CHAPTER 11: MISCELLANEOUS COMMERCIAL LINES

Let’s Begin...

Boiler and Machinery Insurance

Introduction
Steam power was a driving force in the Industrial Revolution. By the mid-1800s, American factories were finding many new applications for steam boilers and steam engines. Unfortunately, early designs and the alloys used in the production of steam vessels at the time suffered from deficiencies. Frequent boiler explosions resulted in loss of lives, severe injuries, and substantial amounts of property damage. It became evident that loss prevention was the best solution to the problem, so a group of engineers formed a specialized company which offered inspection services linked to insurance coverage.

Boiler and machinery insurance (B&M) policies were first sold in this country during the 1860s. Coverage originated with the Hartford Steam Boiler Inspection and Insurance Company, which continues to dominate the field—it writes only B&M coverage and accounts for more than one-third of all B&M premiums in this country.

Boiler and machinery insurance includes property and liability coverages, but it is so highly specialized that many carriers do not write it because it requires specialized underwriters, loss control engineers, and claims adjusters.

Today, regardless of the insurance carrier providing the B&M coverage, a substantial portion of each premium dollar is still used for inspection and loss control services. Due to the emphasis on inspection and the advance of sophisticated manufacturing processes, boiler explosions now rarely occur. However, when such an explosion does occur, damage to all property within range is usually severe and the total cost of the loss can be very high.
Over time the boiler and machinery field expanded to embrace many different types of mechanical devices. **Steam boilers were followed by other pressure vessels, motors, pumps, refrigeration systems, and eventually air conditioning systems and compressors.** These emerged as unique exposures, and the experts in the boiler field were better prepared to evaluate the risks than were traditional underwriters.

Boiler and machinery coverage is needed to fill gaps left by major forms of property and liability coverage. Typical property coverages insure against loss by combustion "explosion," but **not the explosion of "steam boilers, steam pipes, steam turbines, or steam engines if owned by, leased by, or operated under the control of the insured."**

Property coverages also commonly **exclude losses caused by mechanical breakdown, including rupture or bursting caused by centrifugal force.** General liability insurance might cover some injuries caused by a boiler explosion, but the policy forms exclude damage to property "owned, occupied, rented, or used by" you, and property in your "care, custody, or control."

Boiler and machinery policies are specifically designed to cover loss to your property and damage to the property of others.

It is wise to consider including boiler and machinery coverage as part of a commercial package if the insured has these exposures. Having all commercial coverages written on the same policy minimizes duplications or gaps in coverage. Having all commercial coverages written by the same carrier minimizes disputes when a loss occurs—since a package is usually designed to provide comprehensive coverage.

**Boiler and Machinery Policies**

For boiler and machinery coverage to be in effect, the package policy must include a boiler and machinery coverage part.

Whether boiler and machinery coverage is issued as a monoline policy or as part of a package, a boiler and machinery coverage part will consist of:

- a B&M declarations page,
- a B&M coverage form,
- one or more object definition forms (with the general B&M coverage form only),
- any applicable endorsements.

Unlike other property and liability coverages, there is no separate boiler and machinery conditions page, because **conditions are built in to the coverage forms.**

There are **three** B&M coverage forms. One is a general form that is used to insure most business and industrial risks. Two are for smaller risks that have more limited types of exposures. The three coverage forms are:

- the Boiler & Machinery Coverage Form,
- the Small Business B&M Coverage Form, and
- the Small Business B&M Broad Coverage Form.
The two small business forms are similar, although the broad form has some additional coverages and higher sublimits for various coverages. The small business forms are available only for risks for which 80 percent of the replacement value of the insured property does not exceed $5 million. Small business forms are typically used to insure apartment buildings, office buildings, restaurants, and retail stores. The small business forms are not available for any manufacturing or processing risks, or risks having high pressure boilers. Such risks must use the general form.

Boiler and Machinery Coverage Form

Declarations

Each available coverage form has its own declarations page. Although there are minor differences in the wording and appearance of the different declarations pages, each one includes a place for the following information:

- policy number,
- insurer name,
- producer name,
- named insured,
- mailing address of named insured,
- policy period,
- limit of insurance,
- premium,
- deductible,
- description of business,
- mortgage holder and address,
- loss payee and address,
- schedule showing locations and descriptions of objects,
- forms applicable to the coverage part, and
- countersignature.

In addition to this vital information, the declarations may include some information about special coverages that may apply, and the types of objects which are insured.
**Definition of Accident**

Under boiler and machinery coverage, “accident” means the sudden and accidental breakdown of an object, or a part thereof, resulting in physical damage to the object that necessitates repair or replacement. However, the policy specifies that “accident” does not mean depletion, deterioration, corrosion, erosion, wear-and-tear, leakage at valves or joints or fittings, breakdown of any vacuum tube or gas tube or brush, breakdown of any computer or EDP equipment, breakdown of any structure or foundation supporting an “object,” or the functioning of any safety or protective device.

If an accident causes other accidents, all related accidents will be treated as one accident. All accidents occurring at a single location at the same time, and having the same cause, will be considered to be one accident.

An “object” means equipment shown in the B&M declarations. One or more object definition endorsements must be attached to the coverage. Each endorsement groups a type of similar objects, and provides specific definitions of what is and is not an insured object. The six object definition endorsements are:

- Pressure and refrigeration objects (including boilers, fired vessels, electric steam generators, steam piping and valves, unfired vessels, refrigerating and air conditioning vessels and piping, small compressing and refrigerating units, air conditioning units),
- Mechanical objects (including engines, pumps, compressors, fans, blowers, gear wheels, enclosed gear sets, wheels and shafting, deep-well pumps, miscellaneous machines),
- Electrical objects (including rotating electrical machines, transformers, induction feeder regulators, miscellaneous electrical apparatus, solid state rectifier units),
- Turbine objects (including turbines, combustor and other parts of a gas turbine unit, components on any shaft of a driving turbine, mechanical or hydraulic governing mechanisms),
- Comprehensive coverage (excluding production machinery) defines all insurable boiler and machinery objects which can be covered excluding coverage for production machinery, and
- Comprehensive coverage (including production machinery) defines all insurable boiler and machinery objects which can be covered including coverage for production machinery.

**Limits of Insurance**

The B&M form states that it will not pay more than the applicable limit of insurance shown in the declarations for all direct damage to covered property, resulting from any “one accident.” Coverage is written as a single limit of insurance per accident, and it is usually written with a deductible.

The loss or expenses to clean up, repair or replace property will be covered only if the damage or contamination resulted from an insured accident to an insured object.
Example: If your boiler explodes and destroys your building, the building is covered—but coverage is also provided for damage to any other property caused by this accident, such as furniture or office equipment.

The insurance company will subtract the deductible amount shown in the declarations from the amount it would otherwise pay as a result of direct damage to covered property resulting from an accident. If more than one object is involved in one accident, only the highest deductible will apply.

