

AXIS
/ Mining



**Mining
& Mineral
Explorations**
Insurance Guide

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Introduction

Mining companies face many exposures to loss stemming from their operations and management liabilities which can be insured through a variety of different policies. Axis has attempted to streamline coverage to reduce the number of different policies required, while filling coverage gaps and reducing overall premium levels. We are eager to work with your management team to identify these areas of risk, and to propose appropriate risk transfer solutions through insurance products.

Axis Insurance Managers specializes in developing custom-made insurance solutions for the Mining and Mineral Exploration industry. We have established relationships, programs and facilities with leading multinational insurers who understand the specific risks, nuances and business of

mining in North America and around the world. Working in partnership with the underwriters at Lloyds of London, we have created a broad General Liability policy designed to address the unique needs and coverage gaps that exist under most standard policies currently offered to mining companies.

Our goal is to provide the best service, advice and products to the mining industry. We have a fully qualified team of insurance professionals with extensive experience in mining and mineral exploration to assist you in creating broad protection for the best value. The attached schedule is intended as a review document for discussion purposes only. It is not necessarily an exhaustive list of your exposures to loss or insurance coverage that is available.

Insurance Risk & Management

The following chart is a summary of the insurance products that are available to address the many risks faced by mining companies. However, if all exposures are insured, premiums can become unaffordable. To help offset the costs, most insurance purchases are typically selective. Your broker should provide guidance and advice in order to make a peer assessment of risk exposures and coverage options. Some premiums can be reduced by selecting limited forms of coverage and/or by assuming higher deductibles.

Risk management practices as outlined later in this guide will assist in reducing claims. This will reduce the cost of insured losses, deductibles and claim expenses while assisting in obtaining the most favourable terms from insurers.

With respect to liability insurance, the limits will have a significant impact on the amount of premium. Corporations are often required to purchase specific types of insurance to satisfy contractual requirements, such as lease obligations to landlords, joint venture partners and outside directors. If possible, risks should be transferred contractually to third parties such as subcontractors or joint venture partners.

However, this does not always dismiss the need for coverage. When transferring risks to insurers, the focus should be on unmanageable risks that can have a significant impact on your corporate treasury, the longterm viability of your company, or the safety of your employees.

Typical Insurance Coverage Options

Mining and exploration companies, have a responsibility to their shareholders to protect the corporate balance sheet from expected losses. Insurance should be a key part of any risk management program to protect against loss or damage to assets, costs and settlements relating to liabilities and losses resulting from accidents and injuries to employees.

Policies that protect physical assets

- Office Contents and Tenants Improvements
- Property Insurance
- Builder Risk / Construction Insurance
- Loss of Income and Extra Expense
- Marine Insurance
- Automobile Insurance
- Crime Insurance

Other coverage options

- Accident Insurance
- Emergency Evacuation
- Kidnap and Ransom Insurance
- Foreign Voluntary Workers Compensation Insurance
- Political Risk Insurance
- Cyber InsuranceLiability

Duty to Exercise Care and Skill

(Policies that protect against liability arising from your negligent acts)

- General Liability including Tenants Legal Liability
- Directors' and Officers' Liability Insurance
- Non-owned Aircraft Liability
- Marine Liability
- Automobile Liability
- Employment Practices Liability
- Employers' Liability
- Workers Compensation
- Environmental Liability
- Professional Liability

This list is merely a sample of typical policies available to mining companies and which insure the vast majority of exposures facing the mining industry. Other risks and exposures may require alternate cover solutions.



