Line It Up

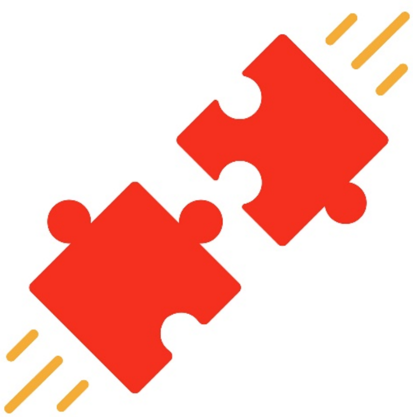
E&O considerations when your business undergoes a transition

By Brian Butcher

Without a doubt, purchasing or selling an insurance agency triggers additional errors & omissions exposure. What processes can successful agencies employ during a transition in order to help reduce their exposure to E&O claims?

First, the acquiring agency should perform due diligence before making the decision to acquire the new book. Make sure the new business is within your comfort zone or area of expertise. You might want to consider forming a dedicated quality management team trained in this process.

For example, an agency that handles primarily property-casualty business might not be a good fit to acquire an agency that handles certain specialized lines of business, such as marine liability or equine insurance. The agency may not want to assume certain accounts or risks—in particular, E&O exposures.



Consult with your attorney to make sure the purchase agreement is satisfactory and covers who assumes responsibility for E&O exposures. Often, the purchasing agency requires the seller to maintain tail E&O coverage for a while.

After the purchase agreement is executed, conduct a systematic review of the newly acquired business as soon as possible, checking details such as coverage types and amounts. Involve consultants and experts in this review process if necessary.

Most successful agencies have procedures and practices in place during the acquisition process. They often send letters to all their new clients to introduce themselves. These letters usually include an invitation to discuss the clients' policies and review their coverages, contact the agency with questions or request additional coverages or limits.

You should also conduct an audit during the transition process, based on written procedures. The audit will help identify potential E&O exposures and will reveal cross-sell opportunities.

The transition plan should be detailed and should identify specific responsibilities for specific people, including timing. Then, it must be closely monitored to ensure proper implementation.

Documentation is also crucial. It is especially important that the agency ensures the applicant signs all policy and renewal applications. This practice goes a long way in proving intent.

Note that these steps are critical even when the perpetuation is taking place within the family. Prior to when the new family member takes over the agency, the owner and successor should adopt a systematic review of the accounts so that the successor can become familiar with them.

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