**Exclusions**

Boiler and machinery coverage forms will usually exclude losses or expenses caused by or resulting from any of the following:

- ordinance or law,
- nuclear hazard,
- war and military action,
- explosion other than explosion of a steam boiler, steam generator, steam piping, steam turbine, steam engine, gas turbine, or moving or rotating machinery caused by mechanical breakdown or centrifugal force,
- fire or explosion that occurs at the same time as an accident or ensues from it,
- an accident that results from a fire or explosion,
- water or other means used to extinguish a fire,
- lightning, if that cause of loss is covered by another insurance policy,
- flood (but if an “accident” results from a flood, the damage caused by the accident will be covered),
- an “accident” to any “object” while it is being tested, and
- an accident caused directly or indirectly by earth movement.
Surety Bonds

Surety bonds guarantee that specific obligations will be fulfilled. The obligation may involve meeting a contractual commitment, paying a debt, or performing certain duties. Usually, a bond is written for a definite amount, which is known as the bond penalty. Each bond is a written contract between three parties. Two of the parties obligate themselves to meet a commitment to the third party. If the commitment is not met, a sum of money, up to but not exceeding the full penalty, becomes payable as damages.

Early forms of suretyship were practiced thousands of years ago. Simple surety arrangements between individuals were made when one person’s personal promise failed to provide another with adequate security.

For example, a creditor might not be willing to lend money to a debtor unless some security was provided by someone else. Centuries ago, the other party was usually a friend or relative, who might place personal property in the hands of the creditor until the debtor repaid the loan. In more extreme cases, the debtor might leave a family member in the custody of the creditor—a practice which did not guarantee repayment of the loan, although it certainly increased incentives to avoid default.

Corporate suretyships were first formed in the 1800s. Prior to that time, individual arrangements were risky and there were no guarantees that the assets of a backer would satisfy the obligation. Once organizations began to specialize in issuing surety bonds, formal contracts backed up by corporate assets became available to meet a wide variety of business and individual needs. Surety bonds are now routinely required by business interests, courts, government bodies, and public agencies as a means of reducing or transferring the risks of transactions and proceedings.

Three Parties

A typical surety bond identifies all three parties to the contract and spells out their relationship and obligations. On every bond, the parties are:

- A principal—the party who has agreed to fulfill the obligation, which is the subject of the bond.
- An obligee—the party for whose benefit the bond is written. If the principal defaults on the obligation, damages are payable to the obligee.
- A guarantor or surety—the surety providing the bond for a fee. The surety joins with the principal in guaranteeing fulfillment of the obligation, and agrees to pay damages if the principal defaults.

It is the principal who purchases the bond. In the case of a construction contract bond, the principal would be the building contractor who agrees to meet certain building specifications and to complete the work within a specified time period. The obligee would be the property owner or party for whom the building is being constructed. The obligee might require the appropriate bonds as a condition for awarding the construction contract. The surety or guarantor is the surety company or insurance company issuing the bond.

Coverage

Under a typical bonding agreement, the principal and surety bind themselves "jointly and severally" along with their "heirs, executors, administrators, and successors" to the obligation described in the bond. This means that once the bond has been executed and delivered to the
obligee, any default gives the obligee the right to seek recovery from the principal and the surety, or from either party individually.

The primary responsibility falls upon the principal, because no action can be taken on the bond until default occurs. Once default occurs, damages will have to be paid by the principal and/or the bond company. To the extent that the surety pays any damages, it acquires the obligee’s right of recovery against the principal. The subrogation rights of the surety are established by law and supported by the language on a bond application.

The actual obligation under the bond will be stated in the contract, and it will vary depending on the purpose of the bond. Many bonds have a provision that begins with: “The condition of this obligation is....” Different forms are available for bid bonds, performance bonds, payment bonds, and other bonds.

**Suretyship versus Insurance**

Suretyship and insurance do share some characteristics (such as a transfer of risk, a promise of indemnity, and marketing through the agency system), but in many respects the two fields are distinct.

A major contrast is found in the fact that a surety bond is a contract between three parties, while insurance policies are two-party agreements. Liability insurance provides third-party coverage (payment to a third party), but the third party is unknown and only two parties form the contract.

Another significant contrast is that **losses are not expected** in the surety field. With insurance, some losses are expected with respect to any large number of similar risks, and a portion of the premium is set aside to pay losses. Each surety bond applicant is reviewed individually, no pooling of risks occurs, no portion of the premium is set aside for losses, and no surety would knowingly issue a bond for a principal likely to default. Premiums on bonds are actually service fees—modest charges made for use of the surety’s backing to establish financial responsibility. Sharp differences between the surety and insurance fields can be found with respect to the application of the principles of indemnity and subrogation rights. Sureties frequently require principals to enter into written contracts of indemnity, under which the principal agrees to indemnify the surety for any losses or costs under a bond. Even in the absence of such an agreement, a surety who makes payments for a principal has a right to be indemnified under common law. As a result, the principal must indemnify the surety for losses, and the surety has subrogation rights against the principal who purchased the bond.

With insurance, the insurer agrees to indemnify the insured or another party on behalf of the insured, and the insurer gains subrogation rights against third parties but not against the policyholder. In terms of risk of loss, a surety bond is designed to protect the bonding company while an insurance policy is designed to protect the insurance buyer.

Since a surety does not expect or intend to pay losses, and because premiums do not fund loss reserves, the surety field relies on careful underwriting. A bond underwriter will want to investigate all factors that might prevent a successful completion of the principal’s obligations. In the case of a contractor seeking a performance bond for construction projects, the past experience and technical abilities of the contractor should be examined to determine the principal’s general capability for doing the work. In order to determine reliability, the underwriter should review the contractor’s character and reputation. Financial capabilities are important, because if the contractor lacks the assets or cash flow to meet commitments a default could occur. Project conditions, general economic conditions, labor relations, and other factors should be looked into.
Other Types of Bonds

Contract Bonds
Contract bonds are issued to guarantee performance of the terms and provisions of written contracts. The principals on these instruments are usually construction contractors, although the field does embrace other types of contracts. For the building of dams, bridges, roads, and tunnels, bonds are usually required by government entities. For building construction, the obligee is more frequently a private entity but may be a government agency. There are many different types of contract bonds. Some of the most common are bid bonds, performance bonds, payment bonds, completion bonds, and supply bonds. A number of these bonds may be required to guarantee different aspects of a single construction project.

Construction projects are usually awarded to a contractor who submits the lowest bid. Governments and private owners usually require contractors to submit a bid bond along with their bid. The bond guarantees that if the bidder is awarded the contract two things will occur—the bidder will actually sign and accept the contract, and a performance bond will be issued.

If the successful bidder defaults on either account, the obligee may use as much of the bid bond penalty as necessary to cover resulting losses and expenses. Extra expenses are incurred if a project must be rebid or if the job must be awarded to the next highest bidder. Under some bid bonds, the entire bond amount will be forfeited if a default occurs, regardless of the amount of actual costs and expenses related to default. The same surety that issues a bid bond usually expects to write the performance bond if the principal’s bid is accepted.

