

ANALYSIS GROUP FORUM

Economic, Financial and
Strategy Consultants

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Perspectives on Financial Reform

... a note from the CEO



Dodd–Frank will affect almost every aspect of U.S. financial services industries. In this issue of *Forum*, several of our academic affiliates and economists consider the impact of financial reform on the credit-rating process, the new rules financial firms face, and the challenges ahead. Closer to home, we are delighted that Analysis Group was named the fourth-best consulting firm in the country to work for, in a *Vault.com* survey; and ranked the seventh-best small firm in Massachusetts to work for, in a *Boston Globe*

survey. Both rankings recognize our collaborative, 10-offices-as-1 philosophy. This model not only benefits our people; it enables us to deliver superior service to our clients – our ultimate goal.



MARTHA S. SAMUELSON, PRESIDENT AND CEO

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The Impact and Implementation of Dodd–Frank

The passage of financial reform legislation in July 2010 laid the groundwork for new rules, policies, and procedures; increased transparency and oversight; and a focus on risk mitigation.

The scope of change still has not been fully defined, however. We asked academics familiar with the new law and these issues to join our economists in commenting on the implications of reform.



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– ANDREW METRICK



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– WILLIAM J. CHAMBERS

CHANGES AHEAD FOR CREDIT RATING AGENCIES

William J. Chambers and Steven Herscovici



Financial reform will bring significant changes to credit rating agencies and their clients. In a climate of increased transparency and oversight, rating agencies will not only need to revise their procedures but also protect themselves against new liabilities.

Registration Statements. Under Section 11 of the Securities Exchange Act, a rating agency that consents to its ratings being used in a registration statement will be subject to the same liability standards that accounting firms and securities analysts face. Investors will be able to sue a rating agency if they can show “facts giving rise to a strong inference that the credit rating agency knowingly or recklessly failed (i) to conduct a reasonable investigation of a rated security with respect to the factual elements relied upon by its own methodology for evaluating credit risk; or (ii) to obtain reasonable verification of such factual elements ... from other sources that the credit rating agency considered to be competent and that were independent of the issuer and underwriter.” It remains to be seen how courts will determine whether a rating agency conducted a “reasonable investigation.”

We have already witnessed an important, and perhaps unintended, consequence of the legislation on the market for structured finance. The major credit rating agencies have stated that they will

not consent to their ratings being included in registration statements for asset-backed issuances. Within hours of President Obama’s signing the bill into law, Ford Motor Credit Corporation withdrew a bond offering, stating it could not comply with the requirement to disclose ratings in its offering documents. The SEC quickly issued a No-Action letter allowing asset-backed debt issuances without including ratings – but only until January 24, 2011.

If rating agencies become targets of litigation due to perceived “errors,” they might restrict the availability of their ratings.

Information Gaps. The omission of ratings from certain securities creates a transparency Catch-22. Most market participants would argue that having ratings available adds value for investors and debt issuers. If rating agencies become targets of litigation due to perceived “errors,” they might restrict the availability of their ratings.

As a result of Dodd–Frank, several important pieces of legislation, including the Federal Deposit Insurance Act, the Investment Company Act, and the Federal Housing Enterprises Financial Safety and Soundness Act, no longer require credit ratings; instead they refer to general statements of creditworthiness that securities must meet. Encouraging investors and government agencies to expand their own analyses and reduce their dependence on the rating agencies may foretell less availability of credit ratings, depriving market participants of critical information.

Rating agencies have, to date, been exempted from requirements allowing debt issuers to share material nonpublic information with them, and have incorporated confidential information into their ratings. For example, a company could discuss the implications and financing of a proposed corporate acquisition with the rating agencies before the deal is publicly announced.

If the end result of the legislation is that companies can no longer have such confidential discussions, firms may be forced to make decisions with incomplete information about the rating implications of their actions. As a result, they may make decisions that surprise both the market and rating agencies.

“Conservative” Ratings. Will the new restrictions cause more conservative ratings, particularly in the highest rating categories? Since

the legislation is intended to protect investors, there is an implied incentive for the rating agencies to lower their ratings. Over time this may alter the relationship between credit ratings and historical rates of default associated with each rating

category. The whole purpose of ratings is to make distinctions in creditworthiness; it would hardly serve the market well to lump good credits with much weaker ones in low rating categories, just to avoid making “mistakes.”

