

Corporate Governance and Directors and Officers Liability Survey of Listed Companies in Singapore

Conducted by:

**Corporate Governance and Financial Reporting Centre
NUS Business School, National University of Singapore**

Commissioned by:

Jardine Lloyd Thompson Private Limited

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JLT has clearly made the connection between D&O Insurance and Corporate Governance. We participate in corporate governance associations and work with related bodies in an effort to stay at the forefront of this important area. Effective transfer of director risk is essential for sound functioning of a Board and also for a company to attract the best independent/non-executive directors.

JLT's local team of more than 60 insurance professionals is highly qualified and experienced in handling all lines of insurance within specific industry segments. Their aim is to provide strategic and comprehensive risk solutions that help clients compete more effectively and improve their financial performance. When client's needs dictate, JLT is able to push beyond the traditional boundaries of insurance and produce highly innovative and advanced structures that integrate alternative risk transfer and other insurance related techniques.

As a leading broker, JLT hires the best talents who consistently deliver industry leading solutions and services of an exceptional level. These are the qualities that set JLT apart from other brokers and earned them the Asia Insurance Industry 'Broker of the Year' award for the past three consecutive years from 2001-2003.

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Executive Summary

This “Corporate Governance and Directors and Officers Liability Survey of Listed Companies in Singapore” was conducted by the Corporate Governance and Financial Reporting Centre, a unit of the NUS Business School, National University of Singapore and commissioned by Jardine Lloyd Thompson Private Limited with the objectives of assessing the awareness of corporate governance and directors and officers liability issues in Singapore. The survey was sent out to 472 companies listed in Singapore and achieved a response rate of 22%.

The major conclusions from the survey are:

1. Better corporate governance has a beneficial effect on financial performance of a company and more should be done to improve standards of corporate governance in Singapore.
2. Independent directors should be independent of management as well as controlling shareholders.
3. A majority of the board should consist of independent directors.
4. There should be a limit on the number of non-executive directorships that can be held by an individual.
5. Shareholders and regulators are pushing for better corporate governance and that has increased the liability for directors and officers. Inadequate or inaccurate disclosure and fraud are the two most likely reasons for claims being brought against directors and officers.
6. The threat of claims against directors and officers is increasing and non-executive directors should be informed of their D&O liability insurance cover before they are appointed.
7. D&O liability insurance is an essential part of a company’s insurance program and good corporate governance. Having D&O liability insurance helps in retaining experienced directors.

Objectives

There were two objectives of the survey; to assess the perception of the state of corporate governance amongst the senior executives of companies listed on the Singapore Exchange, and to assess the awareness about directors & officers (D&O) liability and the existence of insurance relating to D&O liability.

Survey Methodology

The survey was conducted by the Corporate Governance and Financial Reporting Centre (CGFRC), a unit of the NUS Business School, National University of Singapore and commissioned by Jardine Lloyd Thompson Private Limited (JLT), a leading provider of insurance broking and risk management expertise. The survey questionnaire was field-tested prior to it being mailed out to prospective respondents. The survey was administered from February to March 2004 with an option of postal or online response. The respondents had the choice of not disclosing their identity.

Respondents

The survey was mailed out to 472 companies listed and incorporated in Singapore. The survey was addressed to the company secretaries because it was believed that they were familiar with both D&O liability and corporate governance issues. A total of 105 valid responses were received; 62 were from companies listed on the main board, 29 from companies listed on the Sesdaq and 14 respondents did not disclose their identity (see *figure 1*), thus giving a response rate of 22%. The market capitalisation of the respondents as at March 31, 2004 is given in *figure 2* while the industry sector of the respondents is given in *figure 3*.

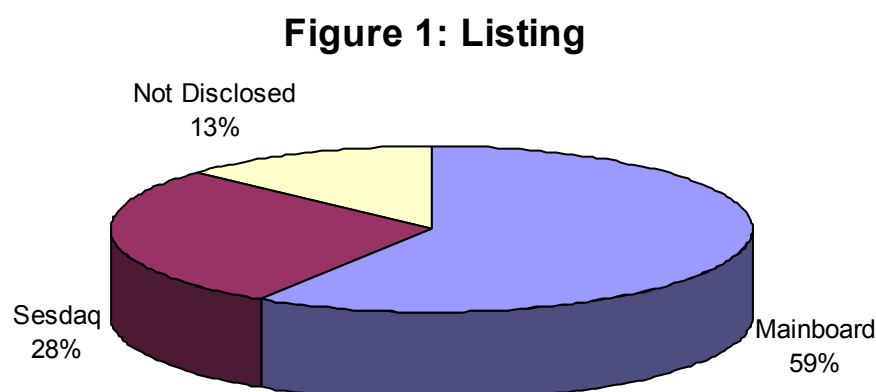


Figure 2: Market Capitalisation of Respondents (S\$)

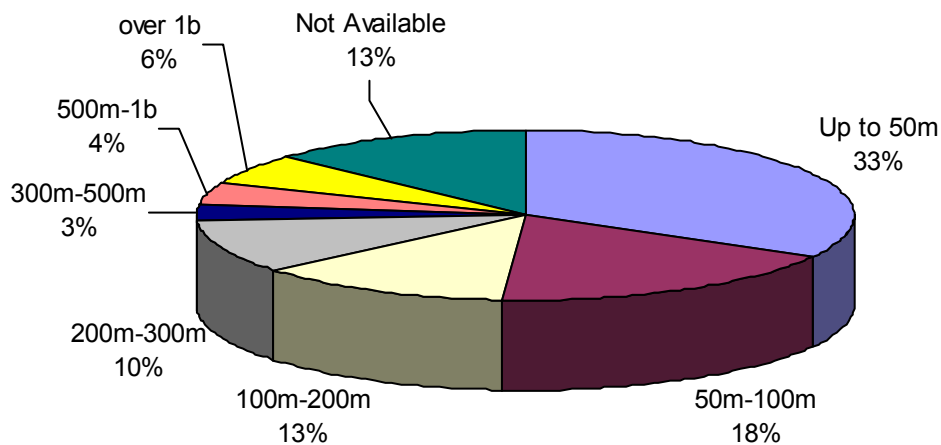
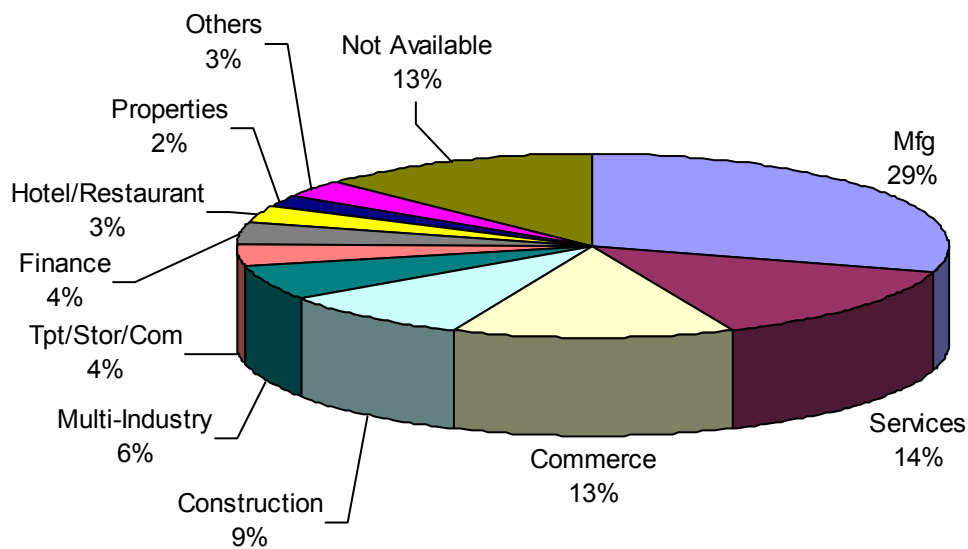