Performance Bonds
A performance bond guarantees the owner (obligee) that the contractor (principal) will complete the original contract as drawn. If the contractor fails to complete the work, the surety may at its own expense engage another contractor to complete the work. If the obligee engages another contractor, expenses will be reimbursed by the surety. If the original contractor fails to complete work on time, the surety will cover any losses related to the delay in construction.

Financial Guarantee Bonds
These guarantee payment of money—either money collected from the public which is to be remitted to public treasuries (sales tax bond)—or fees or taxes payable by the principal directly to public treasuries (gasoline and fuel tax bond). A sales tax bond, a classic example of a financial guarantee bond, guarantees that the principal will remit to the state the required amount of tax due on sales. Gasoline and fuel tax bonds are similar, guaranteeing that the principal (a trucking company) will pay the proper taxes on the gallons purchased wholesale. Obviously, a good financial statement in relation to the penalty of the bond is required.
Payment Bonds
Payment bonds, which are also known as labor and material bonds, guarantee that a principal will complete and deliver the work free and clear of liens or encumbrances. These bonds assure the owner that if the contractor does not pay all the bills for labor and materials used for the project, the property will nonetheless be turned over without attachments.

It is not unusual for a single bond to contain both the performance and the labor and material payment clauses.

When a contractor borrows money to fund a construction project, the lender may require a guarantee that the project will be carried out and the contractor will be paid for the work. A completion bond guarantees the lender (obligee) that the contractor-borrower will apply the funds to the project and complete the project free of any liens or encumbrances.

Supply Bonds
A supply bond guarantees that a supplier will faithfully furnish supplies, materials, finished products, or equipment according to the terms of a supply contract. If a contractor were to require such a bond from a supplier, the contractor would be the obligee rather than the principal. A supply bond might insulate a contractor from the consequences of a default resulting from an interruption of supplies.

For example, a building contractor might be unable to complete a project if expected electrical or plumbing supplies did not arrive. A default on the building contract might trigger payment under the contractor's performance bond, and the surety would then seek recovery from the contractor. If the contractor had a supply bond from the supplier, the contractor's losses and expenses would ultimately be paid by the supply bond.

Supply bonds are frequently written to guarantee non-construction supply contracts. Any business that depends on a steady supply of materials, components, or finished goods may require a supply bond from its suppliers. Manufacturers and finishers are particularly vulnerable to business losses resulting from supply interruptions.

Judicial Bonds
Under our legal system, certain types of privileges are available only when a bond or other security has been furnished. Judicial bonds fall into two broad categories—court or litigation bonds, and fiduciary bonds.

Litigation Bonds
Most people are familiar with bail bonds. Someone arrested on a criminal charge may be held until trial, unless they furnish the required bail. When a bail bond is issued, the person released is the principal and agrees to appear in court at a given time and place. The government entity (municipal, state, federal) in whose court the defendant must appear is the obligee. If the principal fails to appear, the bond amount becomes payable and is forfeited as a penalty. Bail bonds usually require collateral (cash, a deed, or some other property) to protect the surety. Surety companies and insurers consider bail bonds to be a rather undesirable class of business,
and much of the market is left to organizations that specialize in underwriting and issuing bail bonds.

Courts cannot afford to operate on the assumption that everyone who initiates legal action will be able to pay court costs and legal fees if they lose the case. A plaintiff is therefore required to furnish various bonds related to lawsuits and other legal actions before the courts will proceed. A cost bond guarantees that the plaintiff (principal) will pay court costs and any damages to the defendant if the plaintiff loses the case.

When judgments for damages and/or costs are awarded, the party charged with paying the judgment may appeal the case to a higher court. Appeal bonds guarantee that the judgment will be paid if affirmed, and that the costs of the appeal will also be paid.

In certain cases, a party to a legal action secures a court order to attach the assets of another party. The court will not issue the order until an attachment bond is furnished. The bond guarantees that if the action to attach the property was wrongful, any damages suffered by the other party will be paid.

A plaintiff may seek an injunction against another party, but courts require that an injunction bond be furnished before granting any injunction. This bond is similar to the attachment bond, because it guarantees that damages to a defendant will be paid if it is later decided that the injunction should not have been issued.

**Fiduciary Bonds**

A fiduciary is someone who has a legal right to handle the affairs of others, and the duty to do so responsibly. Usually, a fiduciary supervises money and property for another. Fiduciary bonds guarantee that a fiduciary will faithfully perform duties and act in the best interests of the person being represented. Bonds are often required, because fiduciaries usually represent parties that are protected by the legal system. But fiduciary bonds are available even when they are not required by a court.

Bonds are available for administrators and executors of estates. An administrator is appointed by a court to administer the estate of someone who has died without leaving a will. An executor is named in the will of a deceased person, and is charged with carrying out the terms of the will according to law.

Guardians may need to be bonded because they are often appointed by courts to handle the affairs of people who are incapable of doing so for themselves. Someone may become a guardian of a minor or a person who is physically or mentally incapacitated.

Fiduciary bonds are also issued to receivers in bankruptcy cases and to various trustees. Receivers may be responsible for collecting assets and paying debts according to legal priorities. Trustees often hold assets and make long-term investment decisions under powers granted by a trust agreement.
License and Permit Bonds
Many local, state, and federal laws require that a bond be furnished before someone can obtain a license or permit to engage in a particular activity. There is a wide variety of license and permit bonds, but they fall into two general categories. First, there are those designed to guarantee that laws and regulations of a particular business or activity are followed—funeral directors, private detectives, and real estate brokers must be bonded. Such bonds might cover losses if members of the public sue the licensing agency because a principal has failed to fulfill obligations. The second group of bonds is designated to guarantee that certain taxes are paid—certain bonds are required in relation to the sales of gasoline, liquor, and tobacco products.

Public Official Bonds
Public official bonds are designed to guarantee that elected public officials perform duties faithfully and honestly. Public officials may be held liable for any misuse of public funds, and public damage might result if an official fails to fulfill obligations. Bonds are often required in advance as a condition of being eligible to hold public office.

Securities Bonds
Lost instrument bonds, also known as securities bonds, guarantee that if securities or valuable papers handled by the principal are lost, destroyed, or stolen, the owner of the securities will be indemnified. These bonds usually contain a provision calling for reimbursement if lost securities turn up after payment has been made under the bond.

Motor Vehicle Bonds
Various motor vehicle bonds may be issued. Individuals may furnish bonds to establish proof of financial responsibility. Certain bonds may be required of those who apply to become motor vehicle dealers.

