

THIS ISSUE CONTAINS SEVERAL ITEMS OF INTEREST.

D&O MAPS

D&O MAPS, now part of IRMI (International Risk Management Institute, Inc.), has been conducting independent and objective analyses of Directors & Officers policies for many years. This resource allows brokers, buyers and other interested parties to review and evaluate most of the D&O products available in the market.

In February of this year D&O MAPS analyzed Chicago Underwriting Group's **EXCESSFIRST™** policy, our excess Side A-only product with contingent DIC drop-down. By special licensing arrangement with IRMI, we are pleased to make the D&O MAPS analysis of **EXCESSFIRST™** available to readers of this newsletter. A feature of D&O MAPS policy analyses is that their positive comments are printed in blue while items seen as negative are printed in red.

D&O MAPS analysis of **EXCESSFIRST™**:
http://www.cug.com/img/pdf/ef_maps_analysis.pdf

EXCESSFIRST™ basic policy form:
http://www.cug.com/img/pdf_1stxs_forms/orug80.pdf

Access to the entire D&O MAPS analyses and forms library is available by subscription. For more information visit:

<http://www.irmi.com/IrmiCom/Cart/Default.aspx?CategoryID=2&ItemID=111>

STAFF UPDATE

In December 2004 we recruited Andrea Amoni and Vu Le to provide critical financial analysis of our D&O applicant companies. They have made great strides and are now beginning to underwrite accounts. Brokers will start to see their names on quotes and hear them taking part in conference calls. Learn more about Andrea and Vu by reading their web site biographies:

http://www.cug.com/do_underwriters.shtml

U.S. SUPREME COURT WATCH

On March 28 the U.S. Supreme Court is scheduled to hear arguments on the *Tellabs, Inc. et al v. Makor Issues & Rights, Ltd., et al.* case. At issue is defining the conditions required for a securities class action defendant to possess fraudulent intent (scienter). The Private Securities Litigation Reform Act (PSLRA) of 1995 states there must be a "strong inference" that a defendant acted with such intent in order for an action to avoid dismissal and allow the action to proceed, but what constitutes a "strong inference?"

In the underlying case the U.S. Court of Appeals for the Seventh Circuit adopted as its benchmark whether or not a "reasonable person" could infer from the facts of the complaint that there existed the required intent: *"We will allow the complaint to survive if it alleges facts from which, if true, a reasonable person could*

infer that the defendant acted with the required intent."

Having applied the "reasonable person" test, the Seventh Circuit Court of Appeals determined that the complaint had sufficiently alleged the required state of mind on the part of the Tellabs defendants. Unhappy with this ruling the defendants appealed to the U.S. Supreme Court. The Tellabs defendants argue that "reasonable" is not sufficiently aggressive to satisfy the "strong inference" demanded by the PSLRA. The defendants believe that a more appropriate standard is whether there is a "high likelihood" of the required intent. In other words, the defendants want the "reasonable" standard ratcheted up to "a high likelihood" standard.

Whatever the ultimate disposition of the case, the effect on D&O insurance could be significant. A Supreme Court finding for the "reasonable person" standard could mean fewer securities class action lawsuit dismissals, while a decision supporting the "high likelihood" could mean more dismissals and fewer actions being allowed to proceed.

As noteworthy as the case itself, the Securities and Exchange Commission (SEC) has formally taken a position in support of the

Tellabs defendants. Along with various others the SEC has filed a "friend of the court" brief that lines up behind Tellabs and its push for a greater obstacle to securities class action lawsuits. As an agency that is generally meant to look out for the interests of the investor, the SEC's move is causing some raised eyebrows.

Sources:

<http://sec.gov/litigation/briefs/2007/tellabsbrief.pdf>

<http://blogs.wsj.com/law/2007/02/13/the-sec-peeling-back-post-enron-investor-protections/>

RATING AGENCY NEWS

Weiss Ratings, an insurer rating agency that emphasizes its independence from the industry has been acquired by TheStreet.com, a leading provider of financial commentary, analysis and news. It is now known as TheStreet.com Ratings.

The ratings will be available to the more than four million investors* visiting TheStreet.com each month, and will raise the profile of what we at CUG believe to be a useful complement to the more established rating services. ❖

* Source: *TheStreet.com: Letter to Weiss subscribers, August 2006.*



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