WILLIAM CHAMBERS IS ASSOCIATE PROFESSOR OF PROFESSIONAL PRACTICE IN ADMINISTRATIVE SCIENCES, BOSTON UNIVERSITY. HE WAS A FORMER MANAGING DIRECTOR AT CREDIT-RATING AGENCY STANDARD & POOR'S.

STEVEN HERSCOVICI, PH.D., IS A MANAGING PRINCIPAL IN THE BOSTON OFFICE OF ANALYSIS GROUP.

LIQUIDATION OR BAILOUT?

Q&A with Andrew Metrick



How might the liquidation of large, failing firms play out under new rules? Andrew Metrick, the former Chief Economist for the President's Council of Economic Advisers, shares his thoughts.

Q: What is the point of the new orderly liquidation process?

Professor Metrick: The goal is to provide an option that would effectively allow “slow failure.” The motivating idea is that no institution should be too big to fail, but some institutions are too big to fail quickly. Orderly liquidation will slow down the dissolution so as to reduce the contagion to other institutions and markets.

Q: Who decides if an institution must enter orderly liquidation?

Professor Metrick: The Secretary of the Treasury and the U.S. Federal Reserve must agree to place an institution into orderly liquidation, subject to a fast judicial review if the institution objects. Depending on the type of institution, the Director of the Federal Insurance Office, the

SEC, or the FDIC must also approve.

Q: Describe orderly liquidation.

Professor Metrick: The FDIC acts as the receiver and can choose to transfer some of the institution's assets and liabilities into one or more “bridge financial companies,” which could then be capitalized (if necessary, and with many restrictions) with funds from the Treasury.

Q: How is that different from bankruptcy?

Professor Metrick: The most important difference is that access to capital will allow these bridge companies to slowly wind down operations, with less incentive or ability for counterparties to run away from the failing institution. For example, unlike in bankruptcy, counterparties in derivatives and repurchase

agreements will not be allowed to unilaterally terminate contracts.

Q: Is this a bailout in disguise?

Professor Metrick: No. The Act places restrictions on the ability of the receiver to make payments unless they are necessary for the orderly liquidation, and a proposed rule from the FDIC would interpret these restrictions to include all equity, subordinated debt, and long-term unsecured debt. Furthermore, the Act makes it clear that, in the long run, no creditor may be paid more than any other “similarly situated” creditor. So while bridge payments may help some short-term creditors or derivative counterparties during a liquidity crisis, any excess payments would be “clawed back.”

Q: So what can go wrong?

Professor Metrick: Lots of things. The Act provides guidance and some restrictions to the FDIC as receiver, but the devil will be in the details of the rule-writing. If the final rules give the FDIC lots of discretion (as they have when they resolve **(CONTINUED ON PAGE 4)**

small banks) then this new process may increase uncertainty relative to the long history of bankruptcy law. More uncertainty could lead to a higher probability of runs in the first place. If the FDIC limits its dis-

cretion with strict rules, however, then smart traders will find ways to game the system. The FDIC is facing a complex rule-making process. It will be some time before we can sort out winners and losers.

ANDREW METRICK IS AN ANALYSIS GROUP AFFILIATE. HE IS ALSO THE DEPUTY DEAN FOR FACULTY DEVELOPMENT, THEODORE NIERENBERG PROFESSOR OF CORPORATE GOVERNANCE, AND FACULTY DIRECTOR OF THE MILLSTEIN CENTER FOR CORPORATE GOVERNANCE, YALE UNIVERSITY SCHOOL OF MANAGEMENT.

MEASURING RISK AT SYSTEMICALLY IMPORTANT FIRMS

by James Rosberg and Steven Saeger



“Systemically important” firms – those whose failure may harm the U.S. financial system – are now being regulated by the Board of Governors of the Federal Reserve, overseen by the Financial Stability Oversight Council (FSOC). The FSOC can designate U.S. and foreign companies as systemically important and impose limits on their activities. How will it define and measure “importance” and “risk”? What implications might its rulings have for competition in the financial industry?