Self-Insurer Bonds
Workers compensation self-insurers bonds are required in the states that permit employers to self-insure compensation benefits. Since workers are entitled to benefits by law if they are injured while on-the-job, states want to make sure that self-insurers have established appropriate programs and that benefits will be paid. The self-insurers bond guarantees that the benefits will be paid.
Professional Liability Insurance

Introduction
In many small businesses, the business owner provides advice or professional services for which customers pay a fee. However, if these services are in some way unsatisfactory, the customer may sue the service provider for professional negligence. Accountants, attorneys, doctors, architects, financial planners or anyone who provides professional services may find themselves as the defendant in a lawsuit. While many of these suits are unsuccessful, legal defense costs and potential settlement awards are ample reason for extensive professional liability coverage.

Due to the growing frequency of malpractice suits and the sympathies of courts, professional people are now held more accountable for their mistakes than ever before. As time passes, higher and higher sums are being awarded to plaintiffs in malpractice suits. The need for professional liability insurance, written with adequate limits, has grown in direct proportion to these trends.

Professional liability coverage protects you against legal liability resulting from negligence, errors and omissions, and other aspects of rendering or failing to render professional services. It does not cover fraudulent, dishonest, or criminal acts. Many professional liability policies contain exclusions which are commonly found on general liability forms, such as liability you assume or obligations which fall under a workers compensation law.

In the medical field, professional liability coverage is often referred to as malpractice insurance. In other areas, the coverage is generally known as errors and omissions insurance, particularly where there is no coverage for bodily injury. However, all professional liability is a form of malpractice insurance.

Professional liability policies used to be written on an occurrence basis. This meant that the policy in effect when the error, omission, or negligent act originally “occurred” obligated the insurer to provide a defense and cover the claim.

Although insureds often increased their limits of insurance on renewal policies to keep up with inflation and other economic changes, occurrence coverage for this type of exposure raised two
potential problems. On one hand, you might have inadequate coverage even after raising limits if a claim is made for an act that occurred many years in the past. On the other hand, the insurance company might have to defend a claim and incur substantial legal expenses many years later even when the amount of coverage—and the premium collected—for the policy is relatively low.

To remedy these problems, insurers began shifting to claims-made coverage, which obligates the carrier of the policy currently in effect when a claim is made, even if the negligent act or error occurred many years before (provided it did not occur before any retroactive date shown on the policy). Most professional liability policies today are written on a “claims-made” basis.

**Retroactive Date**
The retroactive date may be defined as the starting point for coverage under a claims-made form or as the date prior to which no coverage will be provided.

In most cases, the retroactive date will be the inception date of the original claims-made policy. There are three options with the retro date. It can be (a) advanced, (b) made not to apply at all by inserting “none” in the retro date box on the Declarations page or (c) left alone.

**Advancing The Retro Date**
If a change of carriers occurs, the new carrier may wish to establish a new retro date, thereby eliminating any possibility of paying claims arising out of incidents which occurred in prior years. Example: An occurrence policy is renewed on July 1, 2006, with a claims-made form. The retro date is July 1, 2006. The policy is renewed in 2007 and 2008 with both policies showing the original retro date, thus providing coverage for any incidents back to July 1, 2006. In 2009, coverage is written with another company. That company may elect to establish a new retro date of July 1, 2009. This is called advancing the date.

However, the retro date may only be advanced with the written consent of the first named insured and the only:

1. If there is a change in carrier; or
2. If there is a substantial change in the insured’s operations which results in an increased exposure to loss; or
3. If the insured fails to provide the company with information the insured knew or should have known about the nature of the risk insured which would have been material to the insurer’s acceptance of the risk or fails to provide information which was requested by the company; or
4. At the request of the insured.

**No Retro Date**
It would be an unusual situation, but it might occur that the underwriter would be willing to use “none” as a retro date on a claims-made policy. When this is done, it will pick up claims arising out of incidents going back for an unlimited period of time, although the form becomes excess over any coverage which existed prior to the writing of the claims-made form.
In most cases, when a carrier insures a risk for a number of years, the retro date will remain unchanged, thus providing coverage for all incidents occurring after the original retro date. After a number of years the insured, then, has the equivalent of an occurrence policy.

**No Change to Retro Date**
Even if an insured changes carriers, the original retro date may be retained, thus providing continuity. It is hoped that this is the way retro dates will be handled.

An underwriter is prevented from arbitrarily advancing retro dates by the following ISO rule. A retro date may be advanced only if there is (a) a change of carrier, (b) a substantial change in the operations of the insured which represent increased exposures to loss, (c) failure on behalf of the insured to provide the company with information it should have about the risk and (d) The consent of the insured. This rule should prevent the underwriter from capriciously advancing the retro date.

When an underwriter advances a retro date, this leaves the insured without coverage for any incidents that occurred in prior years that might result in claims in the future. The previous policy has expired and the new one will only cover claims made in the future; thus, a gap in coverage exists. A vehicle for closing this gap exists in the form of "tail" coverage or more formally, extended period of reporting coverage.

**Extended Period of Reporting Coverage**
The insuring agreement of the claims-made CGL limits coverage to claims first made “during the policy period.” When claims-made forms are continually renewed by other claims-made forms, the agreement does not present any problems—whenever a claim is made, it will be charged against current coverage. But coverage gaps would result if the coverage was to be renewed on an “occurrence” form, if a retroactive date was moved forward at renewal or if the insurance was permanently discontinued (a possibility when an insured goes out of business). In such cases, future claims from past operations could not be charged against any future occurrence policy, nor would any claims-made coverage exist at the time the claim is made.

Extended reporting periods (sometimes called “tail” coverage) were created to solve the problems of coverage interruptions or transitions back to occurrence coverage. Extended reporting periods extend the period for reporting claims that occurred before the end of the policy period (but not before the retroactive date). They do not extend the policy period. Once in effect, extended reporting periods may not be cancelled.

**Conditions for Provision of Extended Reporting Periods**
The insurer will provide an extended reporting period under the following conditions;
1. If the policy is cancelled or not renewed—either by the insured or the insurer;
2. If the insurer renews or replaces the policy with one that has a later retroactive date;
3. If the insurer renews or replaces the policy with an occurrence form.
Two Types of Extended Reporting Periods
Section V of the policy contains two provisions for tail coverage:

1. The Basic Extended Reporting Period, which is an automatic, limited period and
2. A Supplemental Extended Reporting Period, which is an optional, unlimited period.

Basic Extended Reporting Period
A Basic Extended Reporting Period, of limited duration, is automatically provided without additional charge. There are actually two basic periods:

1. Five-Year Basic Extended Reporting Period: Applies to claims resulting from an occurrence reported to the insurer no later than 60 days after the end of the policy period.
2. Sixty-Day Basic Extended Reporting Period: Applies to all other claims (i.e., claims resulting from an occurrence not reported to the insurer before 60 days after the end of the policy period).

Example: A customer is injured in the insured’s store during the policy period but does not immediately make a claim. The insured reports the incident to the insurance company within 60 days of the expiration date of the policy. Now, should the injured customer decide to make a claim at a later date, the insured is automatically covered for five years after the expiration of his policy.