Figure 3: Industry Sector



Note: Tpt/Stor/Com means Transport/Storage/Communications

35% of the responding companies reported family as being the largest controlling shareholder while 28% reported management as the largest controlling shareholder. *Figure 4* shows the controlling shareholders for the respondents.

Figure 4: Controlling Shareholders

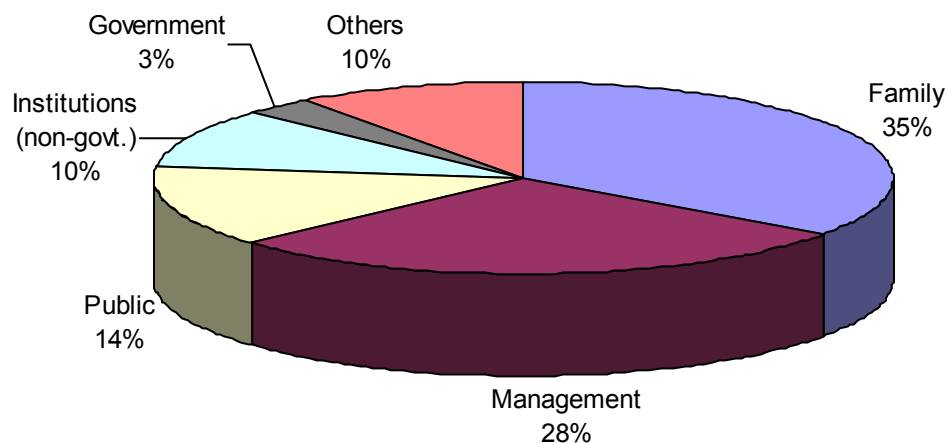
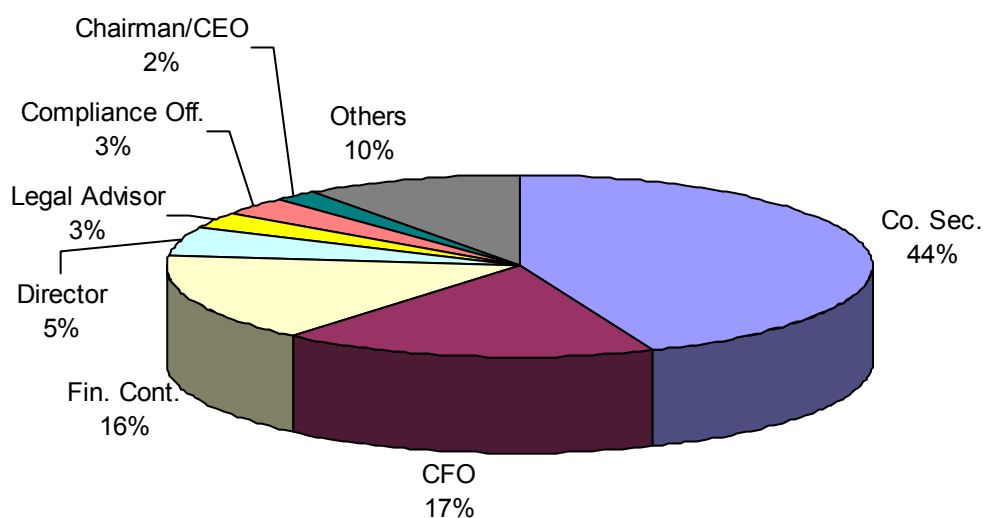


Figure 5 shows the position of the respondents in their respective companies. Since the survey was sent to the company secretaries, as expected, many of the questionnaires were answered by the company secretaries themselves. They were however, given the option of requesting someone else to respond to the survey.

Figure 5: Position of Respondents



Corporate Governance

The respondents had high regard for the standard of corporate governance in Singapore. Just over half agreed or strongly agreed that corporate governance standards in Singapore were comparable to those in USA and UK (see *table 1*) while almost all agreed that Singapore's corporate governance standard was high amongst the Asian countries. Despite this, two-thirds agreed, or strongly agreed, that substantial diversity exists amongst the Singaporean companies in their standards of corporate governance. Almost all felt that Singaporean companies are making an effort to strengthen corporate governance but they also felt that more should be done to improve corporate governance in Singapore than is currently being done.

A majority of the respondents also felt that shareholders and regulators are pushing for better corporate governance and that this has increased the liability for the directors and officers.

| Table 1: Perception of Corporate Governance Issues | | | | | |
|---|-----------------------|--------------|----------------|-----------------|--------------------------|
| | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree |
| The standard of corporate governance in Singapore is comparable to those of the USA and UK | 6% | 50% | 35% | 10% | 0% |
| The standard of corporate governance in Singapore is high among Asian countries | 40% | 52% | 5% | 3% | 0% |
| There is substantial diversity in the standards of corporate governance amongst companies in Singapore | 9% | 57% | 26% | 9% | 0% |
| The majority of companies in Singapore are taking measures to strengthen corporate governance | 9% | 76% | 10% | 4% | 1% |
| Most companies in Singapore could be doing more to strengthen corporate governance | 7% | 77% | 14% | 2% | 0% |
| Shareholders and regulatory authorities are demanding higher standards of corporate governance | 36% | 58% | 4% | 2% | 0% |
| Higher standards of corporate governance demanded by shareholders and regulatory authorities have increased liability for Directors and Officers | 18% | 52% | 12% | 15% | 2% |
| Minority investors in family-controlled companies are equitably treated by controlling family shareholders | 0% | 33% | 34% | 30% | 2% |
| Government-linked companies in Singapore have better corporate governance than other companies | 10% | 47% | 35% | 8% | 0% |
| The interests of minority investors are adequately protected in Singapore | 5% | 55% | 24% | 14% | 2% |
| Market malpractices/manipulation is not a significant problem in Singapore | 2% | 61% | 27% | 9% | 2% |
| Good corporate governance has a beneficial effect on a company's financial performance (e.g., higher share price or lower cost of capital) | 10% | 38% | 43% | 9% | 0% |

It was interesting that almost a third of the respondents felt that minority shareholders were treated equitably by family-controlled companies while almost an equal number felt that they were not equitably treated. The remaining one-third of the respondents did not express a definite opinion. In another question, 16% of the respondents felt that the interests of the minority shareholders were not adequately protected in Singapore while 60% felt otherwise.

