

BLAIS EXCESS & SURPLUS
AGENCY OF TEXAS, LTD.



PRESS RELEASE

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D&O COVERAGE - CHOICE OF LIMITS
(WHAT IS AN APPROPRIATE D&O INSURANCE POLICY LIMIT)

FACTORS TO CONSIDER:

- ⇒ Current and future anticipated Market Cap
- ⇒ Drop in Market Cap that would generate shareholder claim/s
- ⇒ Average defense cost associated with defending/settlement
- ⇒ Average settlement percentages
- ⇒ Float percentage

FORMULA

The following formula is based on averages obtained from Tillinghast – Towers Perrin 2003 D&O survey, NERA report and In-house consultation with various attorney firms:

Current and/or anticipated Market Cap = W
Percentage drop in Market Cap that would result in shareholder claim/s* = X
Float percentage = Y
Settlement cost as a percentage * of actual shareholder damages = Z
Average defense cost/attorney fees = F

$$\mathbf{LIMIT = (W \times X) \times Y \times Z + F}$$

EXAMPLE

Anticipated Market Cap = \$40,000,000 = (W)
50% drop in Market Cap expect claim/s = (X)
Current float at time of claim - 90% = (Y)
15% - 20% settlement anticipated = (Z)
\$2,100,000 defense/attorney fee = (F)

$$(40,000,000 \times .50) \times .90 \times .15/.20 + \$2,100,000 = \$4,800,000/\$5,700,000$$

**NERA reports that at a 25% market cap drop there is a 15% chance of shareholder claims, at 35% chance and at 50% there is a 100% chance of shareholder claims. Average percentage for shareholder claims is between 15% - 20% for small market cap companies (>\$250M)*

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