Insurance Buyers' News

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Meet Your Insurance Professionals

The only insurance professional you might ever meet face-to-face is your retail insurance agent or broker. But if you have special insurance needs, other insurance professionals are ready to help.

Insurance agents: Although many people use the terms interchangeably, insurance brokers and agents have different roles. Agents owe their primary duty to the insurer they represent. In their dealings with the public, they act as an intermediary. Their primary responsibilities are to fill out and process applications properly. They have no obligation to analyze your risk needs and ensure the coverage you buy is the right kind or amount, although many will do this.

There are two kinds of insurance agents: a captive agent represents one insurance company and sells only that company's products. An independent agent represents more than one insurer and can present policies from different insurers for you to compare.

Insurance brokers: Insurance brokers represent their clients rather than the insurer, owing their legal duty to the client. They work with clients to determine their insurance needs, then survey the market to find a selection of policies that might meet your specific needs and circumstances. Both agents and brokers receive commissions on their sales; brokers must disclose their commis-

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This Just In

A lot of people are looking forward to the day that driverless cars become available to the general public … particularly trial lawyers. A recent article in Bloomberg quoted attorney Kevin Dean, who said, "You're going to get a whole host of new defendants." He listed computer programmers, computer companies, designers of algorithms, Google, mapping companies, even states as possible defendants for future lawsuits. "It's going to be very fertile ground for lawyers," he said.

Auto insurers and auto parts makers are watching the development of driverless cars, or autonomous vehicles, with anxiety. When the vehicles work as they are supposed to, they should re-

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sions. Many brokers also work on a fee basis.

If you have special insurance needs, your insurance agent or broker might turn to one of the following:

Managing general agents: Typically, an insurance agent or broker will take your application and submit it to the insurer for underwriting. During this process, the insurer will evaluate the risk of loss your business presents and how much it should charge to cover that risk. Insurers often automate the underwriting of simple risks; professionals called underwriters evaluate more complicated risks.

Sometimes, an insurer will give an insurance broker underwriting authority. These agents are called managing general agents. They can bind policies (commit to sell you a policy), underwrite and price policies, and even settle claims. Insurers often use MGAs for specialty lines of insurance, such as professional liability, that require special expertise. They might also use MGAs to write more common lines of insurance in rural areas where they don't want to set up a branch office. Your regular (retail) agent or broker will act as the go-between with an MGA if needed.

Wholesale agent/excess and surplus lines agent: When your insurance broker cannot find the coverage you need in the admitted markets, he or she might turn toward a wholesale agent. A wholesale agent acts as an intermediary between a retail agent (your insurance agent or broker) and a non-admitted insurer. The marketplace of non-admitted insurers is called the wholesale market, or the excess and surplus (E&S) market.

Why is there an E&S market? State laws regulate the insurers that do business within their borders. When an insurer is licensed to do business within a particular state, it is called an "admitted" insurer. State insurance departments regulate these insurers, which must write policies that conform to the "rate and form" regulations of that state.

Sometimes, a company cannot find the coverage it needs in the admitted markets. Perhaps its business is too risky, it's had a recent heavy loss, or the risk just falls outside normal underwriting standards—for example, an older building or new product line. Because non-admitted insurers do not have to conform to rate and form regulations, they have more flexibility than other insurers. This allows them to write policies for many risks that admitted markets won't cover.

Non-admitted insurers are not subject to state licensing, so going to the non-admitted market involves a bit more risk for policyholders. Your policy won't be covered by the state's insurance guarantee fund in the unlikely event the insurer becomes insolvent, and you might not have access to certain consumer protections offered by the state's insurance department. However, according to the American Association of Managing General Agents, "Most states require that E&S carriers submit financial information, articles of incorporation, list of officers, and other general details. They also cannot write insurance that is typically available in the admitted market [and]…may only write a policy if it has been rejected by three different admitted carriers."

Agents who sell excess and surplus lines must have a special license and meet specific education and continuing education requirements. Your retail agent must go through one of these agents to place your insurance in a non-admitted market.

