

Utica National's Errors & Omissions

RISK MANAGEMENT ALERT

We KNOW
for Insurance Agents



Develop a Risk Management Program for Your Agency

Risk Management focuses on “accidental losses” by identifying conditions that can create a loss (exposures), applying risk control actions to help prevent losses, and determining the best risk financing approach to address losses that occur (E&O insurance). This document will help guide you through the process of developing a risk management program.

A risk management plan identifies and analyzes potential risks to your agency and enables you to develop strategies to help reduce, transfer, or eliminate your risks. Developing a risk management plan involves four steps:



1. Identify exposures.
2. Develop a plan to manage the exposures.
3. Implement the program.
4. Monitor results.

1. IDENTIFY EXPOSURES. Identify potential risk exposures that could impact your agency. This process should involve your senior management, who will ultimately be responsible for implementation and oversight of the risk management plan and be integral to its success.

Once you have developed a list of exposures, evaluate your current risk posture and appetite. Consider which risks are the most significant exposures and prioritize addressing them first.

2. DEVELOP A PLAN TO MANAGE THE EXPOSURES. This may include adjusting your policies and procedures, making changes to your insurance policies, reconsidering carrier relationships, conducting training sessions with your staff, implementing new technology, etc.

Staff

- Do you have a structured onboarding and training plan for new hires? Is an E&O overview a part of your new-hire training? [Your New Hires: What's Their E&O Loss Prevention Culture?](#) (5-R-1348)
- Do you have a policies and procedures manual? If so, is it clear to staff and regularly updated? [Create or Update Your Agency's Policies and Procedures Manual](#) (5-R-1444)
- Do you track employee licensing to ensure they have the correct licenses for their role and that their licenses remain active?
- Do you monitor continuing education courses and require certain coursework to ensure your personnel gets quality, relevant information to do their best work, improve customer experience, and avoid E&O claims?
- Do you require your staff to obtain designations relevant to their positions? How do you track their progress?
- Do you have an action plan to address an employee not working to your agency standards?
- Do you have an auditing plan in place to ensure that staff is performing as expected?

Carriers/Brokers

- Who is responsible for reviewing new carrier or broker agreements? What contract provisions are you comfortable with?
- What are the minimum standards you expect for new markets you may want to consider placing business with?
- Do you regularly review carrier ratings to ensure ongoing financial stability? Do you have a procedure to address how business should be handled if the carrier's financial stability rating is downgraded? [Carrier Ratings: Have the Necessary Process in Place](#) (5-R-1216)

Agency Website

- Do you have statements on your website that could increase your exposure in the event of an E&O claim? Has your website been reviewed by your attorney? [Could Your Agency Website Be an E&O Target?](#) (5R-1300)
- Has your staff reviewed your website in detail? Are they aware of any qualifying statements on the website they need to live up to? For example: Your website states that you review your clients' coverage to ensure they have the most competitive coverage available. Is your staff truly shopping every account continuously to ensure this is true?
- Who is responsible for reviewing content before it is added to your website?
- Do you regularly review your marketing materials, whether created by the agency or content provided by the carriers, to ensure the information contained in them is still accurate?

Continued

Quoting/Binding

- Do you use disclaimers on your proposals to help protect the agency? [Boost Your Agency's Defense with Disclaimers](#) (5-R-1389)
- Do you require your agents to offer multiple limits options whenever possible? [Are Your Clients Carrying Adequate Limits?](#) (5-R-1297)
- Do you require a signature from clients to acknowledge placements with non-rated carriers?
- Do you require your agents to use checklists?
- Do you require your agents to obtain signed applications on all accounts?
- Do you send clients an exposure form/questionnaire at each renewal to ask about exposure changes? [Communicating with Your Customers at Renewal is Critical](#) (5-R-1194)
- Do you require clients to sign an acknowledgement for coverage rejections? [Use the Declined Coverage Form as an Important Marketing and E&O Prevention Tool](#) (5-R-1315)

Surplus Lines Placements

- What process do you have to ensure the agency is properly licensed to handle surplus lines business?
- Who is responsible for filing surplus lines taxes and ensuring the policies are stamped according to state requirements? How do you ensure you are staying up to date with changes to tax rates or stamping requirements?

This is not an all-inclusive list of exposures. Disaster preparedness, cyber exposures, legal compliance, etc., are just some of the other items you may need to consider.