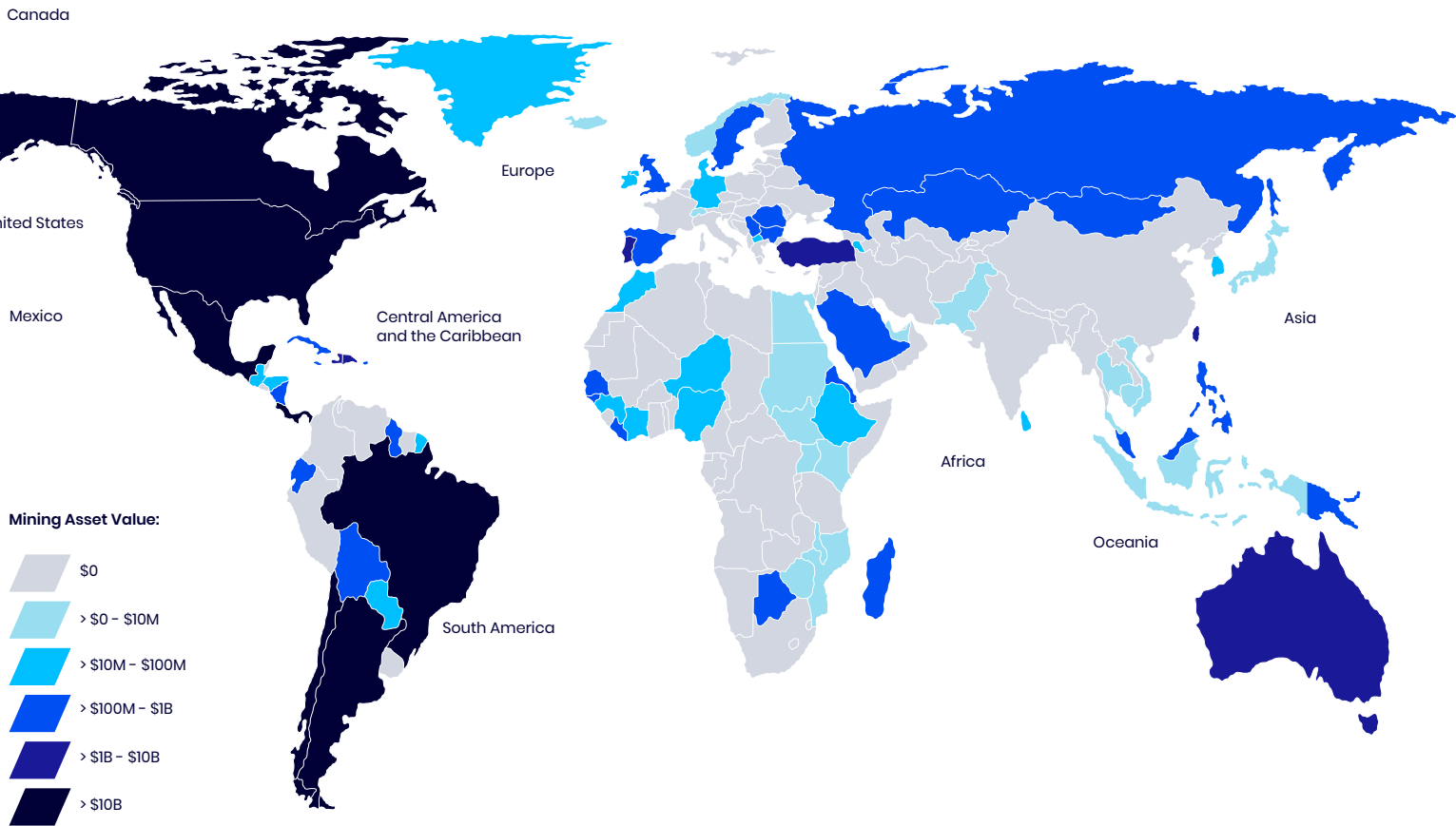
Physical Assets

If you own physical assets or are responsible for insuring property in your care and custody, you will want to cover them against loss or damage that arises from perils such as fire, flood, earthquake, theft or vandalism, and water damage.

Depending on the stage and nature of your project or mine development, you will require cover for the following assets:

- Contents of your office and tenant improvements
- Camp buildings, stock and equipment at exploration projects
- Mobile equipment
- Automobiles, watercraft and drones
- Fuel supply and tank storage
- Property in the course of construction during mine development
- Mining property including aboveground mine infrastructure and property located underground

You can also insure against the loss of income you sustain after an insured loss and/or extra expenses incurred to continue your business operations.



Property Insurance



Exposure

Office Premises

- Furniture
- Fixtures and fittings
- Tenant improvements
- Computer equipment
- Telephone systems
- Geological Samples



Key Considerations

- Insurance may be required by the lease agreement due to the landlord's interest in tenant improvements
- Assets should be valued and insured on a replacement cost basis
- Laptop computers may be excluded when off premises, or coverage may not apply outside of North America
- Coverage should include earthquake and flood
- Coverage should be extended to include property in transit
- Various extensions of coverage can be included
- Coverage should be included for extra expenses you will incur to continue your business operations in the event of a fire or other loss or damage at the insured premises



Insurance Coverage

Property Insurance or Office Contents Package

Equipment Breakdown Insurance

Important Note: Cyber risks such as a computer virus or malicious hacking are not covered but can cause serious damage to your systems which will amount to substantial costs to restore data as well extra expense to maintain your business operations. Consider buying Cyber Insurance (see Cyber Insurance Section)



Property Insurance



Exposure

Exploration Projects

- Field equipment
- Survey tools
- Mobile equipment
- ATVs & snowmobiles
- Camps and camp equipment
- Exhibition equipment
- Warehouse and storage
- Existing structure



Key Considerations

- Policies may contain geographical limitations
- An asset schedule should be prepared with values agreed on either an actual cash value or replacement cost basis
- There should be a provision to automatically insure newly acquired items for a period of time
- Licensed equipment may need to be insured under an Automobile Policy
- Consideration should be given to the maximum accumulation of values at any given locations to ensure limits are adequate or whether coverage is warranted