Over half the respondents also expressed the view that government-linked companies had better corporate governance and only 8% disagreed with this view, while 35% did not have any definite view on this.

Almost 63% of the respondents felt that market manipulation or malpractices did not pose a significant problem in Singapore.

Around half the respondents felt that good corporate governance had a beneficial effect on the financial performance of the company. About a tenth disagreed that good corporate governance leads to better financial performance while just over 40% were neutral.

Comparison With Other Asian Countries

Table 2 shows that most respondents perceived Singapore's corporate governance to be better than most other countries in Asia. Hong Kong and Japan were the only two countries for which over half (58%) respondents said that they had similar level of corporate governance as Singapore. However around 40% of the respondents felt that Singapore had better corporate governance than these two countries and only around 2% felt that Singapore's corporate governance was worse off than Hong Kong's and Japan's. This is consistent with the earlier result that most companies felt that Singapore had better corporate governance than other Asian countries.

In a similar study done in Hong Kong in 2003¹, 60% of the respondents there considered the standard of corporate governance in Hong Kong to be similar to that in Singapore, 13% thought it was better than in Singapore and 19% thought it was lower than in Singapore.

¹ Corporate Governance and Directors' & Officers' Liability Survey of Listed Companies in Hong Kong, 2003, Conducted by Policy 21 Ltd., The University of Hong Kong and commissioned by Jardine Lloyd Thompson Limited.

Table 2: Comparison of Corporate Governance Standards in Singapore to Other Asian Countries

| | Substantially Better | Better | About the same | Worse | Substantially Worse |
|-------------|----------------------|--------|----------------|-------|---------------------|
| China | 72% | 22% | 2% | 3% | 1% |
| Hong Kong | 6% | 34% | 58% | 2% | 0% |
| India | 49% | 43% | 6% | 2% | 1% |
| Indonesia | 81% | 15% | 1% | 2% | 1% |
| Japan | 10% | 29% | 58% | 3% | 0% |
| Malaysia | 17% | 59% | 22% | 2% | 0% |
| Philippines | 50% | 42% | 6% | 3% | 0% |
| South Korea | 19% | 51% | 29% | 1% | 0% |
| Taiwan | 29% | 50% | 21% | 1% | 0% |
| Thailand | 32% | 53% | 11% | 3% | 0% |

Note: The values shown represent how respondents thought Singapore's corporate governance compares to other countries; e.g. 72% of the respondents thought that Singapore has substantially better corporate governance than China.

Independence Of Directors

Over half the companies (see *table 3*) agreed that a majority of directors on the board should be independent though nearly 30% disagreed. Almost all respondents agreed that independent directors should be independent of management as well as controlling shareholders.

Nearly three-quarters of the respondents agreed that the audit committee should comprise entirely of independent directors whereas only half the respondents held the same views for remuneration committee and the nominating committee. Nearly 20% of the respondents disagreed that the CEO and Chairman positions should be held by different persons while over a half agreed with the view that separate individuals should hold these positions. Only a third of the companies agreed that the Chairman's position should be held by an independent director and another third disagreed with this statement while the rest were neutral.

Table 3: Views on Independence of Board and Board Committees

| | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree |
|---|----------------|-------|---------|----------|-------------------|
| The majority of directors on the board should be independent directors | 22% | 32% | 16% | 27% | 3% |
| Independent directors should be independent of both management and controlling/major shareholders | 47% | 46% | 7% | 1% | 0% |
| The audit committee should comprise entirely of independent directors | 30% | 38% | 8% | 22% | 2% |
| The remuneration committee should comprise entirely of independent directors | 22% | 26% | 19% | 31% | 2% |
| The nominating committee should comprise entirely of independent directors | 18% | 29% | 21% | 30% | 2% |
| The Chairman of the Board should not also be the CEO | 23% | 32% | 25% | 19% | 1% |
| The Chairman of the Board should be an independent director | 12% | 19% | 35% | 30% | 3% |
| The Code of Corporate Governance should contain different guidelines for companies of different sizes (e.g market capitalization, revenue etc.) | 29% | 43% | 16% | 10% | 2% |
| There should be a limit on the number of non-executive directorships in listed companies that can be held by a person in full-time employment | 30% | 52% | 15% | 1% | 2% |
| There should be a limit on the number of non-executive directorships in listed companies that can be held by any person | 24% | 56% | 18% | 1% | 1% |

Corporate Governance Code Versus Size Of Companies

About three-quarters of the respondents (see *table 3*) also felt that the Code of Corporate Governance should have different guidelines for companies of different sizes. Only 12% disagreed with this view while another 16% were neutral.

Number Of Directorships

82% of the respondents (see *table 3*) agreed with the statement that there should be a limit on the number of non-executive directorships in listed companies that can be held by a person in full-time employment. A similar proportion of the respondents also felt that similar restrictions should apply for non-executive directorships held by any person, not only to those in full-time employment.

