

Press Release



Chartis Insurance offers fresh solutions to protect Directors' and Officers' in light of the Bridgecorp decision

Sydney –10 January 2012 –A new solution protecting directors and officers is being offered by Chartis in Australia in response to the recent Court ruling in the *Steigrad* case in New Zealand, which stated that Bridgecorp directors could not obtain an advancement of their defence costs under their Directors' and Officers' (D&O) policy where they faced potential third party civil claims significantly in excess of the D&O limit.

The limitations were imposed due to an interpretation of how the law works under section 9 of the Law Reform Act 1936, and the effect of that interpretation on policies that have one limit covering both defence costs and third party damages. The similarities with New Zealand law to that of New South Wales, the Australian Capital Territory and the Northern Territory, prompted Chartis in Australia to provide an insurance solution to those directors and officers who could be equally impacted in Australia.

"We understand that the Bridgecorp situation has added another layer of uncertainty to an industry that strives to provide certainty to its clients," commented Chartis' Commercial Institutions Manager – Financial Lines, Jeremy Scott-Mackenzie. "Given this uncertainty, we thought it pertinent that a solution be offered to our clients in Australia who seek the comfort of an additional level of protection."

The new product called D&O Gold Costs & Expenses Policy is a companion policy to the existing Chartis D&O Gold product suite, and defends a director in the event that payment from the existing D&O limit is prevented due to a charge. Directors with this policy will still have the means to fund a defence where their existing D&O limit is subject to a charge whilst the original D&O limit is preserved to meet valid third party claims.

"Aside from launching this new product, we have been actively working with the insurance industry and other appropriate bodies to seek a permanent solution through legislative and judicial means", says Michael Pryce, Regional Manager Financial Lines. "Chartis has long been at the forefront of trend evaluation and remains alert to the need to develop innovative responses to those industry requirements. The Bridgecorp situation further demonstrates the company's responsiveness and agility."

Chartis is a world leading property-casualty and general insurance organisation serving more than 70 million clients around the world. With one of the industry's most extensive ranges of products and services, deep claims expertise and excellent financial strength, Chartis enables its commercial and personal insurance clients alike to manage virtually any risk with confidence.

Date of Issue: 10, January 2012

-ends-

Notes to editors:

The Bridgecorp decision and the consequences for insureds

The *Bridgecorp* decision concerned a dispute over whether former directors of the Bridgecorp companies could obtain an advancement of their defence costs under the companies' D&O policy in circumstances where those directors faced potential third party civil claims significantly in excess of the D&O limit. Their D&O policy, like most D&O policies within the insurance market, aggregated cover for liability and defence costs. Because the entire limit could be required to meet an award of damages and compensation in respect of the potential civil claims, the Court ruled that the whole "insurance fund" was subject to a statutory charge created by section 9 of the Law Reform Act in favour of the civil claimants. The D&O cover could therefore not be used to meet the directors' defence costs.

If directors are faced with actual or potential civil claims in an amount close to or exceeding the limit of their D&O cover, the insurer will be obliged to preserve the insurance fund intact without dipping into it for the advancement of the defence costs. Directors will therefore be unable to have recourse to that D&O cover to meet their criminal or civil defence costs.

For more information visit www.chartisinsurance.com.au

Media Contact

Lisa Rose

Marketing Manager

Chartis Australia

Lisa.rose@chartisinsurance.com

Tel +61 2 9240 1710

www.chartisinsurance.com.au