

PRINCIPLES OF RISK MANAGEMENT AND INSURANCE

CLASS NOTES

Chapter 14 Commercial Liability Insurance

Topics

- General Liability Loss Exposures
- Commercial General Liability Policy
- Employment-related Practices Liability Insurance
- Workers Compensation insurance
- Commercial Auto Insurance
- Aircraft Insurance
- Commercial Umbrella Policy
- Business owners policy
- Professional Liability Insurance
- Directors and Officers Liability Insurance

General Liability Loss Exposures

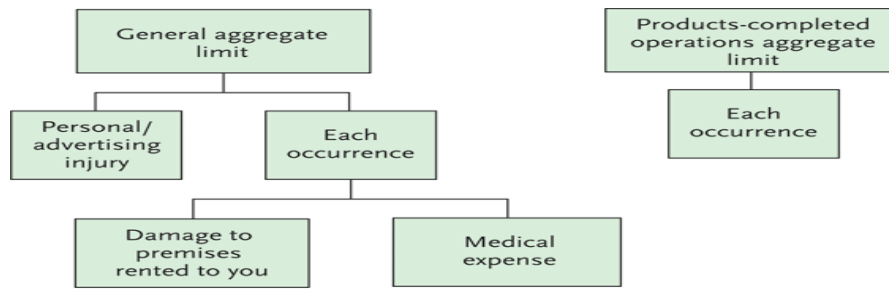
- General liability refers to legal liability arising out of business operations other than auto or aviation accidents and employee injuries
- A commercial firm typically purchases a commercial general liability (CGL) policy or a business owners policy (BOP) to cover its general liability loss exposures
- Some important liability exposures include:
 - Premises and operations liability, arising out of the ownership and maintenance of the premises where the firm does business
 - Products liability, arising out of the manufacturing and sale of products
 - Completed operations liability, arising out of faulty work performed away from the premises after the work or operation is completed
 - Contractual liability, arising out of the assumption of legal liability through a written or oral contract
 - Contingent liability, arising out of work done by independent contractors

Commercial General Liability Policy

- The commercial general liability policy (CGL) is widely used by firms to cover their general liability loss exposures
 - An occurrence policy covers liability claims arising out of occurrences that take place during the policy period
 - A claims-made policy covers only claims that are first reported during the policy period or extended reporting period, provided that the event occurred after the retroactive date, if any, stated in the policy
 - The CGL policy can be written alone or included in a commercial package policy
- Section I includes Coverages A-C
- Coverage A: Bodily Injury and Property Damage Liability

- The insurer agrees to pay on behalf of the insured all sums up to the policy limits that the insured is legally obligated to pay because of bodily injury or property damage
 - The bodily injury or property damage must be caused by an occurrence, i.e., an accident, including continuous or repeated exposure to substantially the same general harmful conditions
- Coverage includes defense costs, and the insurer has the right to investigate a claim or suit and settle it at its discretion
- Coverage A contains a lengthy list of exclusions, including:
 - Expected or intended injuries or damages
 - Liquor liability
 - Workers compensation and employers liability
 - Mobile equipment
 - Recall of products
 - Personal and advertising injury
 - Electronic data
- Coverage A includes fire legal liability coverage
 - Covers liability for fire damage to premises rented to the named insured or temporarily occupied by the named insured with the permission of the owner
 - A separate limit of coverage applies
 - Other damage to property rented by the insured is NOT covered
- Coverage B: Personal and Advertising Liability
 - The insurer agrees to pay those sums that the insured is legally liable to pay as damages because of personal and advertising injury
- The policy covers legal liability resulting from:
 - False arrest - Malicious prosecution
 - Slander - Wrongful eviction or entry
 - violation of privacy - Copyright infringement
- Coverage C: Medical Payments
 - The insurer will cover the medical expenses of persons who are injured in an accident on the premises or on ways next to the premises, or as a result of the insured's operations
 - Expenses must be incurred within one year of the accident
 - Payments are made without regard to legal liability
- Insureds also include persons not named in the policy:
 - Volunteer workers acting for the organization
 - Employees acting within the scope of employment
 - Any person or organization acting as a real estate manager
 - A legal representative if the named insured should die
 - Any newly acquired or formed organization, other than a partnership, joint venture or LLC

Illustration of the CGL Limits of Insurance



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- The ISO claims-made policy is similar to the occurrence policy with the major exceptions of:
 - Payment of claims is on a claims-made basis
 - The policy contains an extended reporting period provision
 - The basic extended reporting period, with two separate reporting “tails” is automatically provided in certain circumstances (e.g., cancellation)
- Under the ISO employment-related practices liability insurance coverage, the insurer agrees to pay damages resulting from a “wrongful act” arising out of:
 - Demotion or failure to promote
 - Wrongful termination
 - Negligent hiring or supervision
 - Retaliatory action against employees
 - Coercing an employee to commit an unlawful act
 - Work related harassment
 - Employment-related libel
 - Other work-related abuse
- Workers compensation insurance provides medical care, cash benefits, survivor benefits, and rehabilitation services to workers who are injured or die from job-related accidents or disease
 - Benefits are paid on the principle of liability without fault: the employer is held absolutely liable for job-related accidents and diseases regardless of fault

