CRC Group
Wholesale & Specialty

Special Report

Professional Liability

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Professional Liability

The Takeaway

Insurers are competing aggressively across most lines of errors and omissions liability (E&O) insurance, which means that retail agents and brokers with the right market access and coverage knowledge can find enhanced terms and conditions, and sometimes even new products for their insureds. At the same time, insurers in the marketplace have new opportunities to write risks as economic changes drive growth in professional services. With new entrants and a larger appetite among some established insurance markets, excess capacity in professional lines is fueling competition. As a result, insurers are looking for opportunities to write new business and to streamline renewals. In the race to streamline renewals and increase cost efficiencies, insurers have embraced auto renewals and short-form questionnaires. A big downside to automatic renewals and short-form questionnaires intended to save time for retail agents and their insureds is the risk of coverage gaps. Details matter in professional liability coverage.

The Overview

The professional liability marketplace is dominated by non-admitted insurers, but just a handful of admitted insurers write E&O coverage for lawyers, accountants, consultants and real estate-related business. Overall the marketplace is quite competitive. Underwriters are expressing preferences for certain classes of business. In addition, pricing varies by region. The Pacific Northwest, Southeast and Southwest currently are among the most aggressive areas of the country in professional liability lines, driving rates down. In California, Illinois and New York, where liability exposures are higher, prices fall more slowly than in other areas. In some cases there may be a 15% differential in premium for the same classes of risk. Despite differences in pricing, competing insurers are generally willing to consider enhancing coverage, waiving certain exclusions, and reducing deductibles and retentions. Retail agents and brokers need to be aware that most professional liability insurers will not offer these unless they are requested to do so. Obtaining the best pricing, terms, and conditions in the current marketplace requires a thorough understanding of each insured's risk as well as each underwriter's appetite.

Review & Outlook

Below are brief market summaries for some of the largest professional liability classes:

ACCOUNTANTS

One of the less competitive segments overall in professional liability, coverage remains available for most sizes of accounting firms. The tightest segment is accounting firms with $25 million to $50 million in revenues because few insurance markets write this size of account. Coverage also is more difficult to place for accounting firms that work with publicly traded companies because they have a higher exposure to E&O liability.

ARCHITECTS & ENGINEERS

This segment has historically been very competitive, with soft market conditions. Classes where insurers are more selective include structural engineers and residential tract housing. At one time, coverage for design teams on condominium projects was difficult to find. Now, more insurers are willing to underwrite that type of work, which commands higher premiums. The Trump administration's support for infrastructure spending suggests growth in construction projects. Whether the future will see growth in various types of construction remains to be seen, but an ongoing labor shortage in the construction industry may increase liability risks for design professionals and engineers.

The Gig Economy

Internet connectivity has dramatically altered the landscape for traditional professions such as accountants, lawyers, architects and engineers. Technological advances also have opened the door to a variety of new professions. This has become known as the gig economy, in which workers with professional skills deliver services on a freelance basis or under consulting contracts instead of as employees. The Bureau of Labor Statistics reports that this segment, which it terms "non-employers," has grown sharply since 2003 across nearly every industry. This development is creating new classes of insureds and expanding opportunities for retail agents and brokers and insurers to offer professional liability coverage.

CONSULTANTS/MISCELLANEOUS E&O

Miscellaneous professional liability (MPL) is a long-standing class of business, which has generated volumes of data on claims and losses. As a result, professional liability insurers feel comfortable with the exposure and are eager to compete for this business. At least 60 insurance markets currently offer MPL. Smaller policies for consultants previously had minimum premiums, but that has changed as insurers' appetites for this business have increased. With the gig economy, growth opportunities for writing this line appear plentiful. Tougher classes of MPL include claims adjusters and collection agencies.

LAWYERS

The marketplace has not changed dramatically over the last year, though it has tightened for law firms with fewer than six attorneys. Firms with one to five attorneys are concentrated in a few insurance markets. Lawyers professional liability insurers are competing aggressively, however, to write firms with six to 20 attorneys. An exception is firms that perform higher-risk work involving intellectual property, securities, and class actions. A sign of the competitive marketplace is the appearance of quota-share programs in the United States. Most often, quota shares are written in the London market, but CRC is seeing quota shares now led by U.S. based insurers, which isn't common.

REAL ESTATE

Pricing remains dependent on exposure, though insurers competing for real estate risks are still trying to differentiate themselves through coverage. For example, some markets will provide coverage for contingent bodily injury or property damage. Bodily injury and property damage are significant exposures for real estate agents and property managers. Liability can arise when showing buyers or lessees property under construction or renovation, for example. Failure to warn about such areas can result in injuries and litigation. Underwriters are selective about certain venues. It's not uncommon to have automatic exclusions for California real estate risks in off-the-shelf policies, and Florida risks are more challenging than other areas of the country. Outside of California and Florida, insurers are more flexible.