On the other hand, assume that the same insured was not aware of the incident and was therefore unable to report it to his insurer. When his policy expires, the incident would be automatically covered only if a claim is made within 60 days of the end of the policy period. To protect himself for a longer period of time in the event of such unknown claims, the insured would have to purchase the Supplemental Extended Reporting Period Endorsement (discussed below).
Other Provisions of the Basic Extended Reporting Period:

1. When coverage is provided under the Basic Extended Reporting Period, the limits of insurance are not reinstated or increased. The aggregate policy limits apply, so that the limits remaining after any previous claim payments are the limits applicable to the basic tail period.
2. The Basic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance purchased by the insured, even if the aggregate limits of the subsequent policy have been exhausted by previous claims.

**Supplemental Extended Reporting Period**

For an additional premium, the insured may purchase the Supplemental Extended Reporting Period Endorsement With Amendment of Other Insurance Condition, if such coverage is requested in writing within 60 days after the end of the policy period. If this written request is not made during the required time period, the company is under no obligation to offer the supplemental tail.

Other Provisions of the Supplemental Extended Reporting Period:

1. When the Supplemental Extended Reporting Period Endorsement is attached, separate aggregate limits apply, equal to the policy’s original aggregate limits. (In contrast, the basic tail is subject to the regular aggregate limits, reduced by previous claims, if any.)
2. The supplemental tail coverage does not take effect until the end of the basic five-year tail or 60-day tail (whichever applies).
3. Coverage is excess over any other insurance whose policy period begins or continues after the supplemental tail period begins.

**Rating for SERP**

Rates for the Supplemental Extended Reporting Period Endorsement are determined by the individual company, based on advisory factors provided by ISO. However, the additional premium may not exceed two times the annual premium for the general liability coverage being terminated. The additional premium is fully earned when the endorsement takes effect.
Medical Malpractice Coverage

The Basics
In the medical field, malpractice insurance applies to bodily injuries arising out of the rendering or failure to render professional services. Bodily injuries are covered because medical, surgical, dental, and nursing treatments, medicines, and services have physical consequences for patients.

Various forms provide professional liability coverage for:

- hospitals,
- physicians, surgeons, and dentists,
- nurses,
- opticians,
- optometrists,
- chiropractors, and
- veterinarians.
Errors and Omissions Coverages

The Basics
Many non-medical practitioners have liability exposures arising out of the knowledge, skill or advice they sell, and the professional activities they engage in. Professional liability policies are available for:

- advertisers, broadcasters and publishers,
- insurance agents and brokers,
- accountants,
- architects and engineers,
- attorneys,
- pension plan fiduciaries,
- stockbrokers, and
- directors and officers of corporations.

The fact that professional liability requires different underwriting and rating along with unique claims handling skills, most insurers do not want to provide it as part of CGL coverage. Many other types of professional liability coverages are available. In most cases, errors and omissions insurance excludes coverage for bodily injury, property damage, personal injury or advertising injury. In fact, ISO CGL forms require a mandatory professional liability exclusion for several types of businesses that states: This insurance does not apply to "bodily injury, property damage, personal injury or advertising injury" due to the rendering or failure to render any professional service.

The negligence, errors and omissions of many professionals will only generate claims for financial damages. But the nature of a profession determines the nature of malpractice claims, and the insuring agreements reflect this fact. Advertising injuries would also be excluded, as they are covered under media liability.

For example, forms covering architects and engineers do cover claims for BI and PD, because errors or negligence in the design of buildings or products can lead to bodily injury and property damage.

Coverage for insurance agents and brokers has become an important necessity for operating an insurance business. Agents and brokers may be sued by insureds who claim financial losses because of errors or omissions in risk management, exposure evaluation and professional recommendations.

Insurance producers also have an exposure from the companies with which they place business. An agent’s errors or omissions (E&O), or negligence, could cause losses for the insurance company that he or she represents. Insurance producers usually cannot afford to operate without E&O coverage. Obtaining adequate coverage and a reasonable price for the insurance have become major issues.

Liability coverage for lawyers is another important type of professional insurance. One of the reasons why there has been an increase in attorney malpractice claims and a trend toward higher awards has been the advancing tendency to sue. Lawyers are partly responsible for the trend, but they are not immune to the consequences of it.
A lawyer who loses a court case could be sued by the dissatisfied client. Lawyers give advice on financial issues, drawing up of contracts, business organization and a wide range of other matters. They also may serve in a fiduciary capacity when they handle trusts and estates. All of this opens up a broad exposure to potential liability claims.

Coverage is also written for pension plan fiduciaries and those who serve as employee benefit plan fiduciaries. These people administer plans and manage funds in the interest of plan participants and their beneficiaries. Errors or omissions, negligence, or poor or incompetent management of the funds, could lead to serious losses or deficiencies in benefits which will generate claims against the fiduciaries. As individuals, the fiduciaries cannot be insured for their intentional acts or dishonesty, but insurance can be written to cover their professional liability.

**Directors and Officers’ Liability**

Today, liability coverage has also become essential for directors and officers of corporations. They are sometimes sued as individuals by disgruntled stockholders. This special coverage is necessary because general liability coverage of the business will not cover their personal liability, and personal liability coverage will not cover their exposure related to business activities. Yet claims for financial losses could be filed against them as individuals for liability resulting from their decisions, actions, inactions, errors and omissions. Policies may include two different types of coverage: the first covers the legal liability of directors and officers and pays directly on their behalf; the second is a reimbursement coverage for the business, and it reimburses the business for any amounts which it is required to pay because of the errors and omissions or wrongful acts of officers and directors.

In the course of business, management makes mistakes. If these mistakes cause financial losses and appear to be the result of gross negligence or willful misrepresentation, a lawsuit may ensue. In today’s litigious environment, angry shareholders or other claimants will pursue recourse for financial losses caused by alleged wrongdoing or mismanagement. This is where directors and officers liability insurance comes to the rescue.

D&O coverage provides for legal defense and judgment/settlement expenses (up to the policy limits) in the event that someone brings suit against the company and/or its individual directors and officers. Most public companies provide their directors and officers with protection against lawsuits that result from their actions carried out in the course of their position. If companies did not provide D&O coverage, many executives would either change careers or require additional compensation to offset the risk of serving in a position of responsibility.

A study commissioned by Peat Marwick, an international accounting and consulting firm, found that more than 90 percent of the chief executives of America’s leading institutions believe that the country is experiencing an incipient crisis with respect to the D&O liability issue.

Overall, nine in 10 of those surveyed expressed their beliefs that problems in the area of D&O liability were damaging the quality of organizational governance in the United States. One in 10 stated that “considerable” damage had already been done—from large corporations to small, non-profit organizations.

“The whole situation is scaring a lot of directors and would-be directors,” said H. J. Zoffer, dean of the University of Pittsburgh’s Graduate School of Business, “both because of the liability and insurance situations, and because directors are beginning to realize that it is no longer a kind of whitewash operation where you just sort of show up and get a directors’ fee and vote whichever way the management tells you.”
Zoffer believes that many of the problems which arise in the area of D&O liability stem more from a lack of communication between an organization’s management and its board than any sort of duplicity. And often, he says, these breakdowns in communication are unintentional.