Defining systemic importance. The law states that banks with \$50 billion or more in assets are systemically important, but the FSOC can similarly designate nonbank financial firms – for example, a large insurance company like AIG. There are no bright-line tests that the FSOC can apply to determine importance. There are some company characteristics, however, that the law allows the FSOC to regulate, including the extent of a company’s relationships with other firms and the amount of leverage it has. Presumably, highly leveraged firms with lots of counterparty exposure would be deemed systemically important.

Measuring risk. Economic growth requires risk taking; the new reform law, however, aims to prevent

financial institutions from placing bets that could destabilize the financial system and impose costs on taxpayers. (The Volcker Rule, for instance, restricts proprietary trading by financial firms.) To determine the type and degree of restrictions necessary, the FSOC is likely to look

The new law could end up creating a two-tier financial system, with certain firms being more regulated than others.

closely at the structure of systemically important firms – for instance, imposing thresholds on size and complexity. In the course of rule making, the FSOC will also need to evaluate questions about safety (how much do we need, and how

much are we willing to pay for it?) and competition.

Implications for competition. The FSOC must determine what sort of advantages new regulation creates for banks’ competitors. That means looking at foreign competitors as well as U.S. rivals that fall outside the oversight of the Federal Reserve and FSOC. Talks are under way about how best to regulate “important” firms globally, but it is unclear whether an international framework can be applied consistently. A critical challenge for the FSOC is to strike a balance between curbing risk and encouraging innovation. Some economists have predicted that a two-tier financial system will emerge as a result of reform: The firms that are less subject to close regulation will have fewer restrictions on capital and leverage, and possibly on relationships and operations. They could become the focus of risk-taking and financial innovation in the sector while systemically important firms would become more “utility-like.” ■

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“Customer Heterogeneity” and Class Certification

In this Q&A, John R. Hauser, the Kirin Professor of Marketing and an Analysis Group affiliate, explains “customer heterogeneity,” a marketing concept that can be applied usefully in litigation matters, particularly in the area of class certification.

Q: What is “customer heterogeneity,” and why is it relevant in litigation?

Professor Hauser: Customer heterogeneity is a very intuitive concept that refers to how consumers differ from one another in their demographics, attitudes, behaviors, and, of course, preferences for products. Each of us typically thinks of a given product as a bundle of different features and services that collectively meet our needs in various ways, but we also consider different aspects of the product as more or less critical to our purchase decision.



My colleagues and I have researched ways to accurately evaluate consumer purchasing behavior for existing and as-of-yet-undeveloped products and determine the most relevant drivers of consumer decisions, even if differences among consumers exist. Companies can use this information to design, price, and market new products and make accurate predictions about who will buy what. That is the business application. However, I have provided expert evaluation of consumer preferences and heterogeneity in a wide array of

Market research is most often used to segment consumer groups in retail contexts; but it can be applied just as usefully in litigation contexts.

legal cases involving, for instance, the determination of class certification, assessments of royalty rates and lost profits in patent-infringement cases (including evaluations of the entire market value rule) and examinations of the effects of allegedly misleading statements in false advertising cases.

Q: How is heterogeneity relevant in class certification?

Professor Hauser: Let’s consider a case where consumers allege false advertising related to product performance. An analysis of customer heterogeneity, and of several forms of surveys, can be useful in accurately assessing numerosity, commonality, and conflict. For example, a survey may reveal that only a handful of consumers care about the feature in question because the circumstances in which it is relevant are rare. In such cases, a defendant might use heterogeneity and the infrequent consideration of the feature in question to defeat class certification.

Similarly, an analysis might suggest that for most or even all consumers a feature was a primary driver in their decision making and is of great value to them. In that case, a plaintiff might use the lack of heterogeneity to support class certification. Finally, an evaluation of consumer heterogeneity might reveal consistent or inconsistent preferences for particular remedies. If such conflicts among plaintiffs exist, the defendant may be able to defeat the class before it is certified.

Q: Can you offer an example?

Professor Hauser: I remember a case in which a class was dismissed due to customer heterogeneity, specifically as it

related to preferred remedies. A class action was brought against manufacturers of pressure-treated woods, which were used by a range of private and professional customers in different kinds of structures. I conducted a survey that examined typical usage scenarios, the drivers of the purchasing decision, and the potential (CONTINUED ON PAGE 6)

Customer Heterogeneity *(continued from page 5)*

alternatives available to members of the proposed class. The results demonstrated extreme heterogeneity in impact and usage. Furthermore, preferred remedies varied enormously among potential class members, with a few seeking remedies proposed by the plaintiffs and others not; others were indifferent to the performance issues. Consequently, the class wasn't certified.