This Just In

duce the incidence of crashes. That's bad news for them, good news for drivers. Driverless cars will also likely change the way auto insurance is priced and sold. With no drivers, who is covered? Many experts expect "pay per mile" coverage to become the norm.

In the meantime, we can help you review your automobile-related risk exposures and offer suggestions for reducing them. For information, please contact us.

Syndicates: Lloyd's of London is the most famous example of a syndicate. Lloyd's is not an insurance company. Instead, it serves as a market where individuals and companies with specialized expertise in many different lines of insurance can meet to bid on covering hard-to-insure risks. They come together temporarily as syndicates for a specific insurance transaction. At Lloyd's, more than one syndicate may share in a risk, and members are responsible for their own profits and losses on the risks they choose to underwrite.

A registered Lloyd's broker can place business in the Lloyd's market and negotiate terms and conditions on behalf of clients. Lloyd's is not an admitted insurer, so only syndicates approved by the National Association of Insurance Commissioners can underwrite U.S. business.

We can help you with most of your business insurance coverages. When it comes to extraordinary needs, we've developed a network of other experts we can call upon to help you when necessary. For more information, please contact us.

What to Do in a Policy Review

Scheduling regular policy reviews can ensure your business has the coverage it needs, when you need it. If you haven't reviewed your coverages lately, the beginning of the year is a great time to take care of this important housekeeping matter.

When evaluating your coverage, consider how your business has changed over the past year, including:

1. Has your business had a change of name or ownership? Your policies should reflect any name or ownership changes. Failure to have the proper "named insured" listed in the policy could affect your coverage. Has your business been involved in any mergers or acquisitions? Business policies typically provide coverage to new acquisitions for only a short period of time, such as 30 days. After that, you must change your policy to cover any new entities.
2. Have you added or changed any products or services? If you have, how does that change your risk exposures?
3. Has your business acquired any real property, changed or added locations in the past year? You will need property coverage on any new locations. In addition, review your liability coverage, including your commercial auto policy, to be sure you have coverage for claims that occur in any of your locations. Workers' compensation policies, employee health coverage and other employee benefits are state-specific, so your workers' compensation and benefits packages will need updating, too.
4. Have you made improvements to your building, or have construction costs in your area increased? If so, will the current limits of your property policy cover the cost of rebuilding if your property suffered a total loss? (Remember that you do not need to insure the value of your land, only any improvements.)
5. Have you made any significant purchases of equipment or other business property during the past year? A commercial property policy or business owner's package policy automatically provides coverage for "business personal property" up to the policy's business personal

property limits. Although any type of property that isn't real estate or a fixture is considered personal property, most policies have lower sublimits for certain types of personal property. These include computers and other electronic data processing equipment, cash and cash equivalents, antiques, art and collectibles. You can obtain specialized coverage, called floater policies, for these types of personal property.
6. Do you hold anything belonging to others in safekeeping? Businesses that hold property of others in safekeeping can become liable if that property is lost, stolen or damaged, even if the loss is not their fault. Insurance can cover these obligations toward third parties.
7. Does your organization use or store personal information on others? This includes medical records and other personal information, in addition to financial data such as credit card numbers. If your data is

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hacked or lost, putting your employees' or customers' personal information at risk of theft, your firm could become liable for notifying potential victims of the breach and providing assistance to identity theft victims. (This can include free credit monitoring and credit cleanup services). You might face lawsuits for invasion of privacy or negligence, along with investigations by governmental authorities. Specialized data breach or cyber liability policies have evolved to help businesses address these types of claims.

8 Do you have employment practices liability coverage? The standard business owner policy or commercial general liability policy excludes employment-related claims. Employment practices liability insurance protects an employer from defense and settlement costs for employment-related lawsuits, such as wrongful termination, discrimination and harassment.

9 Has your exposure to natural disasters changed? Flood plains and weather patterns can change over time, which may increase your exposure to damage due to natural disasters. Business policies exclude coverage for flood; you can obtain coverage through the National Flood Insurance Program or private insurers. The NFIP covers buildings up to $500,000 and business personal property (building contents) up to $500,000.

