

Professional Insurance



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Loss of Client Personal Data

It seems that every month another news story blares the message that personal data has been stolen or “hacked” from another company’s database. While big warehouses of personal data get the media attention, the fact is that smaller firms are high on hackers’ target list because they often have less protection than larger corporations.

While data security is critical, so is insurance protection to cover claims from those whose personal information may become compromised. Coverage can also protect your firm from the costs of

governmental penalties and the expense of notifying those possibly affected by the breach. Under certain policies, expanded response is available, which can include technical consultations on the breadth of the breach, as well as loss control and identity restoration and monitoring for the victims. Insurers have many options for cyber liability coverage, and many are tailored to your firm’s specific niche.



Talk with us today about including this valuable protection in your professional liability program.

M&A Alters Insurance Needs

If your firm intends to expand by acquiring or merging with another firm, your professional insurance coverage will need to be updated.

Often, you will have coverage for the new organization for 90 days after acquiring or forming it (or until your policy period ends if that is sooner). However—if the acquired organization has similar insurance available to it—it may not qualify as an additional insured under your policy. Also, your policy usually won’t cover wrongful acts committed

before you acquired or formed the organization unless you have an endorsement to your insurance policy that says otherwise.

Keep in mind that, even if your acquisition or newly formed subsidiary qualifies under your policy, you may be charged an additional premium from the date you acquire or form the organization.

To be safe, talk with our professionals as part of your M&A planning. We’ll help you avoid the possibility that closing that deal may open holes in your protection.

Legal Talent As Part of Your Policy



An often-overlooked advantage of choosing effective professional liability coverage might be called the “Cracker Jack” principle: Every box has an experienced lawyer inside.

That legal talent can make all the difference if you end up facing a claim. While you may know or already partner with attorneys who are exceedingly competent in contract law or corporate legalities, it does not automatically follow that they will have significant experience in dealing with the legal intricacies of employment practices or directors and officers claims. Moreover, your insurer may not pay your private attorneys as it would pay lawyers who are provided under your professional liability coverage.

When reviewing a professional liability program, remember that there are key benefits that have value beyond simple price tags. For a deeper examination of those enhanced offerings, give us a call. We'd be happy to help you find information on those elements of programs available to your firm.

Private Firms Short on Employment Practices

Recent marketplace studies on employment practices liability insurance indicate that a majority of private firms don't have adequate coverage for claims of unfair treatment of employees. That is a disturbing finding when you consider that the median compensation award won by employment practices lawsuit plaintiffs in 2008 was \$326,640.

Even if the employer is able to settle out of court, 100% of employment practices lawsuits must be researched and defended, some at considerable expense. If regulators launch an

investigation, the costs to deal with their demands can be high as well. Sometimes, fines or other penalties are assessed.

Despite the serious exposure firms face from employment practices claims, only 27% of private companies say they carry insurance to cover the risk. If you have employees, you should have employment practices liability insurance. From payroll and time-worked issues to sexual harassment and other discrimination, the exposures are immense. Operating without protection puts the whole business at risk.

Firms Working with Foreign Clients

A steadily increasing number of American firms are operating either in foreign countries or with foreign companies operating in the United States.

Here are a few tips from experts in multinational protection:

- Be certain the “policy territory” provisions of your professional coverages provide protection for all of the countries and locations where your services may be rendered or, perhaps more important, where a claim may be filed against you.
- Verify that the “other insurance” provisions of all policies are coordinated. A policy intended to provide excess coverage over another may become the primary protection if for any reason the other policy does not apply to the specific claim.
- If for any reason you are placing your various insurance coverages through more than one agent or broker, make each provider aware of the other so coverages can be properly coordinated. (Some countries require service through a broker in that location.)

As your business grows, you may find yourself with exposures to international claims. Check your client roster and discuss your foreign exposures with your insurance professional to make sure you don't have an uncovered risk.



Three Key Things to Document

The quality of your documentation is a major factor in determining how a professional claim will play out.

Solid documentation can stop a potential claim in its tracks; poor documentation may cripple your defense.

While some level of record-keeping is standard at most firms, three areas are often overlooked: phone conversations, confirming client instructions, and reviewing scenarios. It's not enough to record the time and date of the discussion. Details of the conversations, especially regarding conflicts or potential misunderstandings, must be fleshed out in the record. In cases where potential scenarios were discussed, the problem and the possible outcomes that were identified should be documented.

Remind staff that all documentation should be professional; it should not read like a casual message. Keep in mind that anything written and filed



could appear in court proceedings or, worse, public. While abbreviations may be in order, develop a list of what is acceptable to avoid confusion. Also establish guidelines for when to enter the documentation. The greater the time between the conversation and the documentation, the greater the

chance that the information is not as complete or as accurate.

Building a file that speaks to all the discussions that take place will be extremely valuable at claim time. Without documentation, it will be your word against theirs, and it is always hard to say who is going to win that one.

Layering D&O Coverage to Raise Limits

Firms wanting high limits of directors and officers coverage often find that no single policy can fully provide the desired amount.

The solution? A company can purchase one or more additional policies which, when combined, provide the full limits sought. To prevent each policy from having to respond to each and every loss, the policies are typically written with provisions that specify which one will be responsible for responding to a claim first, then

second, and so forth. Each level of coverage, or “layer,” is thus stacked on those below, with their separate

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limits adding up to total the full desired amount of protection.

When utilizing a “layered”

approach, it is critical for each policy’s provisions to coordinate properly with the others. Failure to do so can result in potentially significant coverage gaps. Although layering requires very careful attention to detail, it can be the perfect answer for firms that have broad exposures. If you have any concerns that your D&O coverage limits are too low for your risk, give us a call to discuss layering options that can be tailored to fit your needs.

**Thank you for
your referral.**

If you're pleased with us, spread the word! We'll be happy to give the same great service to all of your friends and business associates

Coverage Limits Should Grow Over Time

When reviewing your professional coverages, do you regularly reconsider whether emerging liability exposures, shifting public expectations, the litigation environment and increased regulatory scrutiny are making your formerly comfortable liability coverage limits inadequate to meet future needs?

According to a recent study, about a third of publicly traded companies increased their directors and officers liability insurance limits in 2011. But the need for D&O limits upgrades isn't restricted to public companies. With the problems in the economy, Americans have increased their scrutiny of firms large and small, and when they find problems, they often turn to the board of directors and management for answers or to place blame.

If your limits of coverage haven't been increased recently, it's time to undertake a review. Give us a call to set up your assessment.