Insurance Coverage

Property Insurance Equipment Breakdown Insurance



Property Insurance



Exposure

Mine Development

- Property in course at construction, installation, erection, start-up, testing and commissioning, demolition, reconstruction or repair



Key Considerations

- Covers property of every description
- Property is insured on a replacement cost basis
- The policy limit is the final completed value
- Property to be insured should be declared in the estimated completion cost
- Underground property can be included
- Coverage can be included for existing structures
- Coverage includes temporary utilities and facilities



Insurance Coverage

- Builders Risk Insurance
- Equipment Breakdown Insurance
- Delayed Start-up – Business Interruption
- Terrorism/Political Violence



Exposure

Operating Mine

- Real and Personal Property



Key Considerations

- Loss control surveys will most likely be necessary
- Appraisals of assets may be required
- Coverage is typically based on full replacement cost
- Coverage for underground equipment is available
- Underground development of shaft and tunnels is usually excluded
- Coverage for bullion/precious metals and stones will be issued on a separate specialized policy form
- Tailings dams can be included in coverage



Insurance Coverage

- Property Insurance
- Business Interruption Insurance
- Equipment Breakdown Insurance
- Terrorism/Political Violence

Business Interruption Insurance



Exposure

Loss of Income & Extra Expense



Insurance Coverage

Business Interruption
Extra Expense Insurance



Key Considerations

- Protects against loss of income in the event of loss or damage to insured property
- Policy covers standing charges that continue in the event of shut down
- Various forms of coverage are available
- Coverage for the extra expense incurred to resume normal business operations in the event of an insured loss



Automobiles, Watercraft & Drones



Exposure

Automobiles



Key Considerations

- Do you own or operate licensed automobiles?
- Are vehicles owned or rented?
- In overseas jurisdictions coverage is most likely purchased locally for owned vehicles
- Various options may be available for non-owned automobile (see our rental vehicle guide)



Insurance Coverage

Automobile Insurance
Non-owned Automobile Insurance



Exposure

Watercraft



Key Considerations

- Hull and machinery
- Marine cargo risks
- Drilling barges



Insurance Coverage

Marine Insurance



Exposure

Drones



Key Considerations

- Loss or damage to drones and related equipment



Insurance Coverage

Drone Insurance

Crime Insurance



Exposure

Money & Securities
Social Engineering Fraud
Computer Crime



Key Considerations

- Losses caused by employee theft
- Multi-million-dollar claims are not uncommon



Insurance Coverage

Crime Insurance

Special Shipments & Transit Insurance



Exposure

Special Shipments & Transit Exposures

- Buildings and contents you own or are responsible for insuring



Key Considerations

- Samples while in transit or at shows and exhibitions
- Special shipments and deliveries



Insurance Coverage

Miscellaneous Property Insurance
Trip Transit Insurance





Liability Risks

Mining and exploration companies are exposed to a broad range of liability risks resulting from their negligence (duty of care to third parties and employees). Claims resulting from bodily injury, property damage, personal injury and allegations of financial loss can have serious financial impact. Settlements combined with the cost of defense often run into the millions. Although the General Liability policy provides a broad sweep of coverage for claims arising out bodily injury property damage and personal injury, separate policies are required to protect against certain risks such as automobiles and watercraft, pollution losses and liability of Directors and Officers. Mining companies therefore typically require a suite of insurance policies to be adequately protected from the risks they face.

”

The value of claims has been increasing with higher awards and rising legal costs. In some cases, the defense costs for comparable actions have doubled or even tripled over the last 10 years.

Peter Oenning
Liability Claims Specialist at AGCS

This section outlines the risk exposures specific to the mining industry and the various coverage solutions available to protect against those risks.

Liability Risks



Exposure

- Bodily Injury
- Property Damage
- Personal Injury



Key Considerations

This policy can be amended to include various extensions of coverage:

- Advertising Liability (website)
- Employee Benefits E&O
- Tenants Legal Liability
- Forest Fire Fighting Expense
- Pollution Coverage
- Non-owned Automobile ·Snowmobiles and ATVs



Insurance Coverage

Commercial General Liability Insurance (Exploration Liability)



Exposure

Automobile Liability Injury to Third Parties



Insurance Coverage

**Owned Automobile Insurance
Foreign Owned Automobile DIC
Non-Owned Automobile
Umbrella Liability**



Key Considerations

- Owned Automobile Insurance should be purchased with adequate limits, with inclusion under the umbrella liability insurance policy
- For non-owned/rented vehicles please ask for your rental vehicle guideLiability

