

# Utica National's Errors & Omissions RISK MANAGEMENT ALERT

We KNOW  
for Insurance Agents

E&O

## Exercise Caution When Using the E&S Market

**Most agencies would not achieve the success they have without effective and diligent use of the Excess & Surplus Lines (E&S) market.** Whether the market is hard, soft, or somewhere in between, it entertains varied exposures and plays a vital role in insuring high property values and risks wanting extremely high liability limits.

**Using the E&S marketplace presents some significant challenges and issues that can raise the potential for an increase in the agency's E&O exposure.** It is critical to develop the appropriate processes to handle them. Use these best practices to help address more significant issues:

- 1 Follow up after sending an application to the wholesaler, to make sure they received it and will be able to provide a proposal by a specified date.** Periodic follow-up is also a good idea as you get closer to that date to verify a proposal is forthcoming.
- 2 Compare what you requested in the application to what is provided in the proposal.** There is a good chance the E&S market will not provide all of the coverages you requested in the app. Don't expect the wholesaler to tell what was and what was not included. Have a process in place for this because as the retailer, it is your responsibility to do the comparison of what was requested and what was provided. The importance of this cannot be overstated.
- 3 Secure specimen forms from the wholesaler as the E&S market is known for using some unique policy forms that can drastically modify the coverage.** Review these forms in depth as they may contain some unique exclusions or limitations of coverage. Many agents include these forms with the agency proposal. Encourage your insureds to review them to determine any areas of concern.
- 4 Don't advise the client that coverage is bound until the wholesaler tells you it is.** Technically, the wholesaler is the agent of record, so retail agents probably will not have any rights to bind coverage unless authorized and approved by the wholesaler.
- 5 Have procedures to get coverage bound at or before the inception date.** If coverage is bound afterwards, don't be surprised if the E&S carrier does not honor the effective date of coverage.

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**Contact the wholesaler far in advance of the desired effective date of coverage to determine if there will be any major differences in the renewal proposal.** In the admitted market, carriers are required to provide conditional renewal notices if the coverage is going to be changed. The E&S market is not held to this requirement. You could literally find out days before the desired inception date that some major terms and conditions have changed.

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**Check the E&S policy thoroughly to ensure the coverage is what was ordered.** It is amazing how many E&O claims could have been avoided by employing a thorough policy-checking process.

**TAKEAWAYS:** The E&S marketplace plays a vital role in the industry, but has different procedures than standard markets. Develop the appropriate procedures because these differences present many significant issues and challenges. Following these procedures can play a key role in reducing the chance of problems developing.

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