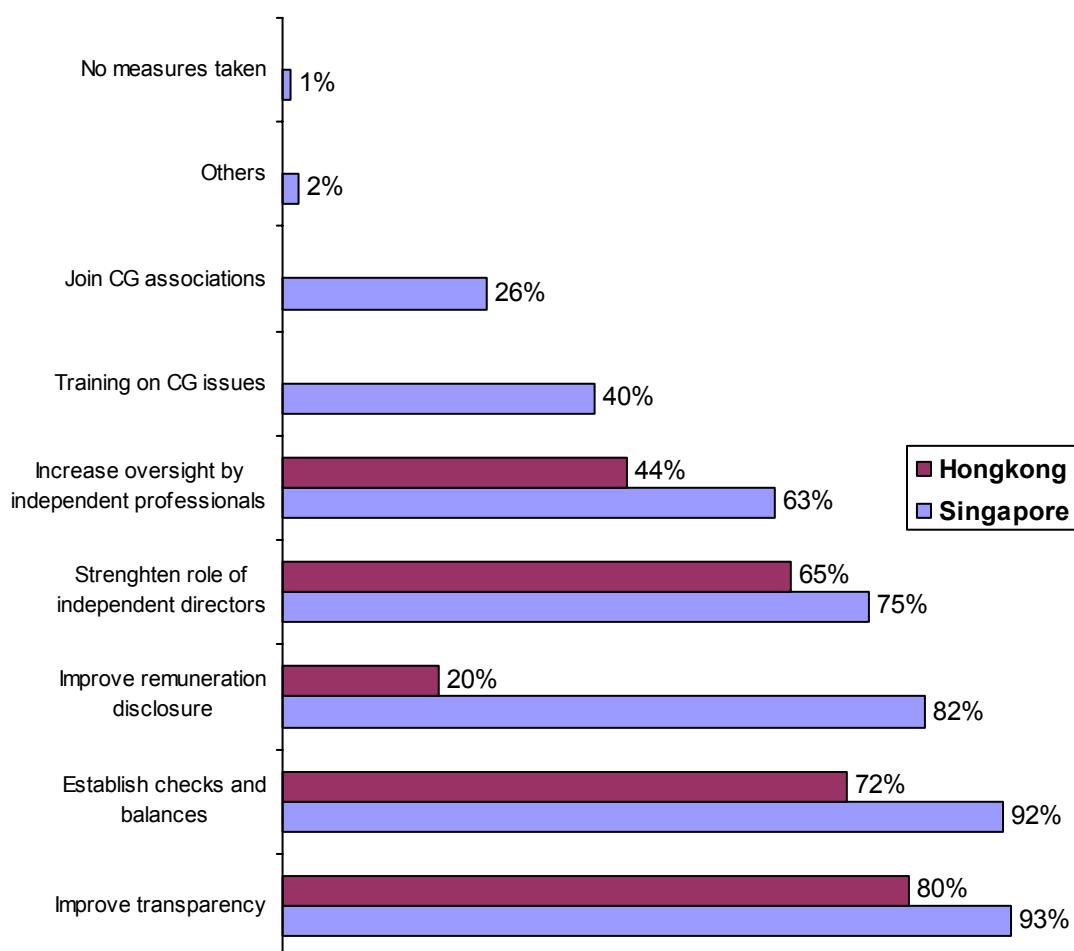
Strengthening Corporate Governance

All Singapore companies, except one, reported taking some measures to increase their standard of corporate governance (see *figure 6*). Over 90% stated that they have improved transparency through timely and comprehensive information disclosure and established checks and balances within the company through the establishment of various board committees. Over 80% also reported improving the disclosure of remuneration of directors and executives in their companies and 75%

reported strengthening the role of independent directors as a means of enhancing their corporate governance. 40% of the companies cited providing training on corporate governance issues to their directors and executives as a means of improving corporate governance.

In the Hong Kong study cited earlier, 80% of the respondents have improved transparency and established checks and balances within the company (see *figure 6*). 65% also reported strengthening the role of independent directors and 44% increased oversight by independent professionals to enhance their corporate governance. 20% of the companies reported improving the disclosure of directors' remuneration as a means of improving corporate governance.

Figure 6: Measures Taken to Improve CG



Note: The data for Hong Kong is obtained from the survey commissioned by JLT in Hong Kong and conducted by Policy 21 Ltd.

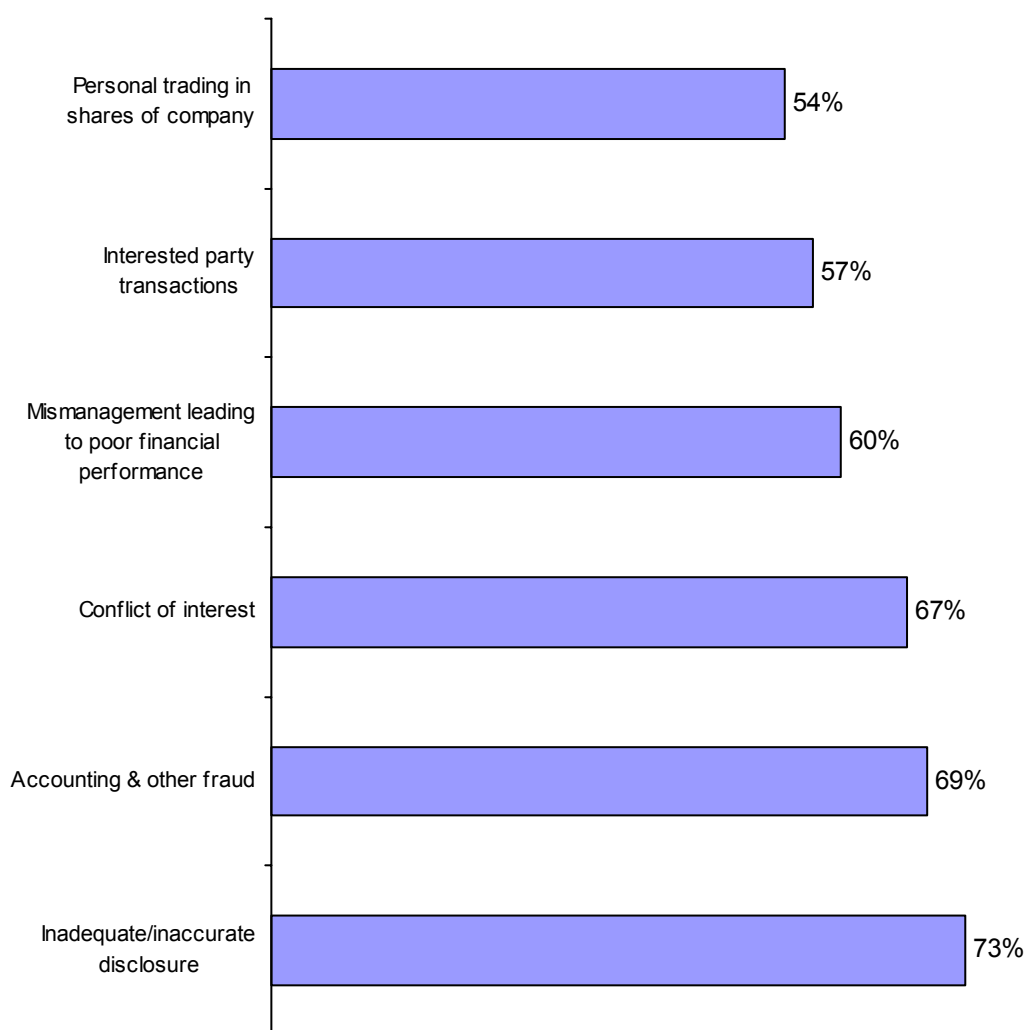
Directors and Officers Liability

This section reports the findings on D&O liability issues.

Potential Areas For Claims Against Directors And Officers

Figure 7 shows the top reasons cited by the respondents as the areas from which claims may arise against directors and officers. Inadequate or inaccurate disclosure of information and accounting and other fraud were the top two reasons. Conflict of interest with the company such as competing with the company, misappropriation of company property or misuse of company property followed close behind as another major reason for such claims.

Figure 7: Areas of Claims against Directors & Officers



Sources Of Claim

Most respondents did not think that any of the sources listed in the questionnaire currently posed any real threat of claims against directors and officers (see *figure 8*). A majority of companies viewed the threat as low, very low or of no concern at all with only less than 20% of the respondents stating these sources as being of high to very high concern. Of these sources, the regulatory or government authorities were cited as the sources with which the companies had a high concern followed by banks (as creditors), the company itself and customers respectively.