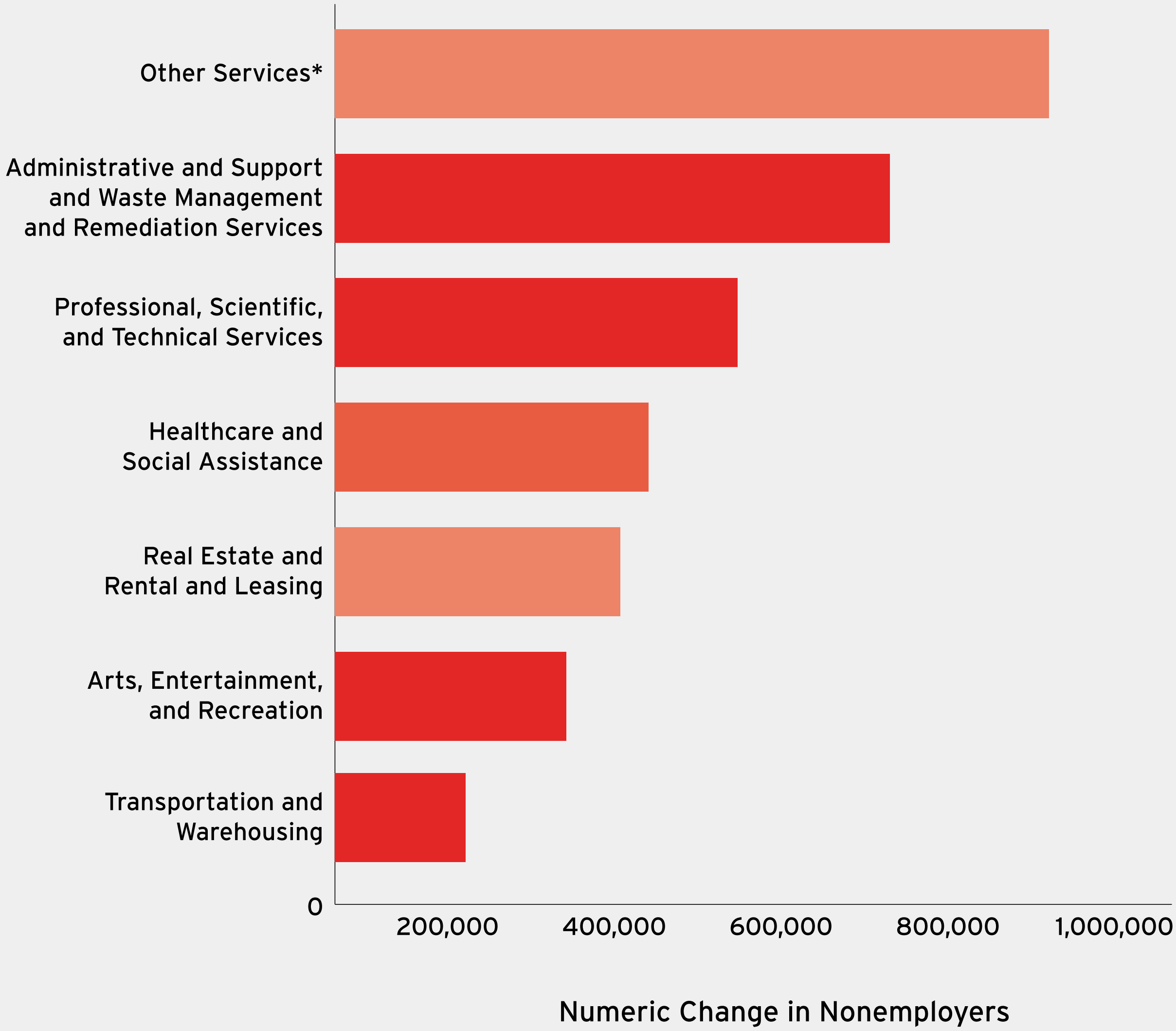
DEVELOPERS E&O

An emerging segment of real estate professional liability is developers E&O. Only a handful of insurers offer this newer, specialized form of coverage, but interest is growing. Developers E&O liability insurance can apply to any kind of real estate. A typical limit is $5 million, and usually a higher retention is required. Developers E&O coverage can respond to claims against developers and/or project owners from outside investors, adjacent property owners, and others.

BY THE NUMBERS

The Bureau of Labor Statistics (BLS) notes that employment surveys do not always clearly capture freelance workers, though BLS acknowledges that non-employer job growth has occurred in every industry. For professional, scientific, and technical workers, the number of non-employers between 2003 and 2013 grew by nearly 600,000.

NONEMPLOYER BUSINESS GROWTH, BY INDUSTRY, 2003 — 2013



*This sector includes repair and maintenance; personal and laundry services; and religious, grantmaking, civic, professional and similar organizations

Source: U.S. Census Bureau

The Conclusion

Retail agents and brokers seeking professional liability coverage for their insureds will find mostly favorable conditions. A few points are worth remembering. First, automatic renewals and short-form questionnaires that ask "Have there been any changes since last year?" may save time but can cause problems later if the agent and insured do not take the time to examine coverage needs closely. Second, insurers generally will not offer coverage enhancements unless requested to do so, and knowing how to align coverage with an insured's exposures is especially critical in obtaining broad E&O coverage. Finally, the best opportunity to get optimal pricing, terms, and conditions is to work with a wholesale partner that has expertise in professional lines and knows the dynamics of the marketplace.

For more information, contact your CRC, CRC Swett or SCU broker.
To find a conveniently located broker visit us on the web at:
crcins.com, crcswett.com or scui.com.