DELIVERING STRATEGIC SOLUTIONS ACCA'S 2000 ANNUAL MEETING

Financial Risk Solutions

What keeps you, your CEO and your CFO up at night?

Existing Contingent Liabilities

Existing or unknown Liabilities

Portfolio Transfer

Risk Transfer

Minimizing or eliminating existing and potential liabilities in your operations is a key concern. That is why Marsh's Financial Products Division (FINPRO) has developed a variety of Financial Risk Solutions (FRS) using alternative financial solutions that can protect your assets against the inevitable liabilities inherent in a wide variety of businesses and transactions.

Financial Risk Solutions

The FINPRO group has structured programs that enable both parties to a transaction to avoid bearing the financial risk often resulting from unknown pre-transaction liabilities or those difficult to quantify, or from post-transaction potential risk.

These solutions can improve your company's balance sheet by:

- Transferring liabilities to eliminate operational impingement.
- Capping future risks.
- Quantifying the value of liabilities from existing or future claims.
- Managing cash flow by smoothing the expenses over several operating quarters, thus avoiding a one-time charge that can dilute the company's earnings.
- Presenting timely and favorable disclosures to investors that can mitigate or eliminate negative analysts reports or potential lawsuits.
- Creating favorable tax strategies. (Principal and interest payments may be deemed insurance premiums, thus potentially tax deductible).

These methods have helped in the following areas:

Securities litigation Intellectual property claims

Breach of warranty claims Employment practices litigation

ERISA liability Tax liability

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M&A-related contingencies Product recall

Representations and warranties Successor liability

Tax indemnity Product liability class actions

General litigation Errors and Omissions

Directors and Officers Property redemption

Pollution Buy-outs of Defined Benefit Plans

Surety bond

LIABILITY CAP COVERAGE

The underwriters and their attorneys determine the Probable Maximum Loss (PML) for all claims, which together with a buffer form a litigation cap. An umbrella policy provides coverage excess of the caps or insurance, whichever is greater, in exchange for a one-time premium. The premium is based on the underwriter's estimate of the risk.

RISK ARBITRAGE

The underwriters and their attorneys determine the PML for all claims which the insured pays the insurance company with insurance proceeds and/or cash. The insurance company then assumes the entire liability. If the underwriters settle above the PML, the underwriters will then assume the loss.

RETRO FUNDING

At the time of settlement, the underwriter provides an insurance policy which covers the settlement amount excess of insurance and provides coverage for the directors and officers going forward. The policy premium is equal to the settlement, excess of insurance and the risk transfer cost of the policy going forward. The premium is financed over the term of the going-forward policy (usually one-to-three years). It allows the company to finance the loss over time, without drawing on their existing lines of credit or taking a large charge in the quarter when the loss settles.

Case Study

A publicly traded venture capitalist firm was facing significant SEC shareholder suits alleging nondisclosure of several bad loans while it was being acquired.

As a result, the firm's suitor required that the SEC litigation be resolved before the acquisition or the sale could go through.

A program was structures which removed the litigation from the firm's balance sheet and allowed the firm to pay the premiums over time, further smoothing the balance sheet.

Within hours of finalizing the new insurance program, the insured announced its plans to be acquired in a friendly take over and the suits were resolved under the new program.