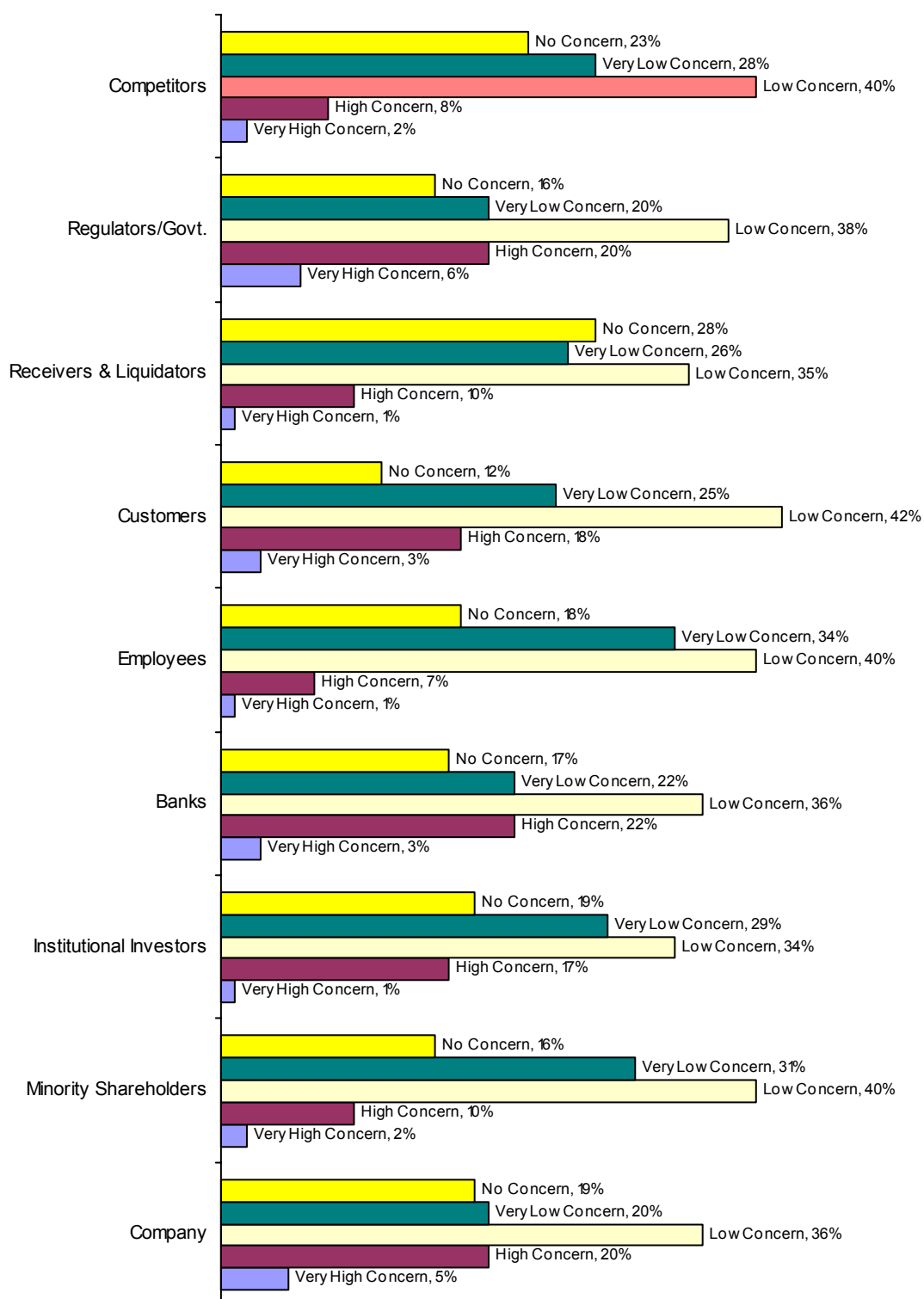
The Hong Kong study cited earlier also listed regulators or government as the most likely source of potential claims with 47% of the respondents stating the concern with such claims as high or very high. A comparison of the respondents in Singapore and Hong Kong stating the threat of potential claims from various sources as high or very high is given in *Table 4*.

| Table 4: Sources with High/Very High Threat of Potential Claims | | |
|--|------------------|------------------|
| | SINGAPORE | HONG KONG |
| Regulators/Government | 26% | 47% |
| Institutional Investors/Banks | 18%/25% | 39% |
| Small/Minority Shareholders | 12% | 31% |
| Customers | 21% | 27% |
| Competitors | 10% | 15% |
| Employees | 8% | 15% |

The values above show the percentage of respondents citing the source having high/very high threat of potential claim. The Hong Kong data is obtained from the study commissioned by JLT in Hong Kong and conducted by Policy 21 Ltd.

The values in *table 4* clearly show that the number of respondents in Singapore who perceive the threat of potential claims as high or very high for the various sources is much lower than in Hong Kong. In particular, the percentage of respondents who perceive the threat of claims to be high from minority shareholders is significantly lower in Singapore than in Hong Kong.

Figure 8: Source of Claims against Directors & Officers



Risk Of Potential Claims Against Directors And Officers

A third of the respondents (see *figure 9*) felt that there is little or no threat of potential claims against their directors and officers at present while over half perceived the threat to be moderate. The percentage of respondents who thought that the threat of such claims would be high or very high in the future is 35% as compared to 11% who perceived the threat as high or very high at present. This clearly indicates that many respondents see an increasing threat of claims against directors and officers.

Figure 9: Assessment of Risk (Singapore)