“There is a sort of day-to-day operational pattern that is almost impossible for outside directors to be sensitized to unless someone from the management side takes the time to do so,” Zoffer said.

Communication will, no doubt, become a key factor in relaxing the whole D&O liability situation.

Based on a 1986 survey conducted by the National Association of Corporate Directors (NACD), the average director spends approximately 300 hours per year on board duties.

According to the NACD survey, it takes an average of 6.6 years to resolve a D&O claim. Claims that were filed years ago have surfaced and payment is due. And the insurance carriers haven’t the funds, thanks to years of under-priced policies, to pay off.

The NACD survey reported that average limits of liability coverage range between $14,382,000 and $20,378,000. Average deductibles range from $84,000 to $340,000, with average premiums for D&O policies falling between $219,666 and $386,317.

It is important to note, however, that the survey’s figures are based upon a cross-section of American corporations. Figures for non-profit organizations are markedly lower, though many non-profits have found it difficult to obtain D&O liability coverage for that very reason—it is less lucrative for carriers and therefore not entirely worth their risk.

Either the premiums demanded by a dwindling number of insurance companies willing to write directors and officers policies in this region of the country were deemed exorbitant, or the coverage wasn’t available at any price.

### Employment Practices Liability

Employment Practices Liability Insurance is a relatively new form of liability insurance. It provides protection for an employer against claims made by employees, former employees, or potential employees. It covers discrimination (age, sex, race, disability, etc.), wrongful termination of employment, sexual harassment, and other employment-related allegations. It covers your firm, including its Directors and Officers.

In the face of this increased risk to your business, it is also increasingly likely that your current insurance excludes coverage for employment-related claims. Most comprehensive general liability policies specifically exclude employment-related claims. For the small for-profit business, a directors and officers policy may offer a limited form of insurance coverage, but will probably not extend coverage to the business entity. Other forms of insurance, such as fiduciary liability coverage, are unlikely to cover these types of claims:

- Sexual harassment
- Wrongful Termination
- Discrimination
- Statute Violation
- Negligent Hiring
- Negligent Supervision
- Negligent Promotion
- Negligent Retention
- Disabilities
- Breach of Contract
- Loss of Consortium
- Emotional Distress
- Invasion of Privacy
- Wage and Hour Disputes
- Drug Testing
- Mental Anguish
- Libel
- Slander
Commercial Umbrella Policies

The Basics

Umbrella policies are written to provide insurance on an excess basis, above underlying insurance or a self-insured retention (a layer of losses absorbed by the insured business). This is, in some ways, like a large deductible.

Some umbrellas are written to “follow form,” which means they do not provide broader coverage than the primary insurance. Many umbrellas are designed to fill coverage gaps by providing coverages not included in the underlying insurance. For losses which are covered by the primary insurance, the umbrella coverage begins to apply only after the primary coverage is exhausted by payment of the per occurrence or aggregate limit. For losses which are covered by the umbrella and not by the primary policies, the umbrella coverage begins to apply after a loss exceeds an amount which you have agreed to retain.

There are no standard umbrella policy forms. Early umbrella policies were extremely broad and contained few exclusions. After experiencing problems, insurance companies narrowed the coverage by creating more specific insuring agreements and exclusions. The intent is to provide affordable and comprehensive coverage for catastrophic losses, incidental exposures, and modest insurance gaps, but not to provide blanket all risk coverage in multiple areas where there is no primary insurance.

For this reason, underwriters usually require you to maintain an adequate range of underlying coverages before providing the umbrella coverage. Umbrella insurance applications always require disclosure of the underlying primary insurance coverages.

To a degree, the exclusions and limitations of an umbrella often follow the underlying policies. However, the umbrella will usually have fewer exclusions than the primary coverage, less restrictive exclusions, and a broader insuring agreement.
For many businesses, an umbrella policy protects business assets which could be threatened by multimillion dollar liability lawsuits. Usually, commercial umbrella forms provide a minimum of $1 million of insurance, but they are frequently written with limits of $10 million to $50 million or more. The policies may include per occurrence and aggregate limits of liability.

Commercial umbrellas also help to fill two types of insurance gaps—those created by oversights, and those resulting from exposures which may not be fully insurable under traditional policies. Where no primary insurance exists, the required self-insured retention will be at least $10,000, but $25,000 is more common. For particularly risky exposures, the insurer may require a retention of $50,000 or $100,000 or more.

Underwriters usually require you to maintain, at a minimum, underlying commercial general liability, automobile liability, and statutory employers liability coverages. Depending upon the type of risk, the underwriters may also insist that you carry other coverages.

Because there are no standard forms, umbrellas do not always provide broader coverage than the underlying policies. Some contracts are written on a straight excess basis. But most are broader than the primary coverage because the insuring agreement refers to personal injury rather than bodily injury. Unlike the CGL, umbrellas do not define personal injury to mean injury “other than bodily injury,” so it means bodily injury and more. This expands the insurance to include a wide range of torts other than negligence, such as discrimination, defamation of character, libel, slander, invasion of privacy, false arrest, humiliation, wrongful detention, and mental injury. Department stores have often been sued for false arrest and wrongful detention. Real estate firms have been subject to charges of discrimination. The employment and credit practices of any business create personal injury exposures. Many umbrellas are also written to include advertising liability.

In many areas, a commercial umbrella may be written to provide coverages which are not included in the underlying insurance. Such coverages apply above the self-insured retention. Umbrellas commonly provide worldwide coverage for products liability, which is an important coverage for any firm selling to international markets. Blanket contractual liability coverage, for both oral and written contracts, may be included. Umbrellas frequently provide liability insurance for incidental malpractice, non-owned aircraft, and non-owned watercraft exposures. It is not uncommon for umbrellas to provide employees liability coverage, by making employees part of the definition of “named insured.” Employees could be sued as individuals for acts or omissions related to their employment. Underlying liability policies usually exclude damage to property which is in your care, custody or control—or which you rent or occupy—and these coverages are available under umbrella policies. Umbrellas may be written to provide liquor law liability and many other liability coverages.
Self-Insured Retention

Umbrella policies are written to provide insurance on an excess basis, above underlying insurance or a self-insured retention (a layer of losses absorbed by the insured business). This is, in some ways, like a large deductible.

For many businesses, an umbrella policy protects business assets which could be threatened by multimillion dollar liability lawsuits. Usually, commercial umbrella forms provide a minimum of $1 million of insurance, but they are frequently written with limits of $10 million-to-$50 million or more.

