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The Name You Can Trust For Insurance

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Business Insurance

REVIEW

Important aspects of insurance and loss prevention for business owners and managers

The hard market for insurance continues

Having no doubt already faced substantial increases in premium and the tightening of the market last year, you should be prepared for more of the same. The situation may not stabilize before the end of this year. Insurers continue to limit their writings drastically as they try to recover from deep financial woes. One particularly disturbing tactic has been their refusal to renew policies, regardless of how long they may have been in force and whether they have been profitable for the insurer or not. There are three main reasons for this situation that touches virtually every insurer.

First, there has been a large reduction in capital in the market. Plunging investment returns and lack of infusion of new capital have been to blame. The effect has been to reduce the assets of insurance companies. This has reduced their ability to write business, since the underlying reserves to cover anticipated future loss payouts must be maintained above minimum levels

determined by insurance company regulators. Ordinarily, the shortfall might have been made up in large part by laying off more risk to re-insurance companies. However, they too have been hit by loss of capital. Their response has been to tighten the contracts they offer insurers. This can be through higher prices, more restricted coverage or frequently a combination of both.

Second, steeply fallen investment returns have exposed the traditional industry practice of relying on investment returns to cover underwriting losses. Now, risk assessment and proper pricing have taken on the importance they should never have forfeited. Accepting business at prices needed simply to gain market share is no longer the driver.

Third, catastrophes, both man-made and natural, have resulted in

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unprecedented claims payouts to date and reserved for the future. For instance, asbestos-related litigation that started some 20 years ago is still ongoing. Add to this the cost of many other diverse factors such as weather damage all round the world, mould damage to persons and property, and the World Trade Centre tragedy.

In view of this, insurers are well into reviewing their entire book of business. As well as identifying individual policies and accounts that have been unprofitable, they are examining their business by class and geographic spread to help them decide what to do in the current environment. In regions where they consider they write insufficient business to provide an acceptable spread of risk, they are withdrawing. Where classes of business have been consistently unprofitable, they are either ceasing to write such business or are reducing their volume of business. Currently, automobile insurance in more than half of Canada, falls into this category. Quebec, British Columbia and Manitoba are the exceptions. British Columbia has its own special problem, however. A shortage of capacity to write Earthquake insurance in the Province has created major headaches. Insurers are reducing their exposures ruthlessly.

As your brokers, we are doing everything we can to place the coverage you need for the continued protection of your business at the best prices we can negotiate with insurers on your behalf. If you track the level of premiums you have paid over the past years, you will be able to put into better perspective the premiums now being quoted to you. Like you, we hope that there is now some light at the end of this particular tunnel!

Do you know...

DEDUCTIBLE CLAUSES ARE NOT ALL THE SAME?

The wording of Deductible clauses in the majority of policies is easy to understand. Most of the time, they are expressed in dollars. Always remember that deductibles are applied to the amount of your claim and not to the amount of insurance. For example, suppose you have an asset valued at \$1,000,000 insured for \$900,000 to comply with a 90% Co-insurance clause in your policy. Say, also, that your policy is subject to \$25,000 Deductible. If you had a loss of \$900,000, you would receive \$875,000.

Payment for any smaller loss would be reduced similarly. But should your loss be \$1,000,000, the amount of your claim would be \$975,000, which exceeds the limit of your policy. Having only \$900,000 insurance, you would be paid the full amount of the policy. You would bear the \$100,000 balance of the loss yourself. This applies to any loss greater than the policy limit.

Business Interruption policies may be subject to a deductible expressed in dollars too. Alternatively, some of them contain a "Time Element" deductible, particularly in connection with Boiler and Machinery and Energy policies. This delays the start of the Indemnity Period for a given number of hours or till a given time arrives (e.g. first midnight) after the loss is sustained. In your Automobile policy, you will also find a form of Time

deductible that applies following theft of your vehicle. Unless the policy provides full Loss of Use coverage, you will only be reimbursed for the cost of replacement transportation starting 72 hours after you have reported the theft to the police or the insurer.

Occasionally, you may find Property policies that contain a Disappearing Deductible clause. A formula in the policy links the amount of any loss to the initial deductible amount. A calculation determines the deductible that applies to each particular claim. The greater the loss, the smaller the deductible becomes until it disappears altogether. Bigger claims are thus not subject to any deductible. There are also policies whose deductible disappears when a claim is equal to or exceeds a stated multiple of the deductible (e.g. when the loss is 10 times the deductible).

Marine policies are sometimes written with a Franchise clause. This is another form of deductible. It provides for no payment of claims smaller than the deductible but full payment of all losses that exceed it.

When reading any policy, you should pay close attention to exactly the form of deductible it contains. This explanation is meant to help you recognize the different kinds you may meet.



You may need Valuable Papers and Records insurance

Many businesses today depend on important records containing data and information that are needed on a day-to-day basis or for record purposes. Whether on computer or hard copy, their destruction would disrupt commercial activity. How you insure against this risk can be very important.

Property policies covering general Office Contents spell out the extent to which they insure loss or damage to documents and records. Basically, it is limited to the cost of blank books, blank pages or other materials, plus the cost of labour for actually transcribing or copying those records. Similarly, loss to media, data storage devices and programme devices for electronic data processing or for electronically controlled equipment is limited to the cost of reproducing such media and devices from duplicates or copies. Obviously, to do this, you must be able to obtain that information somewhere. Otherwise, you must deal with this insurance problem in a different way.

