

Northeast Ohio RIMS Market Update

Executive Risk/Management Liability

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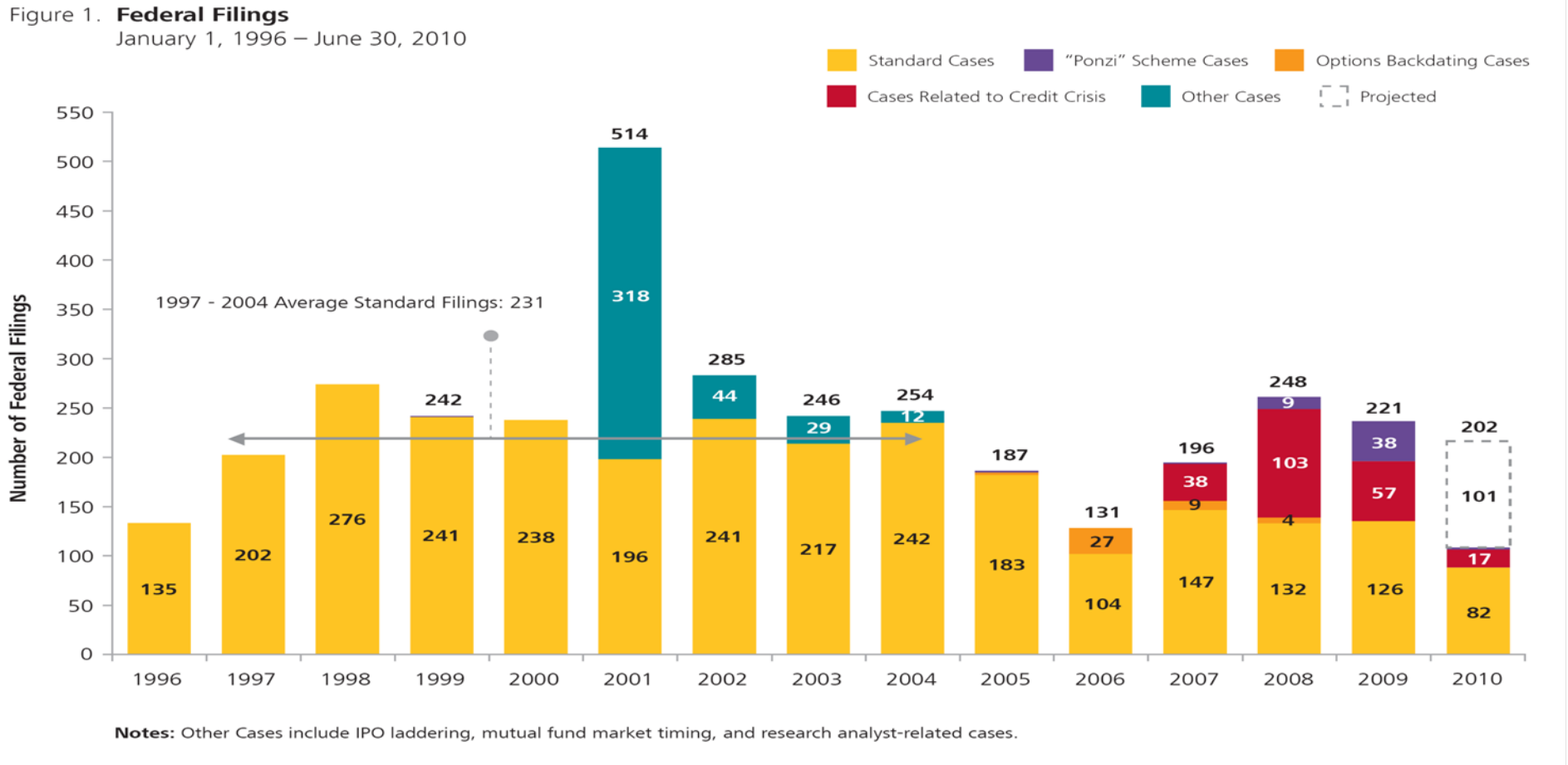
Agenda

State of the Market

- Claims & Legal Landscape
- Market Capacity
- Pricing & Program Structure
- Non-D&O Lines
- Summary/Change Factors

Federal Securities Class Action

Frequency Trends – Federal Filings through June 30, 2010



Federal Securities Class Action Observations

- 2,484 claims since 2001 – 30% are ‘non-standard’.
- Median investor losses have increased since 2007.
- Settlement severity has increased 28% since 2007.
- Stronger cases surviving the “motion to dismiss” fueling settlement values.
- Escalating defense costs.
- Federal SCA only represent 20% of all “securities claims.”

Claims & Legal Landscape

Credit-Related Claims Impact

- 348 subprime credit-related securities cases have been filed.
- 32 settled; 64 dismissed.
- High-profile settlements:
 - Countrywide Financial - \$624 Million
 - New Century Financial - \$235 Million
- Dismissed at a slower rate and takes longer to dismiss.
- FDIC has targeted banks – seeking \$1B in recoveries.
- 2.5 years on average to settle – 103 claims in 2008 sets 2011 to be a rather interesting year.

Claims & Legal Landscape

Relevant D&O Case Law & Legislative Impact

- Mostly “defense-friendly” U.S. Supreme Court ruling
 - *Dura Pharmaceuticals – “causal connection” – 2005
 - *Tellabs Inc. – “at least as compelling” – 2007
 - *Scientific Atlanta – “aiding and abetting” – 2008
 - Merck – “postpones statute of limitations running” - 2010
- * Have these decisions precipitated a move toward derivatives and state court filings? Now make up 80% of all securities claims (60% in 2005).
- Unknown impact:
 - Health Care Reform
 - Dodd-Frank Wall Street Reform – whistleblower provisions

Market Capacity

- 10+ new markets since 2008
- Total capacity approximately \$1.4B
- Approximately 75 carriers can offer D&O limits
- “Crisis-related capacity”
- No shortage of “supply”
- P&C industry policyholder surplus - \$515B at 12/31/09

D&O Pricing & Program Structure

- Pricing has decreased over the previous five-year period – cumulative of 60%.
- Average pricing reductions of 10% over the previous 12-month period; “fight for market share.”
- 30% of all D&O buyers are increasing limits purchased from prior year.
- New policy forms and broader coverage options are available.
- Slight increase in demand is not offset by abundant supply.

Non-D&O Lines

- Employment – Competitive pricing marketplace despite difficult Employment Practices Liability and economic environment.
 - EEOC filed 93,000 claims in 2009 and recovered \$376 million from U.S. businesses.
- Fiduciary Liability – Competitive pricing marketplace despite strain on defined contribution plans, increased bankruptcies, and employer securities “tagalong” claims.
- Cyber Liability – Risk evaluation and insurance purchase increasing.

Summary: “Change Factors”

- Continued SEC enforcement
- Renewed mergers and acquisition activity.
- FCPA enforcement
- Dodd-Frank implications
- The next “nonstandard” SCA cases
- Industry-specific litigation, i.e., for-profit education.
- Climate change disclosure
- Growth of non-SCA claims – derivatives, ERISA, state court.
- Reinsurance and 2011 carrier budgets.

Summary

- Claims and legal landscape is challenging – frequency dynamics are changing and severity continues to increase.
- Market capacity is stable after recent expansion - logic suggests consolidation at some point.
- Pricing should stabilize as carriers look to minimize reductions in 2011. Program structures should keep pace with severity trends.
- Law of “supply and demand” currently outweighs all other factors.

Q & A