BROKER/DEALER E&O

CLAIMS & COVERAGE RENEWAL TRENDS

SEPTEMBER, 2010

ESCALATING E&O INSURANCE COSTS

FACT OR FICTION?

An August 5, 2010 article from Investment News has created understandable concern amongst broker/dealer firms looking to renew their Broker/Dealer E&O programs in the coming months.

The article refers to premium increases of up to 20%. As a result, Broker/Dealers have been contacting their E&O representatives with the same question, “What can we expect this year?”

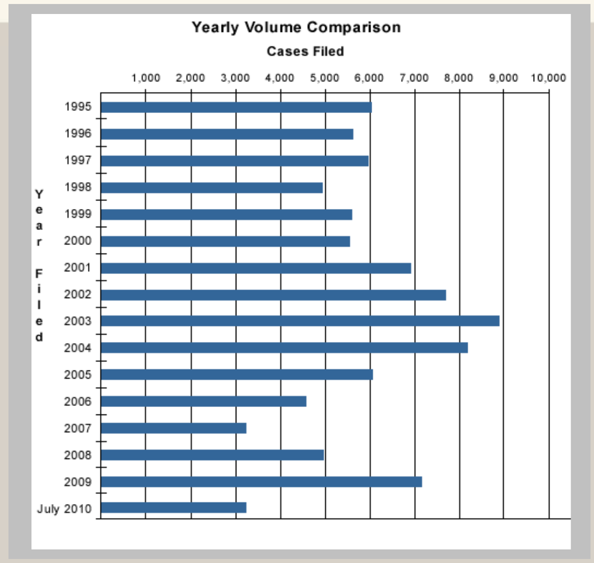
The answer to this question depends on several factors, but most notably on the firm’s specific claims history, and length of tenure with its E&O insurance carrier.

It is no secret that claims have trended up, and that for the firms experiencing them, the E&O premiums have followed. Such increases, however, are not being imposed on all firms. Now more than ever, firms need to work with the right E&O representative to secure the best possible terms and conditions.

RECENT CLAIM TRENDS

The article correctly points out that arbitration claims rose significantly in 2008 (52%) compared to 2007, and again in 2009 (43%). It must be noted, however, that 2007 posted the lowest number of arbitrations over the past fifteen years, and not by a small number. In fact, dating back to 1995, the average number of arbitration cases per year stands at 6,107. In 2007, this number totaled only 3,238, thus skewing the percentage increase figures.

In addition, according to FINRA statistics, the trend is reversing for 2010. New case filings through July, 2010, are down 26% compared to 2009.



www.finra.org/ArbitrationMediation/AboutFINRADR/Statistics

WHAT CAN YOU EXPECT THIS YEAR?

In short, it depends. What has the firm’s claim history been over the past 3-5 years? How long has the firm purchased E&O from the same provider? If the firm has maintained a relatively long-term relationship with the same E&O provider (3+ years), the claims experience has been positive (claim payments at 60% or less of premiums paid), and there is no major potential claim looming, the renewal process should be smooth.

If the firm has upheld its end of the risk bargain, increases to the E&O premium should not be automatic. Despite the market downturn, and the uptick in the arbitration filings, E&O pricing remains highly competitive, driven largely by the sheer number of insurance companies participating in the Broker/Dealer E&O insurance space. At present, there are more E&O providers currently, than at any point in the history of the coverage.

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- **Early Start**
- **Re-evaluate Firm Exposures and Activities vs. Coverage Terms**
- **Verify Accuracy of the E&O Carrier Loss History**
- **Hold a Claims/Underwriting Renewal Conference Call**

SUCCESSFUL RENEWAL TIPS

Yes, arbitrations are up, the investor world is volatile, and all E&O carriers are taking a close look at each piece of business they underwrite. This does not mean that the industry is experiencing the blanket, across the board premium increases that we experienced in 2001-2002. Competition amongst the many insurance carriers is both holding down E&O pricing, and keeping the coverage terms broad.

Firms should seek to partner with an E&O insurance company over time. In so doing, the firm must recognize that the pricing may not always be the cheapest, and the coverage terms not always the broadest. Such a partnership, however, will enable the firm to negotiate better coverage terms, navigate tough E&O climates, and absorb the rare claim when it does occur.

TIPS FOR A SUCCESSFUL E&O RENEWAL

Insist on an early start to the renewal process. This is especially important if the firm's coverage renews during a peak renewal time in the insurance world (Dec. 31st, Jan. 01, Jun. 01, Oct. 01). Allow time for the underwriting process and quotation analysis.

Request a renewal conference call to ensure that the E&O carrier has an accurate understanding of the firm's exposures, and that the coverage terms are written accordingly. Perhaps the policy was, at one time, expanded to afford coverage for a certain alternative product or service that never materialized. The firm may be paying additional premium for unneeded coverage.

Request and review your "loss runs", or loss history report for the previous five (5) years. Are the claim settlement figures accurate? Should any claims that show as "open" be closed? This information will be reviewed as part of the underwriting process, and therefore, should be as accurate as possible.

During the renewal conference call, the firm should discuss all open claims. The call participants should include the insured, defense counsel, the E&O claims analyst, and the E&O underwriting team. As part of the E&O renewal process, the underwriter will confer with the claims analyst on the open claim prospects. Holding such a call will both expedite the process and ensure that the underwriters have the most accurate understanding of the firm's business objectives and claims experience.

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