3. IMPLEMENT THE PROGRAM. Once you have identified your exposures and developed response plans, implement the program and make any necessary changes. Developing an agency culture that emphasizes the importance of risk management will go a long way toward making your risk management program successful. Your management will be your front line, communicating the importance of risk management and any changes made as part of your plan.

Once you have developed a list of exposures, evaluate your current risk posture and appetite. Consider which risks are the most significant exposures and prioritize addressing them first.

4. MONITOR RESULTS. Changes to policies and procedures should be monitored for compliance by auditing. Determine what changes are working successfully and make changes when you aren't obtaining the desired results. Review your risk management program regularly and address new risks quickly.

Risk Transfer and Your Insurance Agents' E&O Coverage

Your risk management plan should also include insurance coverage to help protect you against financial risks that could devastate your business. One of the most important decisions you can make for your agency is securing high quality Agents' Errors & Omissions coverage. No matter how careful your agency is, you can still face a lawsuit from an unhappy client. Consider the following when purchasing E&O insurance for your agency:

- **Who is responsible for purchasing your agency's E&O coverage?** Have an owner or officer of the agency handle this process. Complete the application as thoroughly and accurately as possible. Review the policy form to ensure you understand the coverage. Contact the carrier for clarification prior to binding coverage if you are unclear on any aspect of the coverage.
- **What are some coverage aspects to consider?**
 - Is the policy claims-made or claims-made-and-reported?
 - Are defense costs included within the policy limits or in addition to the policy limits?
 - Does the deductible apply to loss only or loss and defense costs? Are there opportunities to receive a discounted deductible? For example, some carriers may reduce your deductible by 10% or more if you have a claims-free history.
 - How does the policy define professional services?
 - Does the policy cover claims as a result of a carrier going insolvent? If so, are there any restrictions to when this coverage applies?
- **What should you consider when choosing an E&O carrier?**
 - Does the carrier hold a good financial rating?
 - How long has the carrier written Agents' Errors & Omissions insurance? Do they have proven longevity?
 - Do you have direct access to the Underwriters and Claims Department?
 - Does the carrier offer risk management content and resources that you can use?
- **Do you have sufficient limits to address your risk?** Annually review the limits you carry. Increase your limits as your agency grows. Most agencies will expand into larger and more complex risks. While it is difficult to determine the "right" amount of limits to purchase, consider how much coverage you would need to cover the highest limits purchased by your clients.
- **Are you planning to acquire a book of business or agency in the next 12 months?** If so, carefully review the provisions in the policy. E&O policies will typically have limited automatic coverage and require you to contact the carrier for coverage to extend past that point. Most carriers will not extend prior acts to acquired books of business, so it is important to require the seller to obtain tail coverage for the business.

- **Are you considering selling your agency in the next 12 months?** In this case, you will likely need to purchase tail coverage to address claims from business written prior to the sale. Tail coverage must be purchased within a timeframe the carrier defines. This is typically limited to 60 days post-sale. Contemplate the cost of tail coverage when determining your sale price.

Utica National's Risk Management Resources

The Utica National companies have many resources available to our policyholders that can assist you in developing a risk management plan for your agency.

- Our Risk Management website. [Benefit Your Agency with Our Online Customer Care Center and Errors & Omissions Risk Management Resources](#) (9-A-3105)?
 - Risk Management articles & tips
 - Agency self-assessment
 - Claim Examples
 - Online courses and streaming videos through Zywave
 - Emergency Preparedness Toolkit
 - For our Cybersurance policyholders, you have access to information and tools in our Cyber Risk portal powered by Cyberscout. [Take Advantage of Cyberscout's Free Resources](#) (9-A-3010)
- [Pre-Claims Assistance Helpline](#) (9-A-2885)
- [Employment Practices Helpline](#) (9-A-2611)
- Checklists, exposure analysis, and more through Rough Notes Pro and Rough Notes Advantage Plus available to our policyholders at a discount. [Save Money on Exposure Checklists and More](#) (9-A-2011)
- Planning to acquire an agency or book of business? Utilize our [Errors & Omissions Agency Acquisition Checklist](#). (9-A-3085)
- [What Should You Do When a Customer Makes an Allegation of an Error or Omission?](#) (5-R-1320)

Ready to Help

Are you looking for risk management guidance on a particular topic? Reach out to Tabitha DeGirolano of our E&O team for help at tabitha.degirolano@uticanational.com.

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