If you are a lawyer, architect or engineer, there will be many original working documents in your office of which no copies exist. The same holds true for other professions, trades and businesses where work is not duplicated as it is produced. To be covered for the destruction or loss of such material, you need Valuable Papers and Records insurance (VP) to cover all your expenses to recreate the lost information. It includes the cost of gathering or assembling information or data to be reproduced.

Office Contents/Equipment policies usually provide for a small sum to cover VP as an extension of coverage. This is inadequate if you have a significant VP exposure. Be sure the wording of your Valuable Papers and Records policy includes an accurate description of all the forms of VP you wish to cover. For instance, one such wording reads "...written, printed, or otherwise inscribed documents and records, including books, maps, films, drawings, abstract, deeds, mortgages

and manuscripts...".

Full coverage usually applies only within your premises. When not open for business, any VP not actually being worked upon must be kept in receptacles listed in the policy. Be sure to check that any sub-limit that applies to VP being conveyed outside your premises or while temporarily in other premises is adequate for your needs. If not, we must either negotiate an increase with your insurer or you must control the short-term removal of VP from your place of business.

To cover all your computer programmes and data, you must do so as part of your Electronic Data Processing policy. If you back-up records consistently and frequently and store the media away from your workplace, you will reduce your exposure dramatically. However, information input between the time of the latest back-up and the time of the loss will still need to be created again. You should allow for this potential loss in your insurance programme.

SUBSTANTIAL LOSSES HAVE RESULTED FROM LEAKS FROM UNDERGROUND TANKS AND PIPING

If you have had no problems, you may wonder what has been happening elsewhere. These examples of actual claims paid by a major Canadian insurer of pollution risks will give you a glimpse of problems that can arise.

A leak in a fuel line to an underground storage tank at a gas bar caused contamination of the soil and groundwater of a neighbouring property. The claim was settled for \$170,000.

Gasoline leaked from tanks at a convenience store. Nearby homes were evacuated due to fumes. The homeowners' claims were paid. In addition, the local environmental protection department required that the site be remediated. This cost \$150,000 and was paid, plus \$1,100 expenses.

A product line hose running underground from a tank to a

pump disconnected, discharging gasoline. The environmental protection agency required clean up of the site and a third party claimed property damage due to the pollution that emanated from the hose. Damages initially assessed at \$700,000 were ultimately settled for \$786,993, with additional expenses totaling \$16,500.

A leak was detected in a 4,000 gallon underground storage tank. Payments for the claim included remediation costs of \$100,000 and \$1,700 in expenses.

The lesson these examples teach is that if you have any tanks or underground piping, the potential risks you run can be substantial. Environmental Liability insurance is an option you would be well advised to explore, if you have not already done so.

INSURANCE

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Q. After fire damage to his store, a retailer finds and rents temporary premises nearby in order to carry on business while the store is being repaired. On re-opening at the original location, he reviews with the insurance adjuster his expenses at the temporary location. On what basis will his Profits and Extra Expense insurance pick up those costs?

A. Extra Expense is defined as "...the excess (if any) of the total cost during the period of restoration over and above the total cost that would normally have been incurred during the same period." The adjuster would therefore compare the total cost of expenses under normal operating conditions during the period of interruption to the total expenses actually incurred during that period. It is important to note that new expenses (e.g. rent of temporary premises) are not automatically paid. They may be offset by a reduction in expense elsewhere (e.g. no rental payment at the original premises). After the total amount to be paid has been determined, it will then be apportioned between the Profits and Extra Expense policies. The Profits policy pays first. It will cover the expenses as "Increased cost in working" to the extent it reduces the loss of Profits otherwise payable. The balance of the claim would fall under the Extra Expense policy, subject to any relevant terms and conditions that may apply.

Terrorism coverage

As a consequence of the devastating terrorist attacks on the World Trade Centre in New York City on September 11, 2001, most insurers exclude coverage for losses due to acts of terrorists from their policies, unless prohibited from doing so by law.

In the absence of a specific policy exclusion for the acts of terrorists, the insurers who covered the owners and occupants of the WTC tested if the war exclusions in their policies might shield them from the huge claims that followed. While there is no Canadian Law on this issue, American courts have considered whether war risk exclusions apply to terrorist activities. They have rejected arguments that the terrorist act fell within "warlike operations", "insurrection", "riots", and "civil commotions". Since this risk is potentially ruinous, insurers have introduced new policy exclusions, which refer clearly to terrorism.

Canadian Insurers are not taking a uniform approach to a "Terrorism" exclusion. One company has added its own description to all its Property and Personal Liability coverages. It has also excluded "Terrorism" under any Mass Evacuation Additional Living Expense coverage provided by its policies. The

definition it has adopted reads: "an ideologically motivated unlawful act or acts, including but not limited to the use of violence or force or threat of force, committed by or on behalf of any group(s), organization(s) or government(s) for the purpose of influencing any government and/or instilling fear in the public or a section of the public."

It is difficult to assess the likelihood you may be exposed to random acts of terror. Certainly, if your business is located close to military establishments or public utility installations, you may be more exposed than if you were located elsewhere. The same may hold true if you are near other government facilities and landmarks.

While the U.S. and U.K governments are providing financial support by way of re-insurance to insurers willing to enter this field, the Canadian government has not done so. As a result, a market has opened in the U.S.A. to insure against the risk of terrorism but one has not yet developed here. Meanwhile, we advise you to understand how your own business and personal policies read. We will be pleased to clarify any doubts or answer any of your queries about them.

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