

THE MOST COMMON E&O QUESTIONS ANSWERED

Broker/Dealer E&O is a complex insurance contract, unlike most other forms of liability insurance. This series of newsletters will discuss several of the more prevalent policy conditions and exclusions, current industry topics, and firm administration issues.

Look for future issues, in which we will discuss additional important topics, including:

- ❖ What to Look For in a Quality E&O policy
- ❖ Common Representative E&O Questions
- ❖ Prior Acts Coverage

E&O Claim Do's & Don'ts

DO:

- Tender claims promptly, either via certified or overnight mail
- Confirm receipt by the E&O carrier
- Be aware of the arbitration/summons answer date to avoid default
- Contact the chosen defense counsel to gain comfort in their competency
- Fully cooperate with defense counsel
- Have your E&O broker review the claim and offer guidance on what to expect
- Have your E&O broker review the Reservation of Rights letter and offer guidance as to its implications
- Expect your broker to remain involved throughout the process as your advocate

DON'T:

- Wait to tender the claim. Claims can always be withdrawn at a later date
- Discuss fault or the existence of E&O coverage with the claimant/customer
- Make any settlement offers to the claimant/customer without the consent of the E&O carrier

HOW THE CLAIMS PROCESS WORKS

A better understanding of the E&O claims process will position the firm to put forth its best efforts in defending itself and the registered representative.

The firm receives notice of arbitration or a demand letter, brought by a client against the representative and the firm. The firm has never made a claim with their E&O carrier. What do you do?

Submit the Claim to the E&O Carrier-Pay close attention to the Notice of Claim provision outlined in the E&O policy. This provision outlines the time frame in which claims must be reported. Notice of claim should be sent either certified or overnight mail, so that proof of filing is on record. If submitting electronically, do so requesting a read-receipt confirmation.

Contact the E&O Carrier and Defense Attorney- The firm will then receive a written acknowledgement letter from the E&O insurer. This letter will confirm receipt of the claim, and provide information regarding the assigned claim analyst, as well as the reference claim number. Upon receiving this letter, the firm should contact the assigned claim analyst to discuss an overview of the case, and the assignment of defense counsel. As the insured, the firm has every right to contact the defense counsel chosen by the E&O carrier before the matter is actually assigned to the firm, so that the firm gains comfort in the attorney's expertise and competency.

Reservation of Rights Letter-Early in the claim process, the E&O carrier will issue a Reservation of Rights letter. This letter provides an overview of the policy coverage, an overview of the claim fact pattern and allegations, and most importantly, certain policy provisions and/or exclusions which may restrict coverage under the policy. A quality E&O policy places the duty to defend on the insurance company, requiring them to defend a covered claim even if the allegations are groundless, or if only a small piece of the total claim is covered.

Early Discussion of Coverage Issues-Any coverage issues identified in the Reservation of Rights letter, or those developing thereafter, should be fully discussed with the E&O insurance company. All parties involved should understand the applicability of E&O coverage, so that surprises can be avoided.

Periodic Review of Claim Status-Until resolution, the broker/dealer, E&O broker, and claims analyst should hold periodic claim status conferences, to ensure that all parties are on the same page regarding defense strategy and claim potential. Such claim reviews will also benefit the broker/dealer in the E&O insurance renewal process.

THE DANIEL AND HENRY CO.

SECURITY BROKER / DEALER ERRORS & OMISSIONS INSURANCE PROFESSIONALS

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Broker/Dealer E&O



Broker/Dealers Have More Options Than Ever Before.

More insurance companies are currently offering Broker/Dealer E&O coverage than at any point in history. The increased competition has resulted in extremely competitive pricing, and coverage for historically difficult exposures, including:

Direct Participation Programs	N.Y. Registered Representatives
Investment Banking/M&A	Life Settlements
Options/Futures	Hedge Funds
Regulatory Claims	Selling Away
Outside RIA	Investment Advisor Only Personnel
Outside Fixed Product Sales	Cost of Corrections

In the past, coverage for many of these activities has been difficult, if not impossible, to obtain. If your firm has any of the above exposures, and they are not covered by the current E&O policy, they should be.

Larger Firms- You now have more options than ever before.
Small firms- You now have options, where none previously existed.

Having an insurance professional specifically representing your interests to the insurance company is a must to ensure a quality program. We represent Broker/Dealers throughout the country, of all sizes, and look forward to assisting you in the design and implementation of this vital coverage.

ARE YOU RECEIVING ASSISTANCE FROM YOUR INSURANCE BROKER THROUGHOUT THE YEAR, OR ARE YOU ON YOUR OWN ONCE THE COVERAGE HAS BEEN BOUND WITH THE E&O CARRIER?

NEGOTIATING THE COVERAGE IS MERELY THE BEGINNING. OUR SERVICES EXTEND THROUGHOUT THE YEAR, INCLUDING:

- Coverage and Premium Negotiations with the Insurance Carrier.
- Compilation of an Informational Packet for Each Registered Representative, Outlining the Policy Coverage, Exclusions, Contact Information and Claim Reporting Procedures.
- Compilation of a Representative Coverage Certificate Program.
- Working with the Firm's Compliance Department as a Point of Contact for Registered Representative Coverage Specific Questions.
- Claims Assistance- Working with the Insurance Company Claims Analyst and Appointed Defense Counsel Throughout the Claims Process.

Let us conduct a formal review of your current E&O program. We will provide you with a straightforward analysis of the current policy, and offer substantive recommendations on coverage improvements. Obviously, we want you to work with us, but if you choose not to do so, you will have our recommendations to act upon as you see fit.



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