

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 our future newsletters, in which we will discuss additional important topics, including:

- ❖ Prior Acts Coverage
- ❖ How the Claims Process Works
- ❖ Common Representative E&O Questions
- ❖ Common Policy Exclusions
- ❖ Consent to Settle Provision
- ❖ Making the Small B/D E&O Program More Competitive with Large Firm Programs.

Fully understanding Claims-Made and Reported policy provisions is critical when making changes to the E&O program from one year to the next.

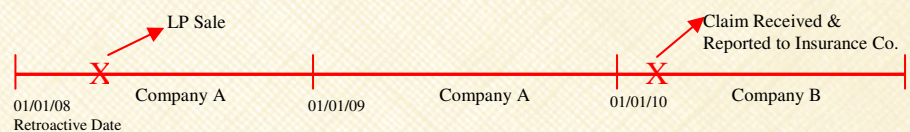
- Changing from one insurance company's policy to another company's policy.
- Remaining with the same insurance company, although under more restrictive coverage terms.
- Making elective coverage changes that differ from previous policies.

CLAIMS-MADE AND REPORTED POLICIES

Broker/Dealer E&O policies are "Claims-Made and Reported" contracts. What does this mean, and how does such a policy work?

Claims-made and reported insurance policies afford coverage only to those claims both made against the insured and reported to the insurance company during the policy period. Once such policy expires, it is gone forever (with extremely limited exceptions). In addition, Broker/Dealer E&O policies will only extend coverage to activities which occur after a specified Retroactive Date (prior acts date). In short, it does not matter which insurance carrier issued the E&O policy several years ago, when the products or services at issue in the claim were sold or rendered. Only the policy in force at the time the claim is received will dictate coverage.

Understanding this important issue is paramount to understanding many other provisions of your E&O policy, as many policy terms, conditions and exclusions tie themselves back to the claims-made and reported nature of the coverage.



Scenario- Broker/Dealer purchased its first E&O policy on 01/01/08 from Company A. 01/01/08 becomes the retroactive date for the firm. During the first policy term, a Private Limited Partnership was sold to a client. As shown, the broker/dealer elected to move the E&O coverage to Company B on 01/01/10. In February, 2010, an arbitration is received alleging unsuitability of the Limited Partnership investment.

It is the policy for Company B, and only Company B, that determines coverage for the claim. If Limited Partnerships are excluded under the policy for Company B, there would be no coverage for the claim. The fact that the policy for Company A included LP coverage, and that the product was sold during the Company A policy period is irrelevant, as the Company A policy has expired.

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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