AIG to help officers accused of 'fraud on the market'

By Editorial Staff *Thu, Jul 3, 2014*

The "fraud on the market" theory in class action litigation asserts that the price of shares traded in an "efficient market" reflects all available information, including alleged misrepresentations by corporate managers.

American International Group's insurers have decided to offer immediate funds to persons covered by their primary Directors and Officers (D&O) liability insurance who become defendants in securities lawsuits so they can finance "event studies" as part of their defense.

AIG, one of the largest D&O carriers, made the announcement in anticipation of the U.S. Supreme Court's decision in *Halliburton Co. v. Erica P. John Fund, Inc.* In that case, Halliburton is asking the high court to throw out a lower court case in which owners of Halliburton stock had charged that Halliburton committed "fraud on the market" by not telling investors about its exposure to liability claims from workers hurt from working with asbestos.

The "fraud on the market" theory in class action litigation, established by the Supreme Court's 1988 decision in *Basic Inc. v. Levinson*, asserts that the price of shares traded in an "efficient market" reflects all available information, including alleged misrepresentations by corporate managers. Because investors as a group rely on those alleged misrepresentations, the theory goes, plaintiffs can bring securities suits as class actions.

In its unanimous June 23 ruling, the Supreme Curt did not reject the "fraud on the market" theory, which would have involved overturning the 1988 decision. Instead, it held that defendants could rebut the theory—and head off a potential class action suit even before it got started—by presenting economic evidence ("event studies") that the alleged misstatements didn't alter securities prices.

This week, AIG announced that it would advance the money to its D&O clients so that they could pay for the event studies. AIG's D&O underwriters and claims professionals said they will continue to monitor interpretation of the *Halliburton* decision to determine whether additional policy endorsements or changes are necessary.

AIG offers primary and excess coverage to directors and officers of domestic and multinational public and private companies, non-profit entities, and financial institutions to protect against board-level risks.

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