E&O Risk Management: Meeting The Challenge Of Change

Risk Assessment Questionnaires and Coverage Checklists
Risk Assessment Questionnaires and Coverage Checklists

Objectives:
- Understand the benefits of risk assessment questionnaires and checklists
- Learn how checklists can assist in the defense of E&O claims
- Review agency practices for using questionnaires and checklists

What’s Covered:
Introduction .................................................................................................................................... 2
Benefits of Risk Assessment Questionnaires and Coverage Checklists........................................ 2
E&O Claims Driver ........................................................................................................................... 2
What’s included in Coverage checklists .......................................................................................... 3
Recommended Practices ................................................................................................................ 4
Developing Customized Coverage Checklists ............................................................................... 4
Consistency – Using the same E&O Coverage Checklist ................................................................ 4
Establishing a Criteria for Using Coverage Checklists ............................................................... 4
Renewal Business - Really! ........................................................................................................... 5
When Coverage Checklists Aren’t Used ....................................................................................... 6
Help at your Fingertips - Big “I” Advantage Virtual Risk Consultant .............................................. 6
INTRODUCTION

In the past risk assessment questionnaires and coverage checklists were viewed as a learning tools for new employees. Today, they play an important role in providing another layer of defense for an agency against some of the more common E&O allegations. Insurance agents may be expected to uncover the loss exposures for a diverse customer base which can be very difficult. This coupled with the complexities of insurance coverages can increase the ever present chance of forgetting to ask about an exposure or failing to uncover an unusual or unique activity. That is why we never leave home without our checklists!

BENEFITS OF RISK ASSESSMENT QUESTIONNAIRES AND COVERAGE CHECKLISTS

The benefits of using checklists are numerous and varied. Coverage checklists offer a strong defense when used consistently across all agency departments during the new and renewal process. Agencies that utilize them know that, in addition to E&O benefits, checklists increase production and improve customer service.

Here’s a summary of some of the benefits:

• Helping the agency reduce exposure to both knowledge and procedural-based E&O claims.
• Providing some vital documentation for the customer file – a valuable defense tool.
• Making it easier for producers to identify customer risk exposures and to fill gaps in coverage.
• Facilitating an increase in agency premium production through cross selling opportunities, uncovering hidden profits.
• Providing a clearer picture of customer needs and understanding of their business, increasing customer perception of professionalism

E&O CLAIMS DRIVER

The leading driver of E&O claims is “failure to procure coverage”. Although each claim is unique, an evaluation of these types of E&O claims reveals that they are primarily a result of one of the below issues. Checklists can help address both types of E&O claims.

1. A lack of coverage knowledge or improper guidance regarding coverage
2. Procedural failures – generated from a lack of timely action or follow-up, including not properly documenting the customer file.

Does the use of checklists help in the defense of an agency’s E&O claim? In general, Swiss Re Corporate Solutions indicates that the more often a comprehensive coverage checklist can be used, particularly in jurisdictions with challenging legal environments, the better position they will be in to offer a solid defense.

When presenting quotes and proposals it is recommended that additional coverage options be included beyond those requested by the customer. The continual use of checklists allows the agency to document an on-going process of coverage option recommendations.

Checklists can make your agency staff less vulnerable to agency E&O claims. They can help you avoid the most common E&O claims such as “failure to procure the coverage requested”, “failing to recommend coverage”, “failing to identify exposures”, and “not adequately explaining policy provisions”.

WHAT’S INCLUDED IN COVERAGE CHECKLISTS

Checklists allow for exposure identification, open dialog, sales opportunity and documentation. Most include basic coverages and endorsement options, as well as a means to document the offer and the acceptance or rejection by the customer/prospect.

A comprehensive coverage checklist provides you with a list of exposures – commercial or personal. The checklist:

- Enhances exposure identification through a review of the coverages listed.
- Will usually have areas beside each coverage description allowing for the agent to check the following: no exposure exists, recommended and accepted, and recommended and rejected.
- Most checklists provide an area for the client to initial next to any coverages that are rejected and for a signature at the bottom of the checklist.

Since it would be impossible for any checklist to include every conceivable coverage or endorsement available, additional product knowledge and a clear understanding of a particular insured’s activities or exposures are necessary for any thorough exposure analysis.
RECOMMENDED PRACTICES

The standard of care an agency must meet is largely determined by the state in which it is doing business. However, an agency’s use of risk assessment questionnaires and checklist does not in itself necessarily establish a higher standard of care.

It is recommended that agencies institute the use of a standard checklist for all personnel when reviewing coverages with both new and current customers. There should be a single checklist or system of lists used by all agency personnel. A well developed and comprehensive checklist allows the documentation of coverages proposed, accepted and rejected. It should also be noted that failure to use checklists does not necessarily signify that the agency is negligent in their duty owed to their customers.

DEVELOPING CUSTOMIZED COVERAGE CHECKLISTS

Agencies often times may target certain segments of the market place and may desire to create checklists that are tailored to their individual needs. Although the agency may prefer this approach, it is recommended that it consider using industry standard checklists. The reasons for this E&O recommendation are:

• Coverage checklists should be thorough, current, and standardized.
• It can be challenging for an agency to develop and update a comprehensive checklist without missing something.
• Using commercially available checklists means that agency staff is less likely to modify the checklist.

CONSISTENCY – USING THE SAME E&O COVERAGE CHECKLIST

From an E&O standpoint, agency procedures must be consistent. Therefore, along with all agency staff using the same checklist for customers, the agency’s procedure manual should outline when the checklist must be used and the procedure for using the checklist. Some agency management systems may also offer risk analysis checklists as part of the system.

ESTABLISHING A CRITERIA FOR USING COVERAGE CHECKLISTS

The most frequently asked question is whether a checklist should be used for every customer. The short answer is “yes”. Although it is always a good idea to have consistency in any agency procedure, from a practical standpoint, however, it may be unrealistic to expect risk
assessment questionnaires and checklists to be completed for every customer. Agencies should establish a written procedure outlining when checklists should be used, what checklists should be used, and how documentation is to be completed and maintained.

Establishing criteria regarding the use of checklists should be included in the agency’s procedure manual. Criteria should not be based on either premium or commission. Rather, an agency should establish the procedure based on sound risk management identification of those accounts that may require continual updating. Suggested accounts that an agency may require the use of checklists can include:

- All new business accounts
- Complex commercial or personal accounts
- Accounts with unique exposures
- Insured’s placed in specialty or target market programs
- High risk insured with severity potential
- Emerging exposures
- Contractors

Once criteria have been established it is imperative that the use of checklists be mandatory for all agency staff, without exception. Procedures should include when checklists should be completed and by whom.

**RENEWAL BUSINESS - REALLY!**

Your agency procedures may currently include the use of checklists for all new business accounts. Using a checklist at renewal may not currently be part of your renewal procedures; however, consideration should be given to the use of checklist for renewals also.

It has been said that “the only thing that is constant is change”. Claims are frequently generated from accounts that are renewed “as is”. The “as is” concept may be narrowly interpreted as only applying to a renewal policy that duplicates the previous policy information. However, “as is” can also be more broadly interpreted as simply increasing limits, or changing deductibles from last year but not engaging in an exposure analysis. When the only changes made from last year to this year involve increasing property limits to keep up with inflation, amending deductible to control costs, or increasing the premium basis to reflect current exposure, the renewal policy is little more than an “as is” renewal.

Checklists provide a more thorough review of the insured’s current needs. Insured’s do not necessarily understand how changes in life or business activity impact insurance needs. They often rely on their insurance professional to identify their current loss exposures and
recommend any insurance solutions available to them. Therefore, without a comprehensive review of coverage needs, and on a regular basis, these changes may result in new exposures that remain unidentified. An added bonus is the potential sales opportunity which could result from identifying unknown exposures or coverage needs.

WHEN COVERAGE CHECKLISTS AREN’T USED

While using checklists on all accounts is most desirable, in the real world that may not happen! The agency should have a procedure in place to offer the availability of a more comprehensive exposures analysis at the request of the customers. A letter indicating that coverage has been placed as requested could include an offer to complete a risk analysis checklist if the customer is interested. The importance and benefits of this more thorough checklist risk analysis can be stressed. Maintaining the letter in the customer file will serve as documentation of the offer.

HELP AT YOUR FINGERTIPS - BIG “I” ADVANTAGE VIRTUAL RISK CONSULTANT

The Big I Advantage® Virtual Risk Consultant, powered by Rough Notes (VRC) is an on-line insurance reference library. It provides the resources you need to understand your customers’ operations and exposures while identifying appropriate coverages. And it gives you resources your agency needs, such as E&O checklists, sales and marketing tools, proposal language plus training and development support.

The VRC will provide you with tools to help you:

- Analyze the risk exposure of your customers
- Put together winning proposals
- Effectively market the agency’s services
- Provide tools to find alternative markets

More specifically, the VRC includes:

- Risk exposure checklist and questionnaires
- Narrative overview of customer operations
- ACORD forms and applications
- Various articles on insurance topics agencies can publish

For a complete list of what is included, visit www.iiaba.net/vrc. Samples of the VRC risk exposure analysis process are below.
The VRC Process (analyzes exposures of over 600 types of business):

Understanding the Risk Exposure:
Building the Risk Assessment Questionnaire:
Documenting coverage offered with the coverage checklist:

<table>
<thead>
<tr>
<th>PROPERTY COVERAGE</th>
<th>Recommend</th>
<th>Accept</th>
<th>Reject</th>
<th>Not Applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building and Personal Property Coverage Form</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Business Personal Property</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personal Property of Others</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Improvements and Betterments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Condominium Coverage Form</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Condo-Unit Owner Coverage</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Auto Policy</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>