Timeline of D&O Liabilities in China – Key Developments

China is the world's fourth largest insurance market, but relatively few companies currently purchase Directors & Officers (D&O) Insurance. In fact, AIG estimates that only about 10% of mainland A-share listed companies currently have D&O Insurance.

An evolving regulatory regime contributes to low take-up compared with developed markets. While directors and officers may be found liable under Company Law and Tort Law, in practice they have rarely been found personally liable for damages in PRC courts. Losses and associated claims have thus remained low over the past decade.

This is likely to change as the China Securities Regulatory Commission leads a reform in issuance mode, moving from an approval-based mode to a registration-based mode. The reform will increase risks to directors & officers who make false statements in their prospectus, and more broadly represents an effort by the CSRC to have boards take more responsibility for corporate governance.

Market forces will also expose Chinese companies to new liabilities as they continue to invest outside of their home market, particularly into Western Europe and North America. And of course, Hong Kong-listed Chinese companies who represent 40% of the exchange's capitalization will need to adapt to an increasingly assertive regulator.

2002	China Securities Regulatory Commission permits purchase of D&O liability insurance; first policy launched.
2006	PRC government revises Companies Law to specify conditions for D&O liabilities.
2008	CSRC fines Mr. Ding Liye of Shenzhen Shenxin Taifeng for failing to fulfill fiduciary duty, despite Mr. Ding's assertion he was ignorant of impropriety.
2011	Shareholder actions against Chinese reverse mergers peak in the United States.
	Investors in Sino-Forest Corporation file class-action claim in Canada court, seeking over C$7 billion in damages.
2012	Stock Exchange of Hong Kong requires all listed companies either to purchase D&O insurance or disclose why it was not purchased.
2013	AIG launches Dragonshield Entity Investigation Cover covering regulatory investigations, a first for Asia corporations.
2014	Hong Kong Securities & Futures Commission commences proceedings against CITIC Limited, a Hong Kong-listed Chinese conglomerate, and five former directors in Hong Kong court and the Market Misconduct Tribunal.
2015	PRC government authorizes State Council to amend securities law, facilitating registration reform for A-share issuers.

Sources: Anjie Law Firm; Caixin; DeHeng Law Firm; Financial Times; Marketwatch; Securities & Futures Commission; Stanford Law School & Cornerstone Research; Stock Exchange of Hong Kong.