Meanwhile, in a consumer goods case, I observed that consumers were consistent in saying they valued an attribute like "healthy," but inconsistent on how much they valued that attribute. In that case, it was important to distinguish between heterogeneity sufficient to defeat a class and expected heterogeneity. The latter is about variation in the marginal value of a product or attribute

For Further Reading

In the *Journal of Marketing Research*, Professor Hauser and coauthors explore decision rules, and they model the decisions made by consumers in the consideration stage of a "consider, then choose" process: "When consumers face a large number of alternative products ... they typically screen the full set of products down to a smaller, more-manageable consideration set that they then evaluate further. An ability to forecast these smaller consideration sets can explain roughly 80% of the explainable uncertainty in consumer decision making (assuming equally likely choice within the set)."

Adapted from "Disjunctions of Conjunctions, Cognitive Simplicity, and Consideration Sets," by John R. Hauser, Olivier Toubia, Theodoros Evgeniou, Rene Befurt (an economist at Analysis Group), and Daria Dzyabura, Journal of Marketing Research (Volume 47, Number 3, June 2010).

along a demand curve, which can be observed in nearly every market. In such cases, it is possible to evaluate expected variation in the specific value

a consumer places on an attribute, while still demonstrating that most purchasers consider it an important attribute. ■

Energy Update: Modernization Opportunities in New EPA Regulations

by Susan F. Tierney and Paul Hibbard

Long-anticipated, recently issued regulations from the U.S. Environmental Protection Agency (EPA) are exerting new pressure on the energy industry to improve the nation's fleet of power plants. The EPA's actions in regulating greenhouse gas emissions have received the most media attention, but it is a different group of regulations that, in the near term, may create an opportunity to modernize the electric system.

The EPA has issued draft air regulations that will primarily affect coal-fired power plants. The Clean Air Transport Rule addresses SO₂ and NO_x emissions, and other regulations address emissions

of hazardous air pollutants (such as mercury). The regulations will stimulate investments in existing plants to lower their emissions profiles; accelerate the retirement of older, financially challenged, less-efficient coal plants; and promise multiple public health benefits. Some worry that the regulations, and resulting operational changes, will be more than the industry can handle while keeping the lights on. However, the sector has a strong track record of taking the steps necessary to assure reliable service for electricity customers.

The regulations are likely to prompt investments in a range of modern

electric-power resources: among them, natural-gas-fired plants that generate power more efficiently; and hardware and software that will make the power grid "smarter" and more resilient. Any initiatives to retrofit existing plants or add new ones will involve considerable engineering and construction talent and equipment – creating jobs, but not stimulus expenditures for the Treasury.

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The Next Steps in *American Needle, Inc. v. National Football League et al.*

by Evan Hoffman Schouten

THE NFL RECENTLY ANNOUNCED that Nike will replace Reebok as the official supplier of its uniforms, and that New Era will replace Reebok as its official cap manufacturer. The league negotiated these deals after the U.S. Supreme Court's decision in *American Needle, Inc. v. National Football League*



et al. In remanding that case, the Court said "football teams that need to cooperate are not trapped by antitrust law." Let's explore why such licensing contracts are pro-competitive.

The case: NFL Properties, a company owned by the NFL teams, granted Reebok an exclusive license to produce and sell trademarked headwear for all 32 NFL teams. American Needle's license was not renewed, so it sued the NFL, its member teams, and Reebok, alleging that the contract between NFL Properties and Reebok was the result of an illegal conspiracy among the NFL and its teams. The NFL said it was incapable of conspiracy because the league and its teams were a single entity. The District Court agreed with the NFL and dismissed the case, and the Seventh Circuit affirmed. However, the U.S. Supreme Court unanimously held that the NFL and its member teams are not a single entity with respect to the licensing of intellectual property. American Needle's claim is being sent back to the federal district court in Chicago and the collective conduct at issue will be analyzed under the rule of reason standard.