- With respect to foreign owned automobiles if insurance coverage is purchased in foreign jurisdictions are there adequate limits available and is it reliable? There is a possibility that an accident in a foreign jurisdiction can result in a claim being brought back against companies in Canada or the US where the head office is located. In particular if the injury caused involved an ex-pat working in that country. Typically policies purchased locally will not cover claims that are brought in North America, and the limits of coverage may be vastly insufficient to protect against a suit brought in Canada or the United States. Coverage can be purchased to wrap around local policies on both an excess and difference in conditions (DIC) basis. The foreign Automobile DIC will provide increased limits in Excess of the local policy for claims brought in Canada or the USA, as well provide first dollar coverage where the North American policy is broader

Liability Risks



Exposure

Environmental Damage



Key Considerations

- Legal Liability for damage to the environment
- First- and third-party property clean-up expense



Insurance Coverage

Pollution Liability Policy
Extension to General Liability Policy



Exposure

Aviation Liability



Key Considerations

- Contingent exposure arising from chartered (non-owned) aircraft, including helicopters
- Liability arising out of the construction and/or maintenance of helipads or landing strips



Insurance Coverage

Non-owned Aviation Insurance
Special Extension to General Liability Policy



Exposure

Drones



Key Considerations

- Liability arising out of the use or operation of drones by or on behalf of the insured



Insurance Coverage

Drone Insurance

Liability Risks



Exposure

Forest Fire Fighting Expense



Key Considerations

- Expenses charged against you for fighting a fire that you are found to be legally liable for having started



Insurance Coverage

Must be added by Endorsement to the General Liability Policy



Exposure

Marine Liability



Key Considerations

- Marine shipments
- Drilling barges
- Owned and non-owned vessels



Insurance Coverage

Marine Insurance Extension to General Liability Policy



Liability Risks



Exposure

Management Liability



Key Considerations

- Standard D&O with entity coverage for securities claims
- Excess Side “A” DIC to add protection for the benefit of the directors and officers only



Insurance Coverage

Directors’ and Officers’ Liability Insurance



Exposure

Workplace Liabilities

- Employee & Third Party work place violations such as discrimination, harassment and wrongful dismissal



Key Considerations

- Full Worldwide Coverage
- Wage and Hour. This expanding area of litigation includes allegations by employees and independent contractors regarding overtime pay, meal and rest breaks, and misclassification
- Third Party coverages protects you against claims from third parties coming on to your premises
- Workplace Violence coverage provided; this covers costs associated with security personnel and counsellors after a violent incident at the workplace
- Investigative Costs coverage
- Crisis Management Expense provided which is an additional limit provided for crisis events
- Are Volunteers and independent contractors included in definition of Insured
- Extradition coverage



Insurance Coverage

Employment Practices Liability

Liability Risks



Exposure

Employers' Liability & Workers Compensation



Key Considerations

- Are all employees covered by workers compensation insurance?
- What coverage is available to ex-pats working overseas?
- Are employees temporarily working in the outside of Canada covered by the workers compensation (time limits)?



Insurance Coverage

- Employers Liability can be Included in the General Liability policy to cover employees who are not covered by Workers Compensation Insurance
- Contingent Employers Liability is included in the General Liability policy and would respond in the event the Workers Compensation coverage in force did not respond (time limits)
- Workers Compensation Insurance
- Foreign Voluntary Workers
- Compensation for ex-pat employees working in overseas jurisdictions