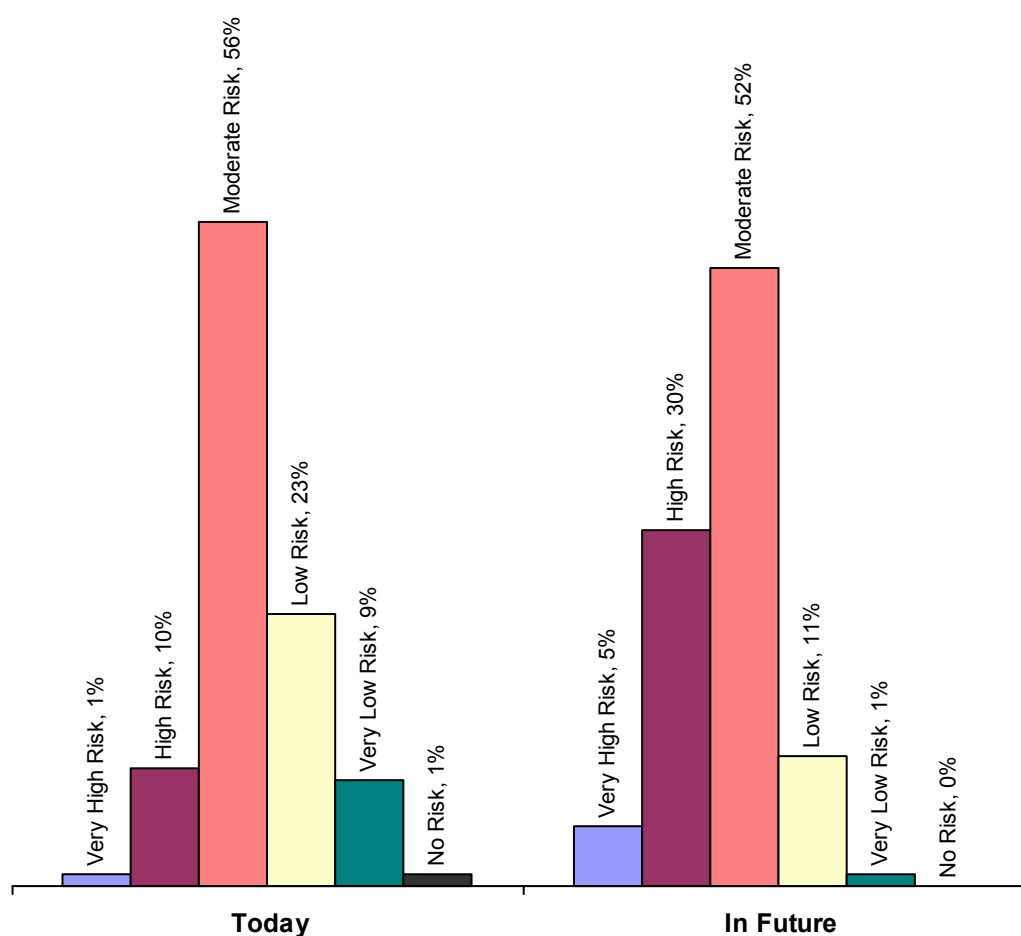
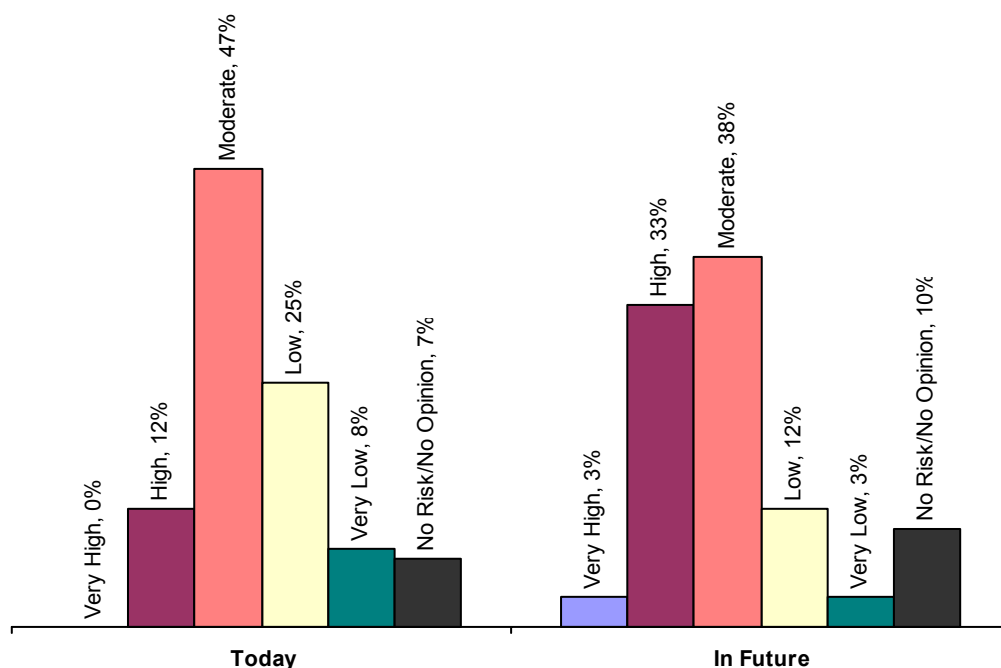


Figure 10 shows the responses received from respondents in a similar survey conducted in Hong Kong. The perception of risk amongst the respondents, both in Singapore and Hong Kong, is similar for potential claims against directors and officers.

Figure 10: Assessment of Risk (Hong Kong)

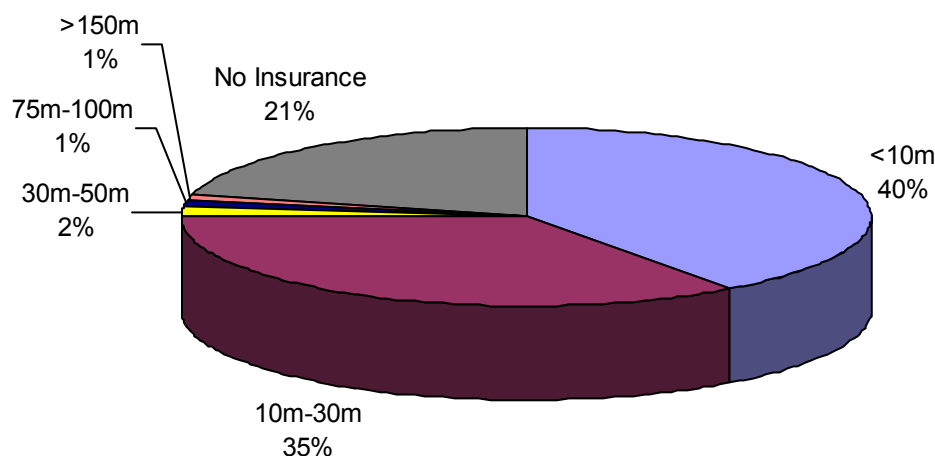


Source: Hong Kong survey commissioned by JLT and conducted by Policy 21 Ltd.

Directors And Officers (D&O) Liability Insurance

Over three-quarters of the companies already provide insurance cover against D&O liability claims. The coverage of the insurance was below S\$10 million for 40% of the companies and between S\$10 million and S\$50 million for another 37% of the companies. Higher coverage amounts are very rare as can be seen from *figure 11*. 21% of the companies reported no D&O liability insurance.

Figure 11: D&O Insurance Coverage (S\$)

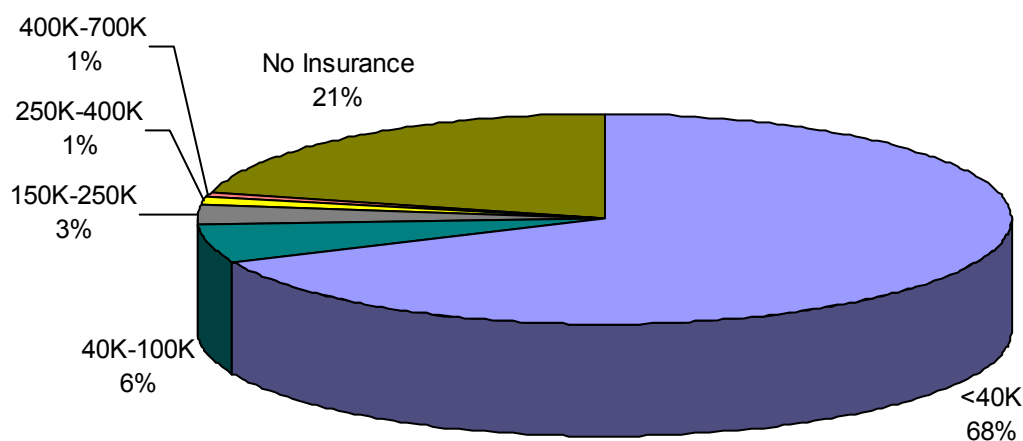


The Hong Kong survey reported that 41.5% of the responding companies there did not have D&O liability insurance while the corresponding number in Singapore is only 21%. Therefore, despite the threat of potential claims being perceived as low in Singapore, more companies here choose to purchase D&O liability insurance.