The analysis: It must take into account the effects of centralized licensing on three critical factors: competitive balance, free-riding, and economies of scale. A look at each offers strong pro-competitive justification for the league's licensing policies, generally, and its contract with Reebok, in particular.

Competitive balance is a critical component of the NFL's popularity. Fans must believe that their team has a reasonable opportunity to compete for a championship. One of the

ways the NFL achieves this balance is by practicing revenue sharing. The revenues from the NFL's national television contracts and the licensing of its marks, for example, are distributed equally among all the NFL teams. This arrangement gives all teams the financial wherewithal to hire top players and coaches and move toward competitive parity.

Free-riding occurs when the actions of one firm benefit another firm without the latter firm's having to pay for that benefit. The NFL's primary product, a championship season, is jointly created by 32 teams, each of which derives value from its participation in the creation process. If one team licenses its marks for use on a low-quality product, it can negatively affect customers' perceptions of all NFL-licensed products – and, by extension, of the NFL. By contrast, a centralized trademark organization, such as NFL Properties, can ensure that licensing decisions are made in the best interests of all the teams, the league, and consumers.

Finally, centralized licensing gives the NFL (and its licensees) efficiencies that each of the 32 teams could not achieve on its own. NFL Properties can realize economies of scale and scope in quality control, marketing, product development, and intellectual property enforcement.

The big picture: In bringing its claim, American Needle appears to believe that the relevant market consists only of NFL marks, in which case the NFL would be a monopolist. To accept this, one must conclude that the next-closest substitute for any team's marks would be the marks of other teams in the same league. But as Justice Stephen Breyer said during oral arguments, he didn't "know a Red Sox fan who would take a Yankees sweatshirt if you gave it away." If the NFL tried to increase its prices to license its trademarks, there are many other trademarks a licensee could turn to. Absent market power, an entity like NFL Properties that pursues its own interests is also pursuing consumers' interests. ■

EVAN HOFFMAN SCHOUTEN, A VICE PRESIDENT IN THE BOSTON OFFICE OF ANALYSIS GROUP, PARTICIPATED IN AN *AMICUS* BRIEF AND PROVIDED CONSULTING TO THE NFL ON THIS MATTER.

Recent Litigation

EVAN WEINER ET AL. V. SNAPPLE BEVERAGE CORPORATION

Analysis Group was retained in a putative class action case against our client, **Snapple Beverage Corporation**, in the Southern District of New York. Snapple was alleged to have misled consumers and caused them economic injury by

marketing certain Snapple beverages as All Natural when they contained high-fructose corn syrup. Plaintiffs sought class certification of all persons and entities who purchased Snapple All Natural beverages within the State of New York.

Analysis Group was retained by **Baker Botts LLP**, counsel for Snapple, to evaluate plaintiffs' position that standard economic analyses could be employed to quantify on a class-wide basis the economic injury allegedly suffered by the putative

class members. Managing Principal **Keith R. Ugone**, Vice President **Na L. Dawson**, and Associate **Minh P. Doan**, examined pricing-related documents and Nielsen retail sales data associated with Snapple's All Natural beverages and concluded that the putative class members' economic injury as a result of the alleged mislabeling could not be determined by proof common to the proposed class. The case team demonstrated that wide variations existed in Snapple beverages' retail prices across distribution outlets, across geographic areas, and across the time periods considered. The Analysis Group case team evaluated the opinions of the plaintiffs' economics expert and concluded that the expert failed to demonstrate that the claimed injury to putative class members could be reliably or accurately evaluated using class-wide proof.

Dr. Ugone issued an expert report and provided deposition testimony. A judge in the Southern District of New York denied plaintiffs' class certification motion and granted Snapple's motion to exclude plaintiffs' economic expert's opinion.



MEDTRONIC INC. MERGER WITH OSTEOTECH, INC.

