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### **E&O Risk Management Alert: Crop Insurance**

Over the past several years there has been a clear upward trend in the number of E&O claims involving crop insurance. Heading into the time of the year where agents begin working with their customers to place their crop coverage, the Big "I" and Swiss Re wanted to provide agents with some E&O risk management considerations. The goal of this information is to help agencies avoid E&O claims, reduce agency's potential liability exposure if faced with an E&O claim, and to help agents better meet the needs of their customers. In addition to the bulleted points below, members who are Swiss Re policyholders have exclusive access to the [Crop Risk Management Checklist](#) and the new E&O seminar module, "[Reducing E&O Exposure in Placement of Crop Insurance](#)" by logging into the [E&O Happens website](#). With the unique complexities and time constraints of the national crop program, it is very important that agents are aware of the proactive risk management steps they can take to protect themselves.

#### Agency E&O Risk Management Considerations When Placing Crop Insurance:

- **Know the Product** – Staying abreast of changes to the crop policy and additional coverage options is very important. From year-to-year there are changes in the coverage options as well as the process for writing coverage. Knowing the product can help avoid E&O claims related to coverage misrepresentations. Attending carrier update training sessions should be required by all agency staff that will be working with crop insurance. And when you have customer questions about a coverage, don't hesitate to involve your crop carrier. [Click here](#) for information the Farm Bill 2014.
  - **ARC-CO/ARC-IC/PLC:** The 2014 Farm Bill created three new programs offered through and administered by the Farm Service Agency (FSA). Farmers must choose one of these programs prior to the final sign up date authorized by FSA. Since these are FSA Farm programs and require a 5 year commitment on behalf of your customers, from an E&O perspective it is a good idea to have the customer investigate the coverage directly with the FSA and not to recommend a program choice. Should one program outperform the other over time then the agent could be faced with an E&O claim related to their recommendation. That's why it is best to let the customer decide and to document your file accordingly.
  - **Supplemental Coverage Option (SCO):** The 2014 Farm Bill authorized a new MPCI product known as Supplemental Coverage Option (SCO). This product is available if your client chooses the PLC - FSA program. Make sure you have a thorough understanding of this new product as you discuss coverage options with your farm customers. Again, document your discussions, especially the acceptance and rejection of coverage.
- **Avoid Application/Forms Traps** – Just like with other P&C coverages, much care should be taken in the completion of the application. A properly completed application that is completed, signed, and each page initialed by the customer can be an agent's best defense in an E&O claim. Agents increase their E&O exposure by having customers sign blank applications as well as not having the customer verify and initial changes to existing applications. In addition, the crop application can change from year-to-year and agents need to review and discuss these changes with their customers. Don't simply rely on last year's data as things change over time, whether it is crop or ownership related changes.

- Anti-rebating language: The anti-rebating language prohibits agents from providing inducements such as rebates, discounts, credits or reductions in premium. Both the customer and the agency must sign the application. The incorporation of this language on the applications increases the visibility to both the agent and the customer that RMA prohibits rebating.
- Authority to Sign: Applications contain a section “Authority to Sign”. Take special care to understand when and if this section should be used. Contact your AIP to discuss this “Authority” section and specific cases where this section could be used. When discussing this option with your client document your file. Remember customer signatures are vital to an E&O defense.
- **Meet Deadlines** – The dates that RMA sets are firm and a missed deadline can equal an E&O claim. Make sure all agency staff is familiar with [RMA guidelines](#). Be proactive and plan accordingly to manage the workflow to complete customer applications in a timely fashion. Make sure your customers understand the sense of urgency for timely completion of applications and forms. Document your files with all correspondence relating to delays in completion of forms. With crop you have to get it right the first time because changes may not be able to be made. This is especially important with Acreage Reports.
- **Document Customer Files** – E&O claims are often the product of miscommunication. What may be unclear prior to a claim may become crystal clear when an uncovered crop claim occurs. All interactions and conversations with customers, including the offer and rejection of coverage options and limits, should be included in the customer file. This documentation is critical to an agent’s defense and without it, the agent may be held responsible when everything was done correctly.
- **Use a Checklist/Set Reminders** – Writing crop insurance is complicated whether you’ve been doing it for one day or twenty years. Using a [crop checklist](#) can ensure all forms are completed and deadlines are met. Also, make sure to set reminders so that deadlines are not missed.
- **Potential E&O Claims, Call Your Carrier** – If you become aware of a potential E&O claims, whether it be a missed deadline or discrepancy on an application or form, contact your E&O carrier right away. Swiss Re claims team can work with you and provide guidance on steps to take to mitigate the potential claim from going further. This includes assisting with the RMA appeals process. They’ve handled all kinds of E&O claims involving the placement of crop insurance and a quick call for their guidance can provide some real benefits.

Share these E&O risk management considerations for writing crop insurance with all agency staff. Visit the [E&O Happens website](#) and review the [“Reducing E&O Exposure in Placement of Crop Insurance”](#) module for more information. We also encourage you to take an E&O seminar put on by your state association. Just because you only offer crop insurance doesn’t mean that the basic E&O risk management fundamentals don’t apply to you as a crop agent. In fact, what you learn will help you better serve your customers and strengthen relationships. Remember, consistency and written documentation are the key cornerstones of agency E&O risk management.