Premium Paid

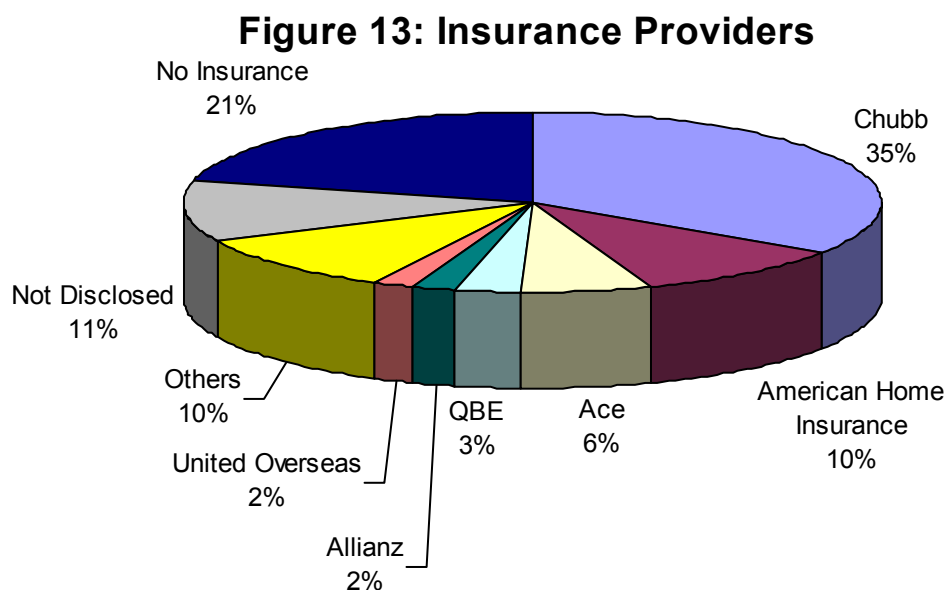
Most companies (68%) reported paying an annual premium of less than S\$40,000 (see *figure 12*). Another 6% reported the premium amount to be between S\$40,000 to S\$100,000. Higher premiums are rare.

Figure 12: D&O Insurance Premium Paid (S\$)



Insurance Providers

Federal Insurance Company (Chubb Group of Insurance Companies) turned out to be the largest provider of D&O liability insurance in Singapore (see *figure 13*) covering 35% of the companies responding. American Home Insurance (AIG) and Ace Insurance were distant second and third covering 10% and 6% respondents respectively. Of the 10% of the respondents who are covered by other insurance providers, some had mentioned the name of the broker rather than that of the insurance company.



Note: The values for American Home Insurance include responses such as AIG and AIU as they are part of the AIG

In Hong Kong the three largest insurance providers were AIG, Chubb and Ace with a 25%, 15% and 14% share respectively amongst the companies which had D&O liability insurance. In Singapore the three largest insurance providers were Chubb, AIG and Ace with 43%, 13% and 7% share respectively (*these percentages are based only on companies having D&O liability insurance and represent the number of companies covered and not the value insured, while the figures in the chart are based on all respondents*).

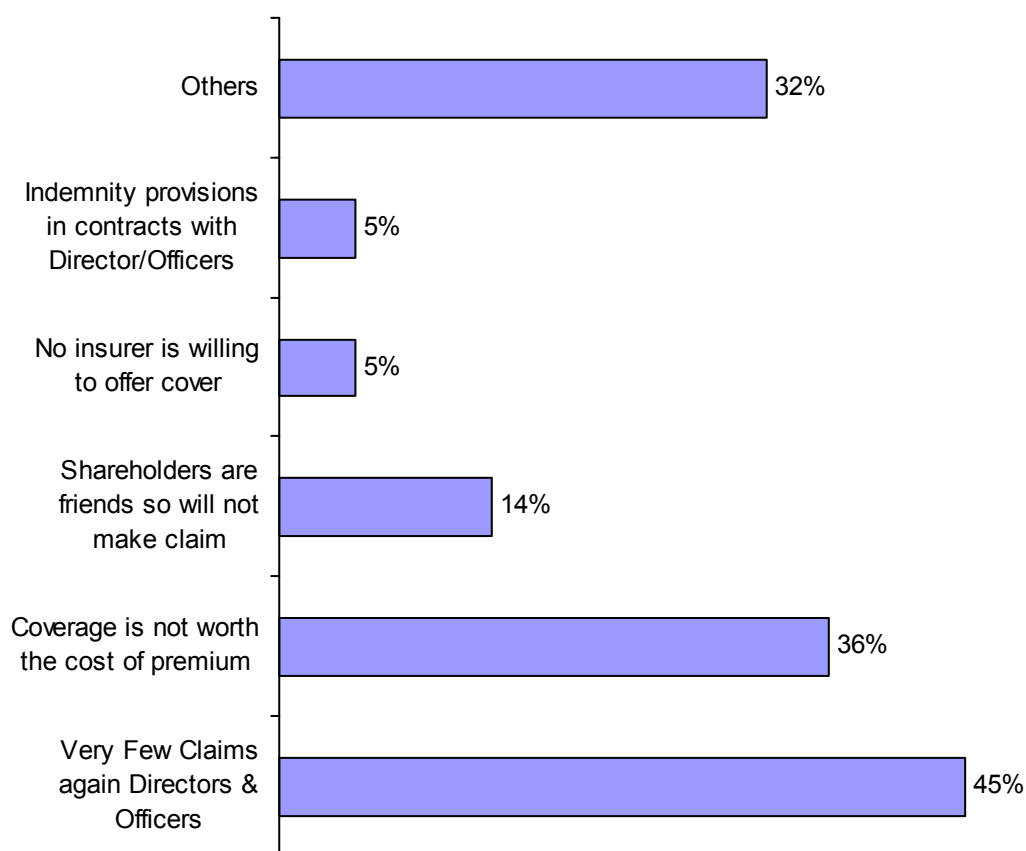
Value of Insurance Brokers

67% of the respondents felt that having an insurance broker adds value to their insurance program as the broker is able to advise them on various types of cover, negotiate favorable terms from the insurance company and assist them in settlement of claims.

Reasons For Not Buying D&O Liability Insurance

Most companies (45%) which did not have any D&O liability insurance said that they did not buy one as there are very few claims against directors and officers (see *figure 14*). 36% of these companies also felt that the premium was not worth the coverage provided and therefore was not good value for money. 32% also cited other reasons and most of these companies said that buying such a policy was still “under consideration”.

Figure 14: Reasons For Not Buying D&O Liability Insurance



Notes: 1. Values based only on companies not having D&O liability insurance
 2. Values add up to more than 100% since the choices were not mutually exclusive and more than one reason could be chosen by the respondents.