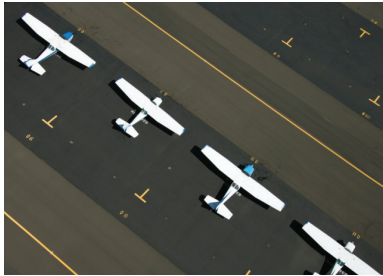
In one of the first Hart-Scott-Rodino Act filings since the August 2010 adoption of the government's revised Horizontal Merger Guidelines (which replaced the 1992 guidelines), the Federal Trade Commission (FTC) gave an early termination to its review of **Medtronic, Inc.**'s acquisition of **Osteotech, Inc.** The companies compete against a number of firms in the sale of bone-grafting products to hospitals and doctors, both in the United States and internationally. Counsel on the acquisition for Medtronic, Richard Wegener of **Fredrikson & Byron PA**, and Medtronic's internal acquisition counsel,

Derek Devgun, retained Analysis Group to conduct an antitrust investigation of the proposed acquisition and submit a report to be filed with the FTC. At issue was whether the combined firm had the potential to reduce competition in the relevant products through either unilateral or coordinated market effects. Following the prescribed format for analyzing anticompetitive effects from horizontal mergers, Vice President **Stanley Ornstein** and affiliate **Robert Sherwin** conducted an investigation of the bone-grafting products industry using public sources and information gathered

with assistance from personnel in Medtronic's marketing, product development, and accounting departments. They concluded that the planned acquisition had little if any likelihood of reducing competition because of strong substitutes among the relevant products, low pre- and post-acquisition market concentration in such a broad market (when properly measured), a strong record of new entrants into the market, competition based on product innovation as well as price, and market conditions post-acquisition that would be incompatible with anticompetitive behavior.

Recent Litigation

AIR CANADA V. TORONTO PORT AUTHORITY AND PORTER AIRLINES



Anticompetitive claims against Analysis Group client **Porter Airlines** of Canada were dismissed, with no evidence found of unfair treatment toward plaintiff Air Canada. Analysis Group supported affiliate **Roger Ware**, an antitrust expert, in evaluating Air Canada's expert's claim that Porter Airlines' use of the Toronto City Airport granted it a substantial competitive advantage over Air Canada's operations from Toronto's International Airport with respect to business travelers. Both experts' reports were entered into evidence in Air Canada's suit alleging unfair treatment in the allocation of takeoff and landing slots at Toronto City airport. By combining an evaluation of passenger capacity data and an examination of a sample of pricing data for both airlines, Dr. Ware was able to demonstrate that there is, in fact, intense competition between these two airlines. He also argued that Air Canada's analyses of changes in market share and on passenger data were flawed. Dr. Ware found that Porter Airlines' fares were significantly lower on average for comparable ticket classes, thereby providing evidence of a lack of "substantial competitive advantage."

SP SYNTAX (SILVER POINT CAPITAL, L.P.) V. ERNST & YOUNG, LLP

In a matter involving alleged professional negligence, SP Syntax sought \$40 million in damages in connection with a \$130 million credit facility it had extended to Syntax-Brilliant Corporation (SBC) and could not recover when SBC filed for bankruptcy in 2008. SP Syntax alleged that SBC's auditor, **Ernst & Young (EY)**, was negligent in connection with SBC's financial statements and that SP Syntax had relied upon these financial statements when entering into the credit facility. Managing Principal **Keith R. Ugone** was retained by **Morrison & Foerster LLP**, counsel for EY, to opine on economic causality and damages-related issues.

Dr. Ugone and the Analysis Group case team, Vice President **Na L. Dawson** and

Associate **Minh P. Doan**, identified the known or knowable risks associated with providing a credit facility to SBC. These included certain accounts receivable collection risks and market softness risks. Dr. Ugone opined that it was the materialization of these risks that caused SP Syntax's claimed losses.

Analysis Group provided economic and damages support to EY and Morrison & Foerster relating to discovery, various economic and financial analyses, depositions, and trial preparation. Dr. Ugone provided deposition testimony regarding economic causation and damages issues. After a three-week trial, the jury found that EY was not negligent in its preparation of SBC's financial statements.

OTSUKA PATENT VICTORY

Otsuka Pharmaceutical Co. defended at trial its patent on Abilify, a blockbuster drug used to treat various conditions including schizophrenia and major depressive disorder. Analysis Group Managing Principal **John Jarosz** led a team including Manager **Robin Heider** on behalf of Otsuka in a consolidated set of patent disputes centered on generic versions of Abilify. The team provided expert analysis and trial testimony. Judge Mary L. Cooper of the U.S. District Court for the District of New Jersey ruled that Otsuka's patent is valid and enforceable and enjoined multiple defendants from marketing their generic versions of aripiprazole, the active ingredient in Abilify, before Otsuka's patent expires in 2015. Judge Cooper wrote: Mr. Jarosz "credibly testified ... to the extraordinary commercial success of Abilify."

