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Commercial insurance: An annual review of coverages can prevent future disaster

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With spring (finally!) approaching, companies should consider adding an annual insurance checkup to their "spring cleaning" to-do list.

Many businesses have, at some point, encountered this nightmare scenario: despite paying substantial insurance premiums year after year, a significant claim arises and the company learns that it is not fully covered. The claim might fall outside of existing insurance coverages, is subject to a policy exclusion or the extent of the damages exceeds the total policy limits.

In order to avoid facing this unfortunate scenario, at least once annually business owners or executives should sit down with their internal risk management teams, counsel and/or their insurance brokers to review their company's insurance coverages. Changes in your business may have exposed your company to new risks that you had not previously anticipated or increased your total claims exposure. This annual insurance "checkup" can be used to evaluate whether there are any coverage gaps that have arisen due to changes in circumstances and provide an opportunity to adjust existing coverages and limits.

There are several big picture issues to consider that may impact multiple insurance policies. First, has the nature of the business or your operations changed in any way? Are you selling new products; have you expanded your list of services; have you added new equipment, new employees or new physical locations? Answering "yes" to any of these questions could mean that you need to consider adding coverage or increasing your coverage limits.

Next, review your company's loss history. Are there any patterns in the types of claims that have most commonly arisen in recent years? Can you draw any conclusions as to whether current policy limits for those types of claims are adequate to protect your business moving forward? Perhaps you need to increase certain policy limits (or, alternatively, perhaps historical experience has shown that you could reasonably reduce the policy limits of certain primary coverages in order to save on premiums).

You should also keep abreast of limitations or exclusions in your policies that may restrict or bar coverage, keeping in mind that these exclusions may change over time as insurance companies periodically update their coverage forms. Be sure to review policy exclusions in view of your company's operations and its claims history. Also consider any previous denials of coverage by your insurance carriers. Is there a particular exclusion that the insurance carrier relied on to deny a claim in the past? If that situation might reoccur, then investigate whether you can procure a policy that does not contain that exclusion, or whether you can purchase an additional rider that would provide coverage.

There are also some specific issues you should consider when annually renewing each of your company's insurance coverages:

Commercial property coverage

Commercial property insurance helps protect your owned or rented buildings and equipment that you use to run your business. Each year, when it is time to renew your company's property policies, you should consider the following:

- Has your business added, closed or moved any locations?
- Has your business added any structures to existing properties?
- Have you purchased or leased new equipment?
- When is the last time the properties were appraised? How has the market value or replacement value of the property changed over time, and are current policy limits adequate?

ROCHESTER BUSINESS JOURNAL

Recent events in Western New York served as a reminder that these policies typically do not cover damage from earthquakes (or floods), and a business will likely need to purchase a separate policy if it wants coverage for these kinds of risks.

Property policies typically include coverage for losses of business income and associated extra expenses that your business might incur in the event of a business interruption arising from damage to the property. Review the business interruption terms and policy limits to ensure that your business is sufficiently protected in the event a covered loss to your property causes downtime to your regular business operations.

Commercial General Liability (CGL) coverage

General liability insurance covers your business against third party claims for bodily injuries, property damage, personal injury and advertising liability.

Each year, when renewing your CGL coverage, the key question to ask is whether your company's operations have materially changed – in terms of size or scope – in such a way that would create new risks or increase existing risks and potential exposure. If so, you should closely review your CGL coverage and policy exclusions and reevaluate policy limits.

Commercial auto policies

Commercial automobile policies protect your company and your employees who drive company-owned vehicles for business purposes. Each year, ensure that your fleet of vehicles is accounted for in the policy and that company policies and procedures for the use of vehicles do not run afoul of any insurance requirements. Consider the following and review them with your insurance professionals:

- Has your company added or eliminated vehicles from its fleet?
- Has the usage of company vehicles materially changed?
- Are personal vehicles being used for business only, or are employees allowed some personal use of company vehicles?

Cyber insurances

Various cyber insurance policies will protect your company from cyber risks and may include coverages for network security (e.g., data breaches, malware, ransomware and other electronic compromises), privacy liability for third-party losses from a security breach, and errors and omissions.

If your company does not already have coverages for cyber risks, consider whether it may be needed. When renewing existing coverages, ask whether your company's operations or practices have materially changed in the last year. Are you utilizing any new electronic systems? Is your business collecting and storing any new customer data?

Cyber insurance policies will contain a mix of coverages. As part of your company's overall risk management strategy, you should review the cyber coverages that you have in place and the limits applicable to each type of coverage in relation to your company's operations and risk profile.

Umbrella or excess insurance

Umbrella or excess insurance policies provide additional coverage limits beyond your primary layer of insurance. Excess policies may "follow form" and adopt the terms and conditions of the underlying primary layer or may include their own policy conditions and exclusions. When renewing coverages each year, spend a few minutes to consider your company's overall risk profile, your primary insurance limits and how much additional excess insurance might be required to respond in the event of a worst-case catastrophic loss. Factors to consider will include the jurisdictions in which you operate, the size and scope of your operations and the extent to which your company deals directly with the public. Your insurance professionals may be able to help you to benchmark excess coverage limits to other industry peers based on your industry and revenues.

The foregoing is not an exhaustive list but represents examples of some of the issues that businesses should review, at least annually, when they are renewing coverages for the next year. Consult with your legal counsel and insurance professionals to conduct a complete review each year. By doing so, you will hopefully avoid the unfortunate circumstances of facing a considerable loss without sufficient insurance coverage.

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