Other Views On D&O Liability Insurance

Around three-fourths of the respondents agreed with a suggestion made in the Higg's Report in the UK that non-executive directors should be informed of their insurance cover before they are appointed to the board of directors (see *table 5*). Approximately 70% of the respondents also felt that having a D&O liability insurance coverage will not increase the likelihood of such claims and around 60% felt that having such insurance would help them retain experienced directors on the board.

Just 11% of the companies felt that the insurance premium was not good value for money while a majority felt that the premium was commensurate with the coverage provided. However, around half the respondents also felt that the policy wordings were too restrictive and contained too many exclusions.

80% of the responding companies also felt that D&O liability insurance was an essential part of a company's insurance program and almost 70% felt that this was an essential component of good corporate governance. 62% also reported that their directors were very much interested in the scope of D&O insurance cover these days.

| Table 5: Views on D&O Liability Insurance | | | | | |
|---|-----------------------|--------------|----------------|-----------------|--------------------------|
| | Strongly Agree | Agree | Neutral | Disagree | Strongly Disagree |
| Companies should inform non-executive directors of their insurance cover before they are appointed, as suggested by the Higgs Report of UK (January 03) | 24% | 49% | 23% | 5% | 0% |
| Purchasing D&O liability insurance may increase the likelihood of claims | 2% | 5% | 23% | 65% | 6% |
| Having D&O liability insurance helps retain experienced directors | 10% | 50% | 30% | 10% | 0% |
| D&O liability insurance premium is good value for money (premium paid versus risk covered) | 5% | 46% | 39% | 8% | 3% |
| D&O liability insurance is an essential part of a listed company's insurance programme | 26% | 54% | 12% | 8% | 0% |
| D&O liability insurance is an essential component of corporate governance | 8% | 60% | 23% | 9% | 1% |
| Policy wordings are too restrictive and contain many exclusions | 11% | 42% | 38% | 9% | 0% |
| Our Directors and Officers are very interested in the scope of D&O insurance cover these days | 6% | 56% | 32% | 5% | 1% |

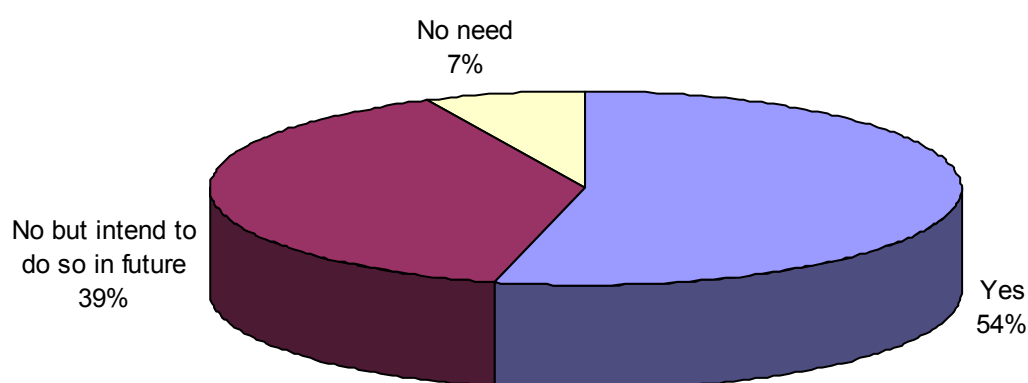
Table 6 shows the comparison of percentage of respondents stating their agreement with the various statements for Singapore and Hong Kong. Overall, respondents in Singapore and Hong Kong are in agreement on most issues.

| Table 6: Comparison between Singapore and Hong Kong | | |
|---|------------------|------------------|
| | SINGAPORE | HONG KONG |
| Companies should inform directors of their insurance cover before they are appointed to the board | 73% | 76% |
| D&O liability insurance helps in retaining experienced directors | 60% | 59% |
| D&O liability insurance premium is good value for money | 51% | 48% |
| D&O liability is an essential part of a company's insurance program | 80% | 70% |

Director Education On Legal Duties And Liabilities

Over half the respondents said that they provided education to their directors and officers on their legal duties and liabilities (see *figure 15*). Of these, 50% reported sending their directors and officers on external training courses once a year, 47% reported organizing in-house education programs and 27% reported subscribing to magazines and journals relating to corporate governance to educate their directors and officers². 39% said that they did not provide such education at present but intend to do so in the near future while 7% said that they do not see any need to provide such education.

Figure 15: Continuous Education For Directors & Officers On Legal Duties & Liabilities



² The numbers add up to more than 100% since the choices are not mutually exclusive and a company can use more than one method of providing education.

Key Conclusions

Some of the key conclusions from the survey are:

1. More should be done to improve corporate governance in Singapore.
2. Shareholders and regulators are pushing for better corporate governance and that has increased the liability for directors and officers.
3. Better corporate governance has a beneficial effect on financial performance of a company.
4. Independent directors should be independent of management as well as controlling shareholders.
5. There should be a limit on the number of non-executive directorships that can be held by an individual.
6. Many companies still do not provide education to their directors and officers on their legal duties and liabilities.
7. Inadequate or inaccurate disclosure and fraud are the two most likely reasons for claims being brought against directors and officers.
8. There is high concern about potential claims from regulators, banks, company and customers against directors and officers.
9. The threat of claims against directors and officers is likely to increase over time.
10. Having an insurance broker adds value to the insurance program of a company.
11. D&O liability insurance is an essential part of good corporate governance.
12. Most directors are very much interested in D&O liability insurance.
13. Non-executive directors should be informed of their D&O liability insurance cover before they are appointed.
14. Having a D&O liability cover would help in retaining experienced directors.

15. Premium for D&O liability insurance was commensurate with coverage provided.
16. D&O liability insurance is an essential part of a company's insurance program.



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About Corporate Governance and Financial Reporting Centre

The Corporate Governance and Financial Reporting Centre is a unit of NUS Business School, National University of Singapore. The Centre's mission is to research, disseminate and promote best practices in corporate governance and financial reporting. It is one of the few centres in the world for the promotion and development of good corporate governance and better financial reporting.

A hallmark of the Centre is the strong industry orientation in its activities and projects. The current and proposed portfolio of activities of the Centre includes topics such as boardroom practices, executive compensation, creative accounting, quarterly reporting and investor relations. It encourages a convergence of academics and practitioners around some of the key challenges of corporate governance and financial reporting in organizations. Being research-led and industry-oriented, the centre is at the cutting edge of theory and practice and it helps to bridge the gap between leading academic work and the needs of practitioners.

The centre collaborates with reputed organisations like Standard and Poor's, Singapore Institute of Directors (SID), Securities Investors Association Singapore (SIAS), Institute of Certified Public Accountants of Singapore (ICPAS), Federal Insurance Company, Singapore (Chubb Insurance) and Jardine Lloyd Thompson Private Limited on various projects that seek to increase awareness on corporate governance issues. We welcome requests for collaboration from organisations within and outside Singapore to undertake projects that will further the cause of good corporate governance.

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