The policies may include per occurrence and aggregate limits of liability. Commercial umbrellas also help to fill two types of insurance gaps—those created by oversights, and those resulting from exposures which may not be fully insurable under traditional policies. Where no primary insurance exists, the required self-insured retention will be at least $10,000—but $25,000 or even $50,000 is more common. For particularly risky exposures, the insurer may require a retention of $100,000 or more. A commercial umbrella may be written to provide coverages which are not included in the underlying insurance. Such coverages apply above the self-insured retention. Umbrellas commonly provide worldwide coverage for products liability, which is an important coverage for any firm selling to international markets. Blanket contractual liability coverage, for both oral and written contracts, may be included.

After you have identified the sources of potential loss and established goals for your program, you are ready to consider methods for managing your risks. Risk managers usually choose from a menu of five different risk management techniques. They are:

1) retention (simply absorbing a loss)
2) loss control
3) avoidance
4) non-insurance transfer
5) insurance

Self-insured retention is best for low severity exposures. Example: A common package carrier retains the risk of breakage during shipping. Because the common carrier can expect some amount of breakage during transit, there is no economic purpose in transferring the cost of shipping damage to an insurance company.

Remember: The insurance company must make a profit and cover its costs. For this reason, exchanging dollars with the insurance company is a losing proposition. Therefore, small and/or predictable losses do not warrant insurance coverage. Rather, any business should retain small losses and predictable losses and include them in the firm’s budget as a cost of doing business.

Some companies view retention and aggressive loss control techniques as an economical way to manage the cost of risk. While retaining exposure to any loss is accompanied by potential earnings variability, retention reduces company complacency towards losses that have non-quantifiable and often long-term consequences.

As described in a July 1995 article in Risk Management magazine, Mattel retains most of the product liability exposure for its extensive line of toys. Mattel’s management considered the costs and benefits of several strategies, including comprehensive insurance coverage.
Difference In Conditions (DIC)

Difference in conditions (DIC) insurance is frequently written with fire and property coverages to supplement the protection and fill insurance gaps. It is often used to provide a specific type of coverage which is excluded on traditional property insurance forms. One of its advantages is that it may provide coverage for a wide variety of unanticipated miscellaneous perils at a relatively low cost. It is sometimes used to provide a layer of excess coverage over whatever limits are available in the normal market.

The coverage varies because there are no standard forms, and individual insurers often use their own forms. Generally, DIC coverage is written on an “all risk” basis—it covers all losses which are not excluded. Because it is intended to supplement more traditional coverages, it usually excludes losses which are commonly insured on other policies (such as loss by fire, lightning, wind, hail, explosion, riot, smoke, vehicles, aircraft, vandalism and malicious mischief). This is why it is called “difference in conditions”—it does not cover what is covered elsewhere, while it covers almost everything else.

Coverage is often written specifically to provide insurance against one or more particular perils which are excluded on most property insurance policies (such as flood, earthquake, mysterious disappearance, or weather conditions). DIC policies may be written to cover direct losses and consequential losses. In addition to filling specific insurance gaps, broad coverage for loss by unknown perils is a great advantage to you. There are a number of potential loss exposures that might not be anticipated or might simply be overlooked, which a DIC policy may cover.

The covered property on DIC policies is similar to what may be insured by fire insurance forms. Coverage may be written on buildings, machinery, and business personal property including "stock." A DIC policy will usually exclude coverage for the same types of property not covered by fire insurance (such as money, securities, growing crops, aircraft, and vehicles), because these are subjects for other types of insurance and specific policies exist to cover those items.

DIC insurance may be used to fill insurance gaps which cannot be filled using traditional policy forms, and it may also be used to close gaps which are created by underwriting decisions. For some hazardous risks, underwriters may not want to provide the broadest coverage available, or insure against a given peril, or write the high limits you request. In these cases, DIC is often the answer to your needs.

Originally, DIC coverage was available only for very large risks. Gradually it became available for medium- and small-sized business risks. Because it provides broad coverage over other insurance or with a high deductible, it actually provides a considerable amount of protection at a minimum cost.

One of the most frequent reasons for purchasing a DIC policy is to pick up coverage for a specific peril, notably earthquake coverage. When written for this purpose, the policy will exclude the "covered causes of loss" attached to the traditional commercial property coverage, and will be written to cover all other risks including earthquake. Although earthquake coverage may be attached to traditional property policies, it is often obtainable on a DIC policy at a lower rate and lower deductible, and with the added advantage of having no coinsurance clause.

DIC coverage and limits may be structured in different ways for different purposes. In some cases, a DIC policy may be written as a low-limit supplement to a greater amount of property coverage.
Example: You have a personal property exposure in the amount of $2,000,000 which must be insured for loss by fire and other major perils. However, the realistic exposure to other types of miscellaneous losses is only $50,000. A DIC policy covering these other exposures could be written for $50,000—probably at a substantial savings over attaching the coverage to the other policy with the higher limit.

In other cases, DIC coverage may be written as excess over an underlying layer of basic property coverages—in which case the common perils would not be excluded. When written as an excess policy, the coverage might carry substantial deductibles ($10,000 or more) for losses which are not covered by the underlying insurance.

DIC insurance might also be written as excess coverage for a particular peril for which underlying insurance is limited, such as flood insurance. You might buy the maximum amount of flood coverage available under the flood insurance program, and then buy a DIC policy including flood insurance to be excess over the amount written under the flood program.

Difference in conditions insurance is an uncontrolled line, and nearly all carriers are free to write the coverage. In reality, it has been offered only by a limited number of carriers. Although a number of traditional property insurers will write the coverage, they tend to be conservative in their approach to both underwriting and pricing. For this reason, the coverage is most frequently written in the excess and surplus lines market, where underwriters tend to have a more realistic view of the coverage and the pricing tends to be more favorable for policyholders.
Farm Insurance

The Basics
Farm insurance forms were developed because owning a farm calls for a combination of both personal lines coverages and commercial lines coverages. Many farmers live on their farm property meaning they have regular homeowners coverage needs. But what makes them unique is that they are also running a business, so they have significant business exposures as well. Farm insurance provides coverage for both property and liability in one policy.

When part of a package policy, farm coverage has a
- Common policy declarations
- Common policy conditions
- Farm coverage part.

More than one coverage part can be used for a single policy, depending on the types of risk exposures.

Each farm coverage part has these forms:
- Farm Declarations
- Farm Coverage Forms
- Farm Endorsements
Declarations
The farm declarations show the policy number, applicable coverage forms, limits of insurance, deductible amounts and endorsements which are attached to the coverage part.

There is also a 2nd page called Declarations page B – Schedule of Farm Personal Property, which can be used when the policy will be scheduling farm personal property, item by item for coverage. Type of personal property which are listed include: grain, farm products, computers, livestock and others. For each category there is a place where covered causes of loss and limits of insurance can be listed next to the entry.

Definitions
Definitions in a farm policy are similar to those in a homeowners policy with a few additions which are listed below.

Farm personal property means equipment, supplies and product of farming or ranching operations such as livestock, poultry, grain, produce, agricultural machinery and equipment, feed, seed, fertilizer, etc.