Workers Compensation Insurance

- Under Part One, the insurer agrees to pay all workers compensation benefits and other benefits that the employer must legally provide to covered employees who have a job-related injury or an occupational disease
 - There are no policy limits. The insurer pays all benefits required by state law
 - The employer must reimburse the insurer for any payments that exceed regular benefits in certain cases, e.g., willful misconduct by the employer
- Under Part Two, the insurer agrees to pay those sums that the insured is legally liable to pay as damages for worker injuries that are not compensable under Part One
 - This coverage is needed in some states where workers compensation is not required for smaller employers
 - Also, an employee may sue for injury caused by an accident at the job site, but the injury is not considered work related

- Part Three provides other-states insurance
 - The employer is covered for workers compensation claims arising in states not listed on the information page (declarations page)
 - Part One covers claims arising in any states listed on the information page
 - Part Three coverage applies only if one or more states are listed on the information page
- Workers compensation insurance provides economic security to workers who are disabled by a job-related accident or disease
 - Weekly cash benefits are paid during the period of disability; medical care is unlimited and rehabilitation and survivor services are available

Commercial Auto Insurance

- The ISO business auto coverage form is used to insure commercial auto exposures
 - There are ten numerical classifications or “symbols” for covered autos
 - Coverage of newly acquired autos depends on the symbols selected
 - The form includes liability and physical damage coverage
 - It includes limited liability for pollution losses
 - Options for physical damage coverage include comprehensive, specified cause-of-loss, and collision
 - Coverage for towing and labor costs can be added
- The garage coverage form is a specialized form for auto dealers
 - The insurer will pay all sums that an insured must legally pay as damages because of bodily injury or property damage caused by an accident in the course of garage operations
 - Garage operations includes garage business locations, autos covered under the form, and all operations necessary or incidental to a garage business
 - Damage to property of others in the insured’s care, custody, or control are excluded unless garagekeepers legal liability coverage is also purchased

Aircraft Insurance

- Most states apply the common-law rules of negligence to aviation accidents
 - Some states have absolute or strict liability laws that hold the owners or operators of aircraft absolutely liable for aviation accidents
 - Absolute liability is imposed on commercial airlines for aviation accidents that occur during international flights
- Aircraft insurance is highly specialized coverage and is underwritten by a small number of insurer organizations
- Major airlines generally buy a minimum of \$2 billion of liability coverage on their jets

Aircraft Insurance for Private Business and Pleasure Aircraft

- Aircraft insurers offer policies for private business and pleasure aircraft
 - Policies include coverage for property damage and bodily injury arising out of the ownership or use of the insured aircraft, medical

expense coverage, and physical damage coverage for damage to the aircraft

- Liability coverages include:
 - Bodily injury liability excluding passengers
 - Passenger bodily injury liability
 - Property damage liability
- Physical damage insurance provides coverage for direct damage to the aircraft
- Three forms are available:
 - “All-risks” basis
 - “All-risks” basis, not in flight
 - “All-risks” basis, not in motion
- The medical expense coverage pays reasonable medical expenses for passenger injuries
 - Crew members are generally excluded
- A commercial umbrella policy can protect a business against catastrophic liability judgments
- The ISO commercial umbrella policy pays the ultimate net loss in excess of the retained limit for bodily injury, property damage, and personal and advertising injury to which the insurance applies
 - The ultimate net loss is the total sum the insured is legally obligated to pay as damages
 - The retained limit refers to (1) the available limits of underlying insurance listed in the declarations, or (2) the self-insurance retention, whichever applies

Commercial Umbrella Policy

- Insureds are required to carry certain minimum amounts of liability coverage before the umbrella insurer will pay any claims
- The form contains a lengthy list of exclusions for bodily injury and property damage liability, including:
 - Expected or intentional injury
 - Liquor liability
 - Liability arising out of professional services
- The form also contains a list of exclusions for personal injury and advertising liability

Businessowners Policy

- The ISO businessowners policy (BOP) includes liability coverage that is similar to the CGL form
- The BOP coverage includes:
 - Business liability
 - Medical expenses
 - Legal defense
- Although the BOP excludes professional liability, some professional liability endorsements are available for certain businesses

Professional Liability Insurance

- Professional liability insurance is available for certain business professionals to provide protection against a lawsuit involving a substantial error or omission
- The physicians, surgeons, and dentists liability coverage form covers these professionals for acts of malpractice or omission resulting in harm or injury to patients
 - The injury must result from a medical incident
 - The policy also covers the physician for liability arising out of negligent acts of an employee
 - Current forms permit the insurer to settle a claim without the physician's or surgeon's consent

Directors and Officers Insurance

- A directors and officers (D&O) liability policy provides financial protection for the directors and officers and the corporation if they are sued for mismanagement of the company's affairs
 - Typically, the policy agrees to pay damages on behalf of directors, officers, and employees because of a wrongful act
 - D&O policies are written on a claims-made basis
- D&O policies generally include:
 - Payment of damages on behalf of insured persons because of a wrongful act
 - Reimbursement for losses resulting from the company's obligation to reimburse directors and officers for suits alleging wrongful acts
 - Entity coverage, which covers the corporation if it is named as a defendant in a suit against the directors and officers
- Common exclusions include bodily injury and property damage, libel and slander, personal profit, and illegal discrimination

End of Chapter.