CUG.COMMents

A Newsletter from Chicago Underwriting Group, Inc.
Underwriters of D & O and Professional Liability Insurance

Issue 2 February 1999

In this issue... ***We focus on our D&O capabilities, and then look at the subject of companies restating their financials, and the possible implications for their D&O exposure.***

CUG's D&O Capabilities

CUG has provided Directors and Officers Liability insurance since 1984 on both a primary and an excess basis. With an average of 15 years experience in D&O underwriting, our underwriters are willing to consider the more complex exposures such as IPOs, bankruptcies and corporate "turnarounds."

In December 1983 when we wrote our first D&O policy, the Dow Jones Industrial Share Average closed at 1,241. In 1999, it was at 9,500. The first 200 million share day on the NYSE was in 1982. On October 28, 1997, over 1.2 billion shares changed hands. During this dramatic expansion of share ownership, CUG has been consistently underwriting D&O insurance.

In recent years, we have been recognized for our work with technology and life-science industries; however, we are willing to consider almost any class of business, with the exception of gaming and tobacco.

In evaluating accounts, we look for the following characteristics:

? A clearly defined and implemented risk management program, including procedures for insider trading and communications with analysts and shareholders

? Adequate shareholder representation on the board by independent directors

? A management team of experienced, reputable professionals

? A company that recognizes that of all corporate insurance disciplines, D&O is, by its nature, a partnership between carrier and company, and that a long term relationship which is influenced, but not driven by pricing, is ultimately to its benefit

Other features:

? We encourage client meetings – have pen, will travel

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Restatements of Financials

The Securities and Exchange Commission is pursuing more accounting fraud cases than ever before, with the intention of raising the quality of independent audit industry standards. One example the SEC may take notice of, possibly resulting in an investigation, is a financial restatement resulting in earnings swings of millions of dollars. The SEC is cracking down on accounting gimmicks that manipulate profits, and can force the companies to adjust reserves and revise the financial statements. The SEC may then investigate whether the companies intended to deceive shareholders.

There is a growing concern in the D&O industry over an increase in corporations restating earnings. As a potential red flag for accounting fraud, restatements can lead not only to the afore-mentioned SEC investigations but also to costly and time-consuming D&O claims. We have seen a number of factors leading to these claims, particularly corporate pressures to meet earnings estimates. Additionally, various restatement claims reported to us have revealed an uncomfortably cozy relationship between the corporate client and the outside auditor.

From an underwriting perspective, careful attention should be paid to

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CUG's D&O Capabilities *-- continued from page 1*

- Entity coverage for securities claims
- Up to $15,000,000 limit, primary or excess
- Admitted security in 50 states
- Surplus Lines carrier (Old Republic Union) available in selected states
- Prior acts coverage available
- Extended Reporting Period (discovery) available
- Will follow most recognized carriers for excess placements
- Experienced in-house legal staff to monitor claims
- Will write private companies
- Will write not for profit entities

Restatement of Financials *-- continued from page 1*

companies who have a history of restating their financials. The context of the reinstatement must also be weighed; was the restatement a result of new FASB or SEC guidelines and thus bringing the company into compliance or was the restatement a part of questionable asset write-downs, restructuring activities or acquired in-process research and development? Clearly, we have only seen the tip of the iceberg in terms of the consequences of restatements.

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In the next few weeks, we will be publishing "Prior and Pending,"
a periodic commentary on D&O issues for buyers of D&O Insurance.
If you would like to receive a copy, please let us know.

If you would like to be added to our CUG.COMment mailing list,
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