10 Does your insurance program include business income and extra expense insurance? Business income insurance, also known as business interruption insurance, reimburses an insured for loss of business income caused by an insured disaster. In other words, if a fire (an insured cause of loss) damaged your premises and forced the business to close for repairs, the policy would cover resulting loss of income. The business owner policy (BOP) includes some business interruption coverage. Your insurance broker can help you determine how much coverage you need. Coverage should take into consideration not only property damage but loss of revenue and extra expenses that occur when a disaster causes a temporary shut-down.

Having the right insurance policies and the right amount of coverage will make a difference when a claim occurs. For more information, please contact us.

Temporary Employees, Full-Time Risks?

Using contingent workers can relieve your organization of some human resource functions, but it can create liability exposures.

When you hire temporary or leased employees, the agency acts as the employer. The agency is responsible for screening employees, paying employment taxes, providing workers' compensation and, in some instances, providing employee benefits. The agency pays the employee directly, invoicing your organization (at a marked-up rate) for hours the employee works.

Under a temporary or leased employee arrangement, your company will enter into a contractual agreement with a staffing company—whether a temporary agency or employee leasing firm (or PEO, professional employer organization). Both entities become co-employers and share or allocate employment responsibilities. The staffing company usually handles all human resource and benefit management functions. It hires workers, controls payment of wages, provides unemployment insurance and other benefits, and handles employment taxes. The subscribing company retains some employer responsibilities, including supervision, to ensure the delivery of the company's products or services.

Benefits of temporary employment or PEO arrangements include:

- Expert human resource and benefit administration. PEOs and temporary employment agencies can devote full-time, professional staff to these tasks.
- Better benefits. Larger PEOs and agencies manage thousands of employees, giving them more purchasing power than individual small employers have.
- Better safety. A PEO should have on-staff safety professionals, who conduct regular audits that could reduce injuries and costs.

Still, using contingent employees can create risk exposures, including:

1 Workers' compensation coverage gaps. Some states permit PEOs to provide workers' compensation for their clients. If yours does, ask the PEO for a certificate of insurance as evidence of coverage. And make sure the PEO's policy includes an "alternate employer endorsement" to cover employees injured while working for you.

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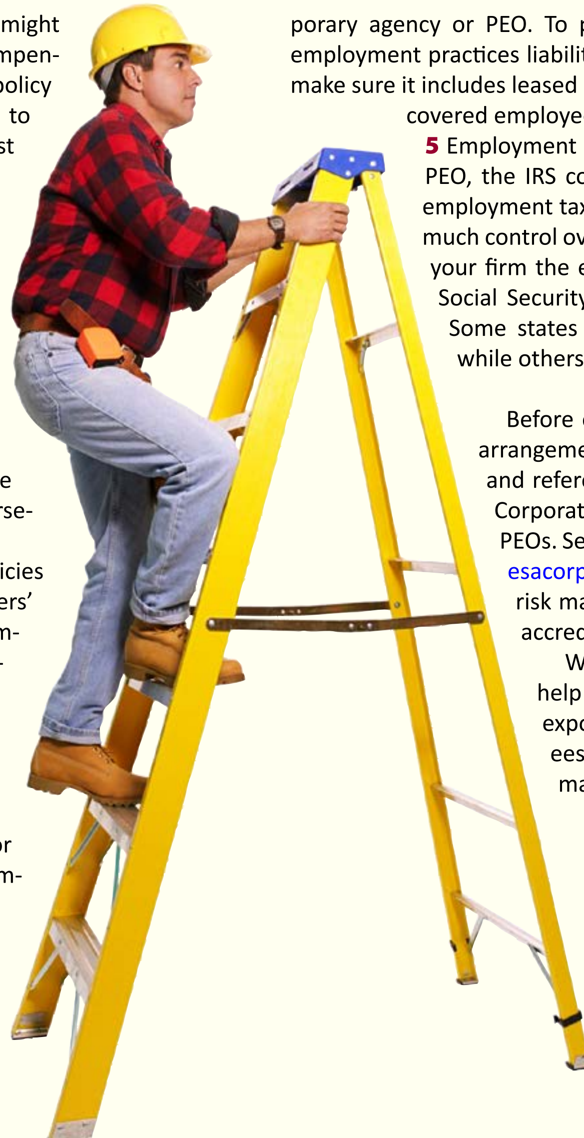
Even if your PEO provides coverage, you might want to keep a minimum premium workers' compensation policy in place. A minimum premium policy will provide some protection if your PEO fails to buy coverage or stops making premiums—just make sure your insurer agrees to cover leased employees as regular employees.

2 Lawsuits from injured workers. Even if your PEO or lease arrangement includes workers' compensation coverage, the worker can sue your company for negligence if unsafe or hazardous conditions led to the injury. Most commercial general liability policies exclude coverage for "special employees," such as leased employees or independent contractors. You can remedy this coverage gap by adding the "coverage for injury to leased workers" endorsement.

3 Gaps in umbrella liability. Some umbrella policies require you to schedule the underlying employers' liability policy, which is part of your workers' compensation policy. If you have no workers' compensation policy in place, your umbrella might not respond to an employer's liability claim. Having a minimum premium workers' compensation policy could help eliminate this coverage gap as well.

4 An organization can still be held responsible for discrimination law violations when using a temporary agency or PEO. To protect your company, consider buying employment practices liability coverage. If you already have a policy, make sure it includes leased and special employees in its definition of covered employees.



5 Employment tax liability. When you contract with a PEO, the IRS considers it the "employer of record" for employment tax purposes. However, if you maintain too much control over the employees, the IRS could consider your firm the employer and liable for withholding and Social Security. State laws on leased employees vary. Some states consider the PEO to be the employer, while others consider the PEO a co-employer.

Before entering into a PEO or leased employee arrangement, check the provider's qualifications and references. The Employer Services Assurance Corporation conducts voluntary accreditation for PEOs. See their listing of accredited PEOs at www.esacorp.org. You can also check whether a PEO's risk management staff has earned professional accreditation at www.certificationinstitute.org.

We can review your insurance program to help you manage any employment-related exposures, no matter what type of employees your organization has. For more information, please call us.

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Choosing Safer Vehicles

Certain vehicles are inherently safer than others. Selecting safer cars for your corporate fleet can reduce the risk of injury…and may help your insurance costs. Factors that affect vehicle safety include:

1 **Vehicle size:** In general, the larger the vehicle, the safer. According to the Insurance Institute for Highway Safety, "...in relation to their numbers on the road, small cars account for more than twice as many deaths as large cars.... Vans and standard-size pickups generally have the low death, injury, and collision claims results associated with large vehicles." The IIHS defines large vehicles as those with a wheel base of 110 or more inches.

   Larger cars don't necessarily require more fuel. A vehicle's size (its exterior dimensions) has more of an effect on its safety performance than its weight, which directly affects fuel consumption.

2 **Vehicle design:** Designs that incorporate strong occupant compartments ("safety cages") and "crumple zones" in the front and rear help protect drivers and passengers by deflecting crash forces away from the occupants. Other things to look for include side-impact protection, which usually consists of energy-absorbing padding inside car doors and side guard beams; head restraints high enough to support the heads of taller occupants; anti-lock brakes (which help prevent brakes from locking in slippery conditions, but provide no improvement in braking in dry conditions); and daytime running lights.

3 **Lap/shoulder belts:** All new passenger vehicles have safety belts. Look for lap/shoulder belts that are comfortable, since they're more likely to be worn. Other things to look for include "automatic crash tensioners" and "webbing grabbers," which reduce an occupant's forward movement in a crash.

4 **Air bags:** We strongly recommend buying cars that have both front and side-impact air bags. Some models also have "curtain" airbags, to protect occupants in case of a rollover.

For more information on auto safety or insuring your corporate vehicles, please contact us.

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