Business property includes property of a trade or profession other than the farming trade.

Livestock includes horses, cattle, sheep, pigs, goats and mules.

Poultry means fowl kept by the insured for the insured's use or fowl kept for sale.

Farm Coverage Forms
There are four main farm coverage forms. The first three provide property coverage, and the last provides liability coverage. They are:

1. Farm property coverage form
2. Mobile agricultural machinery and equipment coverage form
3. Livestock coverage form
4. Farm liability coverage form

Farm coverage forms are lengthy and complex. This chapter will only serve as an overview of the coverages offered, and we will only be discussing the first and last forms.
Farm Property Coverage Form

This coverage form is used to insure farm property, farm residential property, and farm personal property. It can be used to insure either the owner of the farm or a tenant with an insurable interest.

The form has seven major coverages and nine additional coverage, plus some extensions of coverage. The seven major coverages are:

Coverage A – Dwellings
Coverage B – Other private structures
Coverage C – Household personal property
Coverage D – Loss of use
Coverage E – Scheduled farm personal property
Coverage F – Unscheduled farm personal property
Coverage G – Other farm structures

We will discuss each of these coverages next.

Major Coverages

Dwellings
Dwellings are residential buildings owned by the named insured, any attached structures, and materials on the insured location intended for use in building or repairing the dwellings. Not included is land, water, trees, lawns or plants. If the limit of insurance is at least 80% of the replacement cost at the time of loss, replacement cost coverage applies.

Other Private Structures
These include garages and other structures separate from the dwelling. It does not include structures that the insured rents out to nontenants of the residence premises. There is a special limit of $250 per occurrence which applies to TV antennas, and satellite dishes.

Household Personal Property
This includes household personal property owned by the insured or members of the insured’s family who reside at the insured location. It does not include coverage for pets, plans, and motor vehicles. There is a special limit on gold, silver and money of $200. There is also a special limit of $1,000 on securities, manuscripts, and passports.

Loss of Use
Loss of use covers additional living expenses and loss of fair rental value due to a covered loss.

Scheduled Farm Personal Property
These are items specifically scheduled on the declarations which might include grain, farm materials, livestock, poultry, farm machinery and equipment, and vehicles.
**Unscheduled Farm Personal Property**
This includes all items of farm personal property except those specifically excluded such as items stored off the insured premises.

**Other Farm Structures**
This includes farm buildings other than dwellings such as silos, sheds, fences, corrals, TV equipment, building materials and others.

---

**Additional Coverages**
Farm property coverage also includes nine additional coverages, which add coverage to the seven major coverages. These include:

- Debris removal expense
- Reasonable cost of repairs to protect covered property from additional damage in case of loss
- Removal coverage for 30 days to protect covered property from additional damage in case of loss
- Fire department service charges
- Removal of fallen trees
- Theft or unauthorized use of credit cards or loss by forgery or counterfeit money up to $500
- Cost of restoring farm operations records
- Extra expense after a loss
- Collapse of a building caused by specified perils
Extensions of Coverage
For additional premium there are many extensions of the basic coverage available to insureds who want them. These include:

<table>
<thead>
<tr>
<th>Extension</th>
<th>Application</th>
<th>Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 10% of the limit for dwellings</td>
<td>May be applied as an additional amount of insurance</td>
<td>For unattached structures used solely as private garages</td>
</tr>
<tr>
<td>Up to 10% of the limit for household personal property</td>
<td>May be applied as an additional amount of insurance</td>
<td>To cover building additions, alterations, fixtures when the insured is a tenant</td>
</tr>
<tr>
<td>Up to 10% of the limit for grain, hay in buildings or structures</td>
<td>May be applied as an additional amount of insurance</td>
<td>For personal property away from the insured location</td>
</tr>
<tr>
<td>Up to 10% of the limit for farm personal property</td>
<td>May be applied as an additional amount of insurance</td>
<td>To cover grain, hay, etc. in the open against insured perils</td>
</tr>
<tr>
<td>Up to $500 per</td>
<td>Tree, plan shrub or lawn located near a residence</td>
<td></td>
</tr>
<tr>
<td>Up to $500</td>
<td>For loss or damage to contents of a refrigeration unit caused by interruption of electrical service or mechanical breakdown</td>
<td></td>
</tr>
<tr>
<td>Up to $250 per occurrence</td>
<td>May be applied to cover loss to private power and light poles, outside wiring</td>
<td></td>
</tr>
<tr>
<td>Up to $50,000</td>
<td>May be applied to cover loss by specified perils to newly constructed permanent farm structures</td>
<td></td>
</tr>
<tr>
<td>Worldwide coverage for</td>
<td>Household personal property</td>
<td></td>
</tr>
</tbody>
</table>

Covered Causes of Loss
There are three possible causes of loss sections from which the insured can choose – basic, broad and special.

Basic Form
The basic form covers loss by:

Fire, lightning, windstorm or hail, explosion, riot or civil commotion, aircraft, vehicles, smoke, vandalism, theft, sinkhole collapse, volcanic action, collision, damage in the course of transit by common or contract carrier.
Broad Form
The broad form covers all the causes of loss under the basic form plus:

- For covered livestock: Electrocution, Attacks by dogs or wild animals, accidental shooting, drowning, death due to loading or unloading accidents.
- Breakage of glass
- Falling objects
- Weigh of ice, snow or sleet
- Damage to an appliance for heating water or air conditioning system
- Accidental leakage of water to any appliance containing water or steam
- Freezing of a plumbing or air conditioning system
- Damage from artificially generated electrical current

Special Form
The special form is an “all risks” form, so it covers all types of risks except those specifically excluded. The exclusions are:

- Fire to tobacco barns
- Collapse
- Windstorm or hail damage to dairy or farm products in the open
- Rain, snow, ice or sleet to personal property in the open
- Interior damage caused by rain, snow, sleet, sand or dust, unless it first damages the roof or walls.
- Foundation or fence, patio, or swimming pool damage caused by freezing, thawing or weight of water
- Discharge of water from a plumbing, heating or air conditioning system as a result of continuous seepage
- Freezing of a plumbing, heating or air conditioning system if the insured didn’t take proper care to turn off water source
- Explosions of pipes, steam boilers, and other sources
- Theft of certain types of property away from residence premises
- Theft of property rented to a non-insured
- Theft to a building under construction
- Inventory shortages
- Voluntary parting with property
- Theft from a motor vehicle sound system
- Vandalism of a vacant building
- Dishonest acts by an insured or employee
- Transport of farm personal property except by common or contract carrier
- Collision of farm machinery by foreign objects or with the roadbed
- Artificially generated electric current
- Smoke, vapor, or gas from agricultural smudging
- Wear and tear
- Weather conditions
- Acts of governmental body
- Renovation, remodeling
- Faulty planning
- Pollution
Exclusions
These exclusions apply to all the Causes of Loss forms.

- Building ordinance
- Earth movement
- