

REACTING TO A CARRIER DOWNGRADE OR CARRIER ASSESSMENT DECISION

You placed the business in an approved market per your agency's market selection process. In placing the business you informed your client of the available options with alternate markets, and if the policy was assessable, provided full details. In summary, you acted in a fully prudent manner by placing business in a market to protect both yourself from claim and your policyholder from financial loss.

NOW, due to your agency's current procedures that monitor the ratings and activities of your carriers, you discover that one of your carrier's financial ratings has dropped significantly to a level below that approved by the agency's selection process, or that it is considering assessing its policyholders due to financial problems.

WHAT TO DO? The following checklist recommends actions to be taken to provide the best service to your policyholders while at the same time reducing the potential for claims against the agency.

PROTECT YOUR POLICYHOLDERS

- Notify them in writing about what has happened and respond to any queries without delay. If a rating downgrade or potential insolvency issue, be prepared to explain the reasons given for the downgrade by referencing the comments of the rating agency. If an assessment issue, also notify any prior policyholders affected.
- If a potential insolvency issue, make them aware of what protection exists via any state or other guarantee fund.
- Keep policyholders informed as events transpire, including any open hearings that are scheduled. Let them know that you are concerned with keeping them informed.
- Keep informed as to what the carrier is doing to notify your policyholders of its actions.
- Use carrier supplied or approved notices whenever possible.
- Avoid conflicting information being sent to the policyholders.
- Inform the policyholders about the implications of a midterm coverage move, a move at expiration, or remaining with the current carrier. Explain the possible loss of unearned premium if the carrier does become insolvent and coverage must be replaced midterm or the possibility of short rate cancellation terms if moved prior to actual insolvency or in an assessment situation.

- Offer the policyholders the option to move coverage midterm, and if declined, advise them that you will investigate replacement coverage at renewal with their agreement.
- Let the policyholders make the decision regarding coverage. Have them confirm the option selected in writing.
- If coverage is moved midterm, attempt to secure prorated cancellation terms from the existing carrier due to the circumstances outside the policyholder's control.
- Maintain positive relationships with both the carrier and policyholders. Policyholders should understand that you are looking out for their interests by doing all you can do to protect and inform them.

PROTECT YOURSELF

- Immediately review the facts concerning the ratings downgrade or assessment action using your agency's market selection and review process. Decide on a course of action and apply it consistently to all policyholders. Document all decisions reached and develop a written plan to follow.
- Check with your Association concerning the issue and any recommendations or loss control measures it may recommend.
- Consult with your own legal counsel regarding your actions and the content of what is sent to policyholders.
- Document all actions taken by the agency in responding to the situation.
- Keep informed about the issue in order to answer policyholder questions without delay and to demonstrate full and accurate knowledge to the policyholders.
- In letters to policyholders consider using wording such as:
 "As we discussed when you selected this coverage option..."
 "Per the summary sheet provided you/that you initialed..."

The intent is to remind them that THEY made the decision and were properly informed as to all options available.

- Maintain a positive relationship with the carrier. Avoid any negative references regarding it or its actions.
- Clear any correspondence with the carrier if required. Check your contract with the carrier to determine what your duties or limitations may be in regards to the issue.
- Be consistent! If you do something for one policyholder, do it for all of them.

For more valuable agency E&O risk management information and tools available exclusively to Swiss Re policyholders, visit www.independentagent.com/EOhappens.

The information outlined on this sheet is a guide to policies or procedures that are considered good minimal business practices. It does not include all potential controls and is not intended to warrant that claims will not be incurred if guideline elements are followed. This information is based upon general risk control suggested practices and is not intended to be, or represented as legal advice.