costs

CHUBB®

## Unprecedented Legal Reform and Rule Making Following the “Great Recession”

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Following passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and JOBS Act (2012), the federal government augmented the authority of the Securities and Exchange Commission (SEC) to draft rules and enforce securities laws.

The SEC has significantly ramped up investigations of the financial and disclosure practices of public corporations. The SEC reported a record 868 enforcement actions during the fiscal year that ended September 30, 2016, compared to 807 enforcement actions the year prior.

## How has the Regulatory Landscape Evolved?

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- The SEC has renewed scrutiny of public companies with the creation of the Financial Reporting and Audit Task Force.
- The SEC’s Accounting Quality Model statistical analysis tool (informally known as “Robocop”) applies technology to scour corporate financial statements for anomalies that could indicate a need for further inquiry.

- Record-setting whistleblower awards of millions of dollars may further incentivize company insiders to report purported misconduct.
- New rules recently issued by the DOJ prioritize the prosecution of individual corporate executives, further heightening risk for corporations and their leaders.

**The result:  
An explosion of investigations  
and enforcement actions.**

## What does it all Mean for Public Companies?

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Enforcing securities laws is, of course, in the best interests of investors and the financial markets. However, a company doesn’t have to do anything wrong to trigger an investigation—it might not even know why it is being investigated. Receipt of a request or written demand from the SEC, DOJ or Attorney General or their foreign equivalent arising from a securities-related investigation can broadside a company without warning. Even more worrisome: statistics-based enforcement actions can lead to false findings of suspected wrongdoing—“false positives”—making further investigation necessary to establish

wrongdoing and intent. The company must, or may voluntarily want to, respond to an investigative action, and that response is likely to be costly—potentially tens of millions of dollars. Furthermore, an investigative action often leads to a securities claim against the company and its directors and officers.

## The Seamless Insurance Solution

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Companies carry directors and officers (D&O) liability insurance to respond to actual securities claims. But who shoulders the financial burden of the investigative response costs a company incurs before it becomes a securities claim or if it never becomes a securities claim?

Until now the answer has always been: the company shoulders those costs.

No longer.

We specifically designed *The Chubb Investigative Response Policy* to help cover a company’s pre-claim response costs—including attorney and accounting fees and document production costs—resulting from an investigative action or series of investigative actions.

We recognize the unpredictable timing and nature of investigations and therefore designed *The Chubb Investigative Response Policy* to work hand-in-hand with a company’s primary Chubb D&O Liability insurance policy, helping to provide a seamless transition in insurance coverage from the start of a securities investigation up to any “conclusive event,” including any resulting securities claim against the insured.



Coverage highlights include:

- Policy offers coverage for response costs for securities-related investigative actions brought by the SEC, DOJ, any U.S. or state attorney general or the foreign equivalent, or the enforcement unit of any securities exchange or similar self-regulatory organization.
- Response costs coverage includes costs, charges, attorneys' fees, accountants' fees, experts' fees, as well as costs of discovery, e-discovery, and production of documents incurred during the policy period and prior to a conclusive event that are reasonable and necessary to respond to an investigative action, up to the limit of liability.
- Policy offers coverage both for individuals and the corporation.
- Any deductible paid under *The Chubb Investigative Response Policy* reduces the applicable primary Chubb D&O Liability policy deductible for a subsequent related securities claim.
- Our innovative definition of conclusive event allows coverage to transition for each insured from *The Chubb Investigative Response Policy* to the primary Chubb D&O Liability policy when there is a resulting securities claim against such insured.
- Can provide separate limits of liability from those limits in the D&O tower.
- When there is an investigative action, the insured controls whether to keep the policy in force beyond the policy expiration date at a preset premium.
- The first acceptance of notice of an investigative action under *The Chubb Investigative Response Policy* is deemed accepted notice of a potential securities claim under the primary Chubb D&O Liability policy.

## **The Chubb Advantage**

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### **Market Leadership**

Our depth of understanding of securities exposures and the duties of directors and officers allows us to provide the unique coverage offered by *The Chubb Investigative Response Policy*, as well as a full suite of innovative, bold, clean, broad D&O liability insurance solutions for organizations and individuals that stand out in the market.

### **Multinational D&O Liability Capabilities**

Our worldwide expertise and local presence provides us with the knowledge and wherewithal to solve complex multinational leadership protection problems that most insurers shy away from.

### **Superior Claims Service**

Our reputation for expert, fair claims handling is renowned in the industry.

### **Financial Stability**

Because securities investigations and claims can take a long time—even years—to resolve, the long-term viability of an insurer is critical. Chubb's financial stability and ability to pay claims rate among the best in the insurance industry, as attested by Standard & Poor's and A.M. Best Company, two of the leading insurance rating agencies.

## **Origins of SEC Investigations**

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A securities investigation can be prompted in a wide variety of ways. Among them:

- Complaints or tips
- Public company reports
- Routine inspections of regulated persons and entities
- Investment or business failures by regulated entities
- News stories
- Referrals from state securities regulators or other federal agencies

## **Why an Investigation Might Cost Millions of Dollars**

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Investigations are often broad in scope and often require a robust response, which will normally include the following:

- Attorneys' fees
- Accountants' fees
- Experts' fees
- Costs of discovery, e-discovery, and production of documents

## **Learn More**

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For more information on *The Chubb Investigative Response Policy*, contact your local Chubb underwriter or visit [www.chubb.com](http://www.chubb.com).





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