

IBDC

- E&O Market Update - How to Win in This Dynamic Environment

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THE NEWS: DYNAMIC MARKET

- Turbulence in the stock market
- BREXIT, China economic slowdown, other global uncertainty
- REIT space had an earthquake with Realty Cap, and now UDF (United Development Funding)
- Election year
- DOL / ERISA Issues – new rules, new procedures, new sweeps
- What's next?

E&O CLAIMS ARE INEVITABLE

Three Main Objectives

- 1. Specific ways to prepare now for the potential litigation**
- 2. Protect your bottom line and**
- 3. Prepare for your next E&O renewal in order to secure the best possible terms**

1. PREPARE NOW FOR POTENTIAL LITIGATION

- Assess your risk.
 - What was sold? In what amounts?
 - Any concentrations/product, client?
- Review documentation.
 - Relevant to what your assessment revealed.
 - Relevant to WSPs.
 - Relevant to Sponsor docs and marketing materials.
- Determine if communication with clients will help?
- Seek legal counsel if necessary.
- Be careful about what is in writing internally.

2. PROTECT YOUR BOTTOM LINE

- Determine if an E&O claim is likely.
- Potential Claim vs Actual Claim.
- Settlements can be advisable.
- Also report to D&O policy, or Fidelity Bond?
- Buy the best E&O coverage, push to get the best terms possible (its hard work).

3. PREPARE FOR YOUR NEXT E&O RENEWAL

Unpack The Details

- Insure your uninsured risk.
- Gain insight as to how an underwriter reviews a firm (with and without claims).
- How to complete the application.
- The best time to submit your application.
- How to help your broker negotiate the best terms.

INSURE YOUR UNINSURED RISK

- Broker the heck out of your insurance / brokers and insurers.
- Consider in advance the amount of risk sharing (deductibles/limits).
- Prepare your argument /what, who, how, why, which reps will/won't sell certain products.
- Show and tell time / documents, website tours, newsletters, etc.
- In person or telephone underwriting meetings.
- Additional coverage – Cyber, D&O, EPL, etc.

THINK LIKE AN UNDERWRITER

- Every firm has had a claim (if not, you're due).
- Risk-averse risk-takers. It's a "me too" industry.
- Underwriters are people too.
- Relationship-driven, based upon trust.
- What is the history? How likely to continue?
- If bad news, what was learned? What has changed?

HOW TO COMPLETE THE APPLICATION

Part 1

- The process is a beauty contest, the app is the evening gown.
- Complete the application.
- Everything has to add up.
- Explain any “other” answers.
- Be robust with narrative quality control answers.
- App should flush with website and regulatory record.
- All of the above is critical for timely quotes.

HOW TO COMPLETE THE APPLICATION

Part 2

- Include all requested attachments.
- Claim details should include:
What, When, Who, Defenses to Allegations,
Status and Resolution.
- Electronic submissions—Clearly label all pdf docs.

Bottom Line:

- Make it easy for your broker and underwriter = quicker quotes.

THE BEST TIME TO SUBMIT YOUR APPLICATION

- **EARLY** = 60-90 days in advance.
More time to review options and negotiate better terms.
- Pre-renewal meetings are terrific.
- Broker should monitor the loss runs and direct clean-up of data.

HOW TO HELP YOUR BROKER NEGOTIATE THE BEST TERMS

- Do all of the above.
- Keep us in the loop on claims activity.
 - direct traffic
 - communication coordinator
 - review coverage position
 - make referrals to experts
- Involve us in proposed / actual changes in the organization.
 - adding new product types
 - bringing on a group of reps
 - considering a merger or sale
 - we know people
 - we are not in the weeds

YOUR TAKE-AWAYS

- Prepare **in advance** for your next E&O renewal in order to secure the best possible terms.
- Insure your uninsured risk.
- Gain insight as to how an underwriter reviews a firm (with and without claims).
- How to complete the application.
- When to submit your application and why,
- How to help your broker negotiate the best terms.

How Did We Do — Questions — Thank you

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