ORACLE SECURITIES LITIGATION

The Ninth Circuit Court of Appeals affirmed the district court's 2009 order granting summary judgment in favor of Analysis Group client **Oracle Corporation**, represented by Latham & Watkins LLP. Judge Richard C. Tallman stated that the plaintiffs had a "dearth of admissible evidence to show fraud" and were unable to "establish loss causation. Their Section 10(b) claim ... fails as a result." Analysis Group Managing Principal **Bruce Deal** and Vice Presidents **Peter Hess** and **James Rosberg** supported affiliates **R. Glenn Hubbard** and **George Foster** in their analyses of Oracle's forecasting process and the business environment.

Spotlight on AG

PROMOTED TO MANAGING PRINCIPAL

Justin N. McLean, M.S., industrial administration, Graduate School of Industrial Administration, Carnegie Mellon University; B.A., economics, Swarthmore College



Since he joined the firm in 1996, Mr. McLean has worked on numerous commercial litigation projects with an emphasis on intellectual property, finance, valuation, and general damages analyses. He has served as an expert witness and provided assistance in many phases of litigation, including development, presentation and review of pretrial discovery; preparation of testimony; and critique of analyses of opposing experts.

VICE PRESIDENTS JOIN BOSTON OFFICE

Paul Hibbard, M.S. energy and resources, University of California at Berkeley; B.S. physics, University of Massachusetts at Amherst



Mr. Hibbard rejoins Analysis Group after serving as Chairman of the Massachusetts Department of Public Utilities during a period of major change in utility rate-making practices and state energy policy. He has provided technical and policy analysis as well as strategic advice to both public- and private-sector clients in areas such as energy infrastructure, energy facility siting, the allocation of emission allowances under market-based programs, utility structure and procurement practices, and the administration of renewable-development programs.

Evan Hoffman Schouten, M.A., economics and Ph.D. candidate, The University of Chicago



Ms. Schouten has more than 20 years of consulting and expert witness experience, specializing in industrial organization, antitrust economics, and labor economics. She has led consulting teams, and designed and conducted economic analyses in large litigation matters in the U.S. and abroad. The cases have involved antitrust, mergers and acquisitions, damages, product liability, and employment discrimination matters in a range of industries, including sports and entertainment, media, health care, pharmaceuticals and biotechnology, technology, consumer products, and chemicals.

MARTHA SAMUELSON IN THE NEW YORK TIMES

Analysis Group President and CEO **Martha Samuelson** offered her perspectives on leadership, accountability in organizations, and finding the right mentor in a November 7, 2010 interview with *The New York Times*. Her comments appeared in the newspaper's weekly "Corner Office" column, which captures insights from senior leaders in a range of organizations and industries.

AFFILIATE NEWS

Analysis Group welcomes back two academic affiliates who have returned from senior positions with the U.S. Government.

Andrew Metrick, Deputy Dean for Faculty Development and Faculty Director of the Millstein Center for Corporate Governance, Yale School of Management, was Chief Economist for the President's Council of Economic Advisors.

David Scharfstein, Edmund Cogswell Converse Professor of Finance and Banking, Harvard Business School, was Senior Advisor to the Secretary of the U.S. Treasury, and served on the National Economic Council.

ANALYSIS GROUP RANKS HIGH IN BOSTON GLOBE, VAULT.COM SURVEYS

For the third year in a row, Analysis Group was named one of *The Boston Globe's* "100 Top Places to Work." The firm was ranked seventh among companies with 250 or fewer employees in Massachusetts. It is the second year in a row that the firm has been in the top 10. Analysis Group was also named the fourth-best consulting firm in the U.S. to work for in a recent Vault.com poll, *The Vault Consulting 50*.



"These acknowledgements are such an honor," said Analysis Group President and CEO Martha S. Samuelson. "They reaffirm a comment I've heard often over the years, which is that Analysis Group's focus on teamwork and development, personal responsibility, and commitment to excellence is unique."

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