CUG.COMments

A Newsletter from Chicago Underwriting Group, Inc.
Underwriters of D & O and Professional Liability Insurance

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Placing D&O Business in the Internet Age

In less than a decade, information gathering has gone from snail's pace to "warp speed." Thousands of web sites bursting with data, coupled with sophisticated search engines that can direct you to the right ones, have enabled anyone with a computer to tap a seemingly bottomless pool of intelligence. This issue of **CUG.COMments** looks at some implications for the D&O placement process and reiterates the importance of candid disclosure by policyholders to carriers.

Internet Trap

For those who work in D&O insurance the Internet's impact has probably been as significant as for any industry. Sites which display SEC filings, class-action news, stock charts and insider trading data are instantly accessible and up-to-date.

But the advantages of surfing for information come with potential drawbacks. Such data being so accessible, a less than assiduous broker may decide that all he needs to do is send underwriters a few URLs and his job is largely done.

Access to this data has clearly helped insurers obtain some of the numbers and facts needed, but such data is in the public domain, and if the broker brings nothing more than some web links, carriers may begin to question the value of the commission being paid.

More is Needed

Mindful of information overload of dubious relevance and aware of the underwriters' right to a fair review of the exposures, diligent brokers advocate their clients' cause by expanding on public information with details not generally available. These could include any issues from the past, the company's present situation as well as the insured's future plans. This enlightenment cannot be gleaned from merely visiting web sites.

Many of our brokers arrange meetings and conference calls between carriers and clients. When an insurance buyer is introduced to appropriate underwriters and the buyer's senior managers have the opportunity to present themselves and explain why their company has good risk characteristics, the chances that a successful long-term program can be obtained increase significantly.

The Wrong Kind of Meeting

In August 2005 the California Supreme Court upheld the rescission of a D&O policy based on a failure of an insured person to accurately describe his company's revenue recognition practices. A significant part of his alleged misrepresentation occurred during a meeting with

the underwriter. This underscores first, how critical it is that disclosure made during meetings and calls is accurate, and second, that representations in meetings and calls are no less significant than when made in writing.

It is always better to describe a difficult situation honestly than gloss over it or try to ignore it; that may provide the illusion of a short-term benefit, but in the end dissembling will usually be discovered, and with potentially disastrous consequences. Many underwriters respond positively to candor and will usually work to find some kind of solution to a troubled situation: no underwriter responds well to relevant information being withheld.

Bankers and Insurers

Insurance underwriters are rarely given the confidential insights into an insured's business that are routinely afforded to its bankers, but in some respects the relationship is identical, differing only in the timing. Bankers give the tangible and immediate benefit of money today, a condition of which is disclosure about the company's current position and future plans.

Insurers, on the other hand, can today offer only a promise and an invoice, and so are often deemed less worthy of the buyer's confidence. However, the value of an insurer is not measured when any premium savings are calculated but when the policy is tested by a claim, where the dollars involved can be substantial.

Summary

Buyers of D&O insurance may not need their insurers' money today, but may well need it in the future. Receiving that money could depend upon the completeness and accuracy of their cooperation during the underwriting process, guided as always, by the broker. ❖

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