Exposure

Privacy & Security



Key Considerations

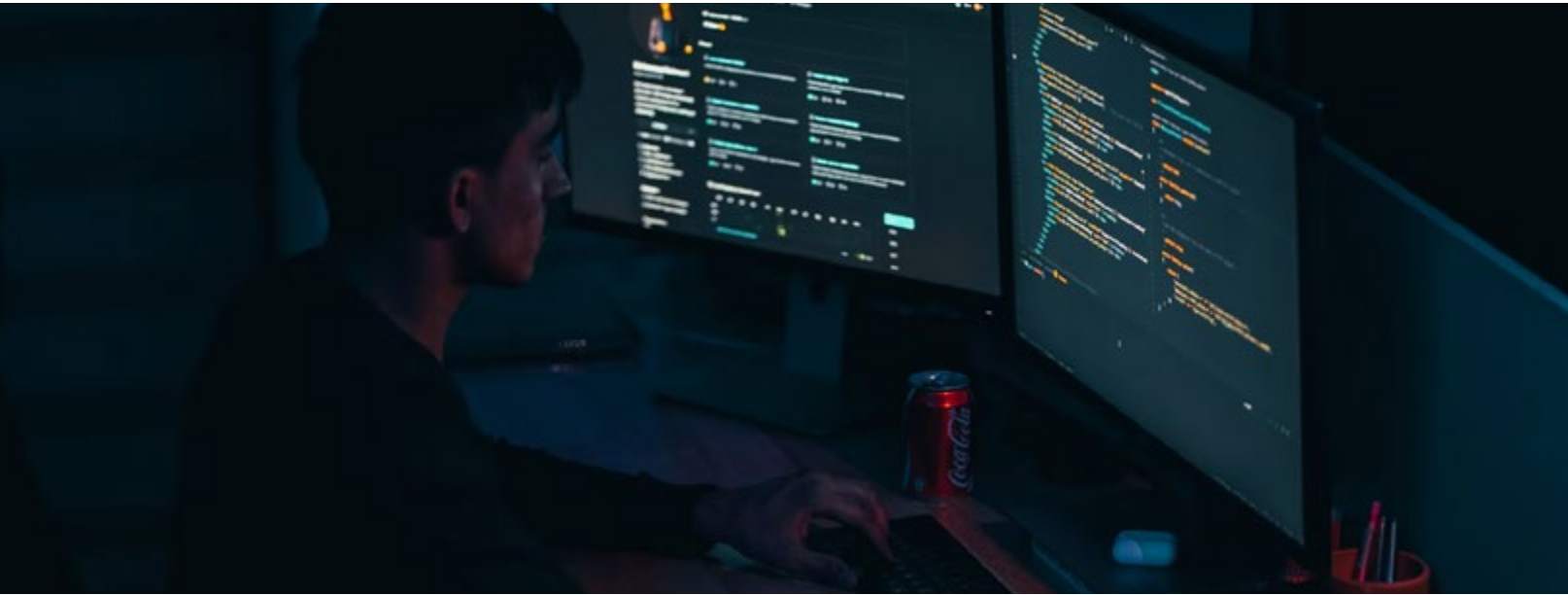
- Third-party liability
- Breach notification and reporting
- Forensic specialists



Insurance Coverage

Insurance

(See Cyber Risk Section)



Cyber Risks

In their 2017/18 report on the top 10 risks facing the mining industry, EY placed Cyber at number three. Reports of cyber-attacks against the mining industry don't gain a lot of attention compared to news stories on cyberattacks targeting other industries such as retail, technology, and the more "high-profile" attacks targeted at banks or hospitals.

However, notable cyber-attacks have taken place against mining companies across the globe. These attacks can be the result of hacktivism, corporate espionage, malicious intent to cause damage, theft of personal data, ransom attacks and social engineering fraud. The risks to the mining sector go beyond these targeted attacks with exposure to viruses and malware distributed across systems.

Hacktivism

Hacktivism are internet activists. They attack cyber assets in order to draw attention to their political causes and frequently choose high-visibility targets. Often their targets and their stated causes do not match up. Mining companies are frequent targets of hacktivists protesting the effect they have in terms of environmental damage, wildlife habitat damage, corporate greed and other social concerns.

The mining industry is both a geopolitical and economic target. Motivations for attacking the industry therefore go beyond any direct monetary value. Other cyber risks can come from nation states, sophisticated cyber-criminal syndicates, competitors and disgruntled employees. We often get asked after a cyber event "do we have coverage for this?" As coverage is typically inexpensive the cost benefit is overwhelmingly positive.



The exploration phase generates big data sets that the geologists analyze to identify new ore deposit locations. The exploration data is expensive to generate and is key to the company's future growth and success, which makes this data a lucrative target for cyber espionage campaigns.

Cyber Risks



Exposure

Cyber Attacks

- Viruses & Malware

Social Engineering Fraud

Theft of Intellectual Property

Reputational Damage

- Forensic & Legal Costs Theft of personal information and associated legal, notification and credit monitoring expenses
- Business Interruption
- System Damage
- Data re-creation expenses



Key Considerations

- Is all information securely backed up off-site and offline?
- Are back-ups regularly tested?
- Have you engaged cyber securities specialists and completed risk management audits?
- Are you prepared to respond In the event of an attack?
- How long can you continue to operate in the event of a total system failure?



Insurance Coverage

Cyber Insurance Policy





International Coverage

Canadian mining companies who operate in foreign jurisdictions need to understand local laws, regulations, customs and business practices. Insurance is no exception. Most governments have strict rules relating to insurance policies covering risks in their own country. These rules are designed both for the public benefit by ensuring liquidity standards, as well as protectionist measures for their insurance market. They often require risks to be placed with “admitted insurers” which means insurance authorized and regulated within the country.

For many years companies have often overlooked these admitted insurance regulations, relying instead on their global policy to protect them. However, many countries are now imposing fines, penalties and taxes on foreign companies that are in breach of their admitted insurance requirements, and they are getting better at enforcing the rules.

The rules and regulations relating to admitted insurance vary greatly from country to country. There are many different reasons why corporations with international operations want a global policy that covers their foreign subsidiaries, affiliates and joint ventures. These include the company’s desire to negotiate consistent terms for the amounts, and types of coverage and risk transfer they hold around the globe.

Companies also want to control the type and scope of coverage purchased, rather than leaving it to the discretion of local managers whose knowledge of commercial insurance and corporate risk management may be limited. For larger corporations, they want to use their size and buying power as leverage to get the best terms and pricing – as well as the option to pay in one currency.

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In the event of a claim in a foreign jurisdiction the insurer may elect to pay directly into the country in question or in the country where the master policy is issued. If local payments are detected where non-admitted insurance is in violation of the local law, then the claim payment may be subject to tax assessment, and fines and penalties may be imposed. If a claim payment made in the U.S. relates to an overseas operation, then the IRS may assess the payment as income.



International Coverage



Exposure

Foreign Coverage



Insurance Coverage

Foreign Coverage



Key Considerations

- Locally placed coverage in both developed and developing countries rarely negates the need for a true global insurance program
- Local policies typically contain restrictive jurisdictional clauses and coverage is invariably inadequate
- A global program should wrap around locally purchased coverage
- A global program can combine locally admitted coverage



Exposure

International Risks



Insurance Coverage

Admitted Insurance



Key Considerations

- Admitted v/s Non-admitted coverage
- Some insurance companies can arrange a global program with policies that comply with local licensing requirements
- Non-admitted coverage can result in insurance and excise taxes & penalties, claims adjustment issues/ difficulties and Jurisdictional interpretations of policy

International Coverage



Exposure

Injuries to Employees



Insurance Coverage

Accidental Death & Dismemberment
Workers Compensation
Foreign Voluntary Workers'
Compensation
Emergency Evacuation & Repatriation costs



Key Considerations

- Coverage for expatriate workers while overseas and not covered by BC Workers' Compensation
- Coverage can be broadened to include consultants



Exposure

Foreign Automobile



Insurance Coverage

Foreign Auto Excess DIC/DIL



Key Considerations

- Covers liability for foreign automobile excess of locally required insurance
- Availability of coverage depends on jurisdiction
- Policy provides both DIC – difference in conditions and DIL difference in limits between local insurance and standard Canadian coverage
- Coverage can be broadened to include consultants



Crisis Response & Employees

This guide is not intended to cover Employee Benefit Programs which fall outside the scope of a general insurance program. However, separate coverage can be arranged through dedicated policies for Kidnap and Ransom, Accidental Death and Dismemberment and Emergency Evacuation and Repatriation. Kidnap and Ransom coverage is provided by a few specialized insurers

who have contracted with leading security consultants to deal with the complexity of claims across international boundaries.

The leading insurers in this sector are boosting their coverage offerings to embrace a suite of corporate coverages to protect against these intentional risks that include:

Criminal Risks

- Abduction
- Assault
- Bribery demand
- Competitor malfeasance
- Criminal facilitation
- Murder
- Product tampering
- Stalking
- Suspicious death
- Threat
- Workplace violence

Catastrophe Risks

- Environmental disaster
- Epidemic
- Pandemic
- Man-made disaster
- Natural disaster

Political Risks

- Confiscation
- Deprivation
- Illegal seizure
- Occupation

Kidnap, Detention & Extortion Risks

- Blackmail
- Detention
- Extortion
- Hijack
- Hostage crisis
- Missing person

Terrorism & Political Violence Risks

- Act of terrorism
- Civil commotion
- Civil war
- Coup d'etat
- Insurrection
- Malicious damage
- Rebellion
- Revolution
- Riots
- Sabotage
- War

Crisis Response & Employees



Exposure

**Accidental Death & Injury of
Employees & Consultants**



Key Considerations

- Coverage is subject to a specified table of benefits



Insurance Coverage

**Accidental Death & Injury of
Employees & Consultants
Emergency Evacuation & Repatriation costs**



Exposure

Kidnap & Extortion

- Legal Costs
- Key executives working in commercially sensitive positions
- Individuals whose wealth or fame may attract the attention of criminals
- Multi-national companies of all sizes



Key Considerations

- Coverage should include all employees
- Coverage can apply 24/7 and include all business and non-business related travel
- Coverage can apply to all family members
- Independent contractors and consultants coverage can be included
- Defense costs suits can be included to cover suits from employees



Insurance Coverage

**Extortion, Kidnap & Ransom
Protection human, financial & reputational
risks**

Crisis Response & Employees



Exposure

Emergency Evacuation



Key Considerations

- Evacuation and repatriation costs



Insurance Coverage

Crisis Response





Risk Management

In this section you will find practical risk management suggestions for Liability issues and corporate governance Directors' and Officers' Liability. These suggestions are geared towards underwriting considerations that should help you find favorable insurers, and terms and conditions. They are suggestions based on claims experience and there are issues that often raise red flags for insurers. Reducing your exposure to loss in these areas will impact your total cost of risks especially where deductibles and retentions can be high such as corporate D&O policies.

Every D&O should be aware of their responsibility to the corporation, the role they fulfill on the board or in their management capacity, and the expertise they're expected to bring to the position. The first line of defense for the D&Os is to execute their responsibility to the corporation with the required level of care and skill and using sound judgment.

Diligence in attending board meetings, reviewing board materials, understanding and questioning management and matters put before the board will greatly reduce the risks of litigation, and enhance the D&O's defense in responding to any claims.

Axis Insurance, upon request, can provide general material relating to Risk Management guidance for D&Os of publicly traded Canadian corporations. However, D&Os are urged to consult their own legal counsel for specific advice concerning their own corporate duties, responsibilities and exposures.

We have not added loss control recommendations regarding the management of physical assets (Property Insurance) as they tend to be varied and risk dependent, often requiring the specialized on-site loss control services which are beyond the scope of this guide.

Risk Management



Liability Risk Employees



Key Considerations

- Are all employees covered under workers' compensation?
- Do you have student workers sign waivers?
- Have you purchased accident insurance for senior employees?
- Do you need to protect against Kidnap or Ransom exposures?
- Have you developed a safety training program at each exploration site?



Liability Risk Employees



Key Considerations

- Is there any potential for a forest fire at any of your projects?
- Have you implemented any controls with respect to burning debris?
- Have you established a no smoking policy?
- Do your contractors have Forest Fire Fighting Expense coverage? This needs to be specifically added to the policy. Are their limits adequate?



Liability Risk Exploration Projects



Key Considerations

- Are there any old mine workings or other hazards on your properties?
- Have any underground openings, tunnels, shafts and adits been properly secured and/or fenced and sign posted with adequate warnings?



Liability Risk Exploration Projects



Key Considerations

- Do you have contracts with all sub-contractors?
- Do you require them to purchase adequate insurance coverage and limits of liability?
- Do you ask to be added to their policy as an additional insured? Do you ask for proof of insurance?
- Do you have an exposure arising from your subcontractors operations with respect to storage of fuels?

Risk Management



Liability Risk

Pollution



Key Considerations

- Do you keep or store any pollutants at your project sites?
- Do you have any above-ground or underground storage tanks?
- Have you developed a clear plan for responding to and reporting spills?
- Are all employees aware of the plan?
- Are sub-contractors required to carry pollution coverage?



Liability Risk

Aviation (Helicopter)



Key Considerations

- Have you built any helicopter pads or landing strips?
- Do you service or maintain any helicopter or fixed wing landing facilities?
- Will your employees be involved in any refueling operations?
- Do you store equipment, machinery or other goods at any airport premises or landing facility?
- Do you or will you fly anyone such as analysts into your projects? If yes, do you ask for waivers to be signed?
- Have you arranged adequate insurance for aviation risks?





Directors' & Officers' Liability

Directors and Officers are faced with a wide range of legal exposures arising from their duties to the corporation. They owe a duty of care to the corporation requiring them to act without negligence and this duty may also apply to other stakeholders such as employees, creditors and customers. In Canada, corporate statutes state Directors and Officers have a fiduciary duty to act honestly, in good faith and in the best interests of the corporation – underpinned by the introduction of Bill 198 which was introduced to protect investors from misleading, insufficient or late corporate disclosures.

Standard Corporate D&O policies for public companies protect the corporate entity against securities claims as well as the D&O's. In addition to the corporate D&O policy, many

public mining companies purchase dedicated Side A coverage – which provides exclusive protection for the D&O's – in addition to the corporate D&O policy. For full information regarding D&O coverage, ask for a copy of our comprehensive D&O Insurance guide for public companies.

Private company D&O policies provide a broad range of protection to the corporation for claims arising out of employment practices. Examples are wrongful dismissal, sexual harassment and discrimination. However, the public policy form provides protection to the D&O's only. The allegations in these claims are typically made against the corporate entity even if a Director, Officer or employee is named as a co-defendant. Separate Employment Practices Liability (EPL) coverage is available to the Corporation.

Directors' & Officers' Liability



Exposure

Class Action Lawsuits
Regulatory Investigations
Shareholder Derivative Suits
Statutory Liabilities



Insurance Coverage

Directors' & Officers' Liability Insurance
(public or Private company forms)
Excess Side A DIC
Employment Practices Liability



Key Considerations

- Limit Selection
- Balancing corporate and Side A coverage
- Selecting the right insurer
- Duty to defend v/s reimbursement policies
- Listing on US exchanges – can dramatically increase costs
- Secondary public offerings



Directors' & Officers' Risk Management



Liability Risk

Directors' & Officers' Liability Insurance



Key Considerations

- Does the corporation have adequate limits for D&O coverage?
- Does the policy exclude taxes and punitive damages?
- Is there a separate excess Side "A" DIC policy to protect the D&O's only?
- Is there separate coverage for Employment Practices Liability?
- Is an admitted policy required in the country you operate in?
- Is there a priority of payments clause protecting individual D&O's in the event of a claim(s) where the corporation itself is using up a large portion of the limit?
- How does your policy respond in the event that claims include covered and uncovered allegations?
- Does your policy contain a hammer clause? This says if a settlement offer is declined by the insured, and the final damages are higher than that offer, then that difference is not covered, or only a portion is covered
- Allegations can be highly personal and a D&O may want to prove their innocence without the threat of coverage being withdrawn
- Do you have the broadest pollution coverage available? Most D&O policies contain a pollution exclusion that is very restrictive as to the amounts that can be paid out if the alleged wrongful act was linked to pollution
- Does your policy contain a major shareholder exclusion?



Liability Risk

Indemnity



Key Considerations

- Do the corporate bylaws indemnify D&O's to the fullest extent permitted by law?
- Are your D&O's protected by a contractual indemnity? This may provide added comfort and certainty to the D&O's

Appendix A: Financial Guarantees

Exposure

Advanced-stage mineral exploration firms are required to satisfy local regulators that they have the ability to reclaim the property once the mine is finished producing. Part of this process typically involves demonstrating to those regulators that the miner will have the funds required to reclaim the property as agreed in the closure plan. Initially this obligation is usually guaranteed by letters of credit. However, most regulators are willing to accept a financial guarantee from a third party instead. This is where a reclamation bond comes into play.

Mining and mineral exploration firms can often secure a reclamation bond from a surety provider. This bond is provided on wording acceptable to regulators and essentially states that if the miner is unable to reclaim the site as agreed, the surety assumes that obligation. Surety providers will require that the miner post retain some portion of the obligation as collateral, but the bond

will release a significant proportion of the restricted cash back to the miner, often when they need it most – during construction or mine startup.

Terms and conditions of these reclamation bonds vary significantly, with collateral percentages and rates having the most significant impacts on clients.

Other Financial Guarantees

Whilst the most common form of financial guarantee by mining and mineral exploration firms is the reclamation bond, it is not unusual to run into others. We've seen clients posting letters of credit to guarantee power usage to utility companies that need to extend service to the site. If your balance sheet includes restricted cash, or you are posting letters of credit it's worth discussing whether a surety solution could be an improvement on the existing arrangement.



Appendix B: Benchmarking Tool & Free Online Resources

Axis Mining Resource Site

With our combined years of knowledge and experience in the Mining, Mineral Exploration and Insurance industries we have put together various comprehensive guides and free resources for you to access at:

info.axisgroup.insure/mining

Benchmarking Tool

Access our free online Mining D&O Benchmarking Tool:

axisinsurance.ca/miningdo

Mining Team



Clive Bird

Clive is an insurance risk specialist, investor, entrepreneur, and product developer for bespoke insurance risks. For over 15 years Axis Insurance enjoyed a reputation for quality, innovation, creativity and relationship building.

Clive began his Insurance career at Lloyd's of London, renowned for its technical underwriting expertise and a creative approach to risk, providing him with opportunities to push the boundaries of product innovation. Moving to the West Coast of Canada, he has expanded his broad Insurance knowledge and London market relationships to produce products for Canadian clients working across the globe.

Clive has worked extensively with public companies with a strong focus on mining and mineral exploration industry, addressing the broad range of risk exposures they face worldwide. Dynamic business enterprises are starved for the innovation and market relationships Clive can deliver. As an entrepreneurially-minded investor himself, he is embracing new technology and the shifting business landscape to stimulate new market capacity and technically efficient insurance products for the new business era.



Stacey Copeland

Stacey is an account executive with 30 years of experience focused in the resource-based industry in Western Canada. Stacey joined Finning International in 1997 after 7 years at AON, and was quickly promoted to a management position with a mandate to build a highly competitive insurance facility for Finning customers. A combination of high service excellence, successful claims management, and expanded insurance offering meant a fivefold increase in net profitability.

Stacey joined Axis Insurance in 2005 as a senior shareholder and partner, immediately helping the company grow through a series of strategic acquisitions and partnerships and was instrumental in the sale of the company in 2016 to the Vertical Group, now renamed the Axis Group. Although specializing in mining, mineral exploration, forestry and energy sectors, Stacey has expanded her knowledge to include construction, transportation, cryptocurrencies, blockchain and other emerging markets and technology risks.

She aligns herself with clients that are best in class and embraces their technical challenges, meets their high service expectations and considers it the ultimate success to place the broadest coverage, at competitive pricing with A+ rated insurers.



**Let us know how we
can help you today**

Have questions? We have the answers.

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