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Press Release

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Chartis Leads Way with Solution that Protects Directors' and Officers' in response to Bridgecorp decision

A new solution protecting innocent directors and officers is being offered by Chartis Insurance New Zealand Ltd in response to the recent Court ruling in the *Steigrad* case 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.

Chartis Insurance New Zealand Ltd's financial lines manager, Ryan Clark, commented that the new solution achieves the right balance for the broader business environment, including the interests of policyholders, regulators, brokers and underwriters.

"Specifically, this option ring-fences defence costs under existing D&O programmes. This new solution is the only policy that will respond to defend a director in the event that a section 9 charge prevents payments from the existing D&O limit. Directors will therefore still be able to fund a defence where their existing D&O limit is subject to a section 9 charge. At the same time, the original D&O limit is preserved to meet valid third party claims."

Chartis Insurance New Zealand Ltd's CEO, Cris Knell states offering appropriate protection to senior management from frivolous and spurious claims levelled by investors, creditors or competitors was vital if the country was to retain and secure high calibre leadership talent.

"Good D&O policies are about protecting the talented and honest; providing them with a secure platform to take risks and reach business goals. They are not about protecting shoddy business practices.

"In the event that the actions of directors are subsequently found to be unlawful, then all policy coverage ceases and insurers are entitled to recover all incurred costs back from the insured. There is no cover under any D&O policy that is intended to prioritise the criminal director over an investor or shareholder or other valid claimant. From an insurer standpoint, Chartis is determined that our legal liability policies follow, and operate in parallel to, the law.

"Chartis has a long history of taking innovative approaches to matters involving law reform in the Directors' & Officers', Professional Liability and General Liability areas. Our global experience enables us to evaluate trends and develop new responses to emerging issues." says Mr Knell.

New Zealand is becoming a very sophisticated and challenging legal and regulatory environment, and insurance purchasers should discuss what is best for their circumstances, and obtain any financial and legal advice as required.

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.

Chartis is the marketing name for the worldwide property-casualty and general insurance operations of Chartis Inc. All products are written by insurance company subsidiaries or affiliates of Chartis Inc. In New Zealand, Insurance products and services are provided by Chartis Insurance New Zealand Limited, the first general insurer to obtain a full licence from the Reserve Bank of New Zealand under the Insurance (Prudential Supervision) Act 2010.

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Editors Notes:

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 defence costs. Directors will therefore be unable to have recourse to that D&O cover to meet their criminal or civil defence costs.

For additional information, please visit www.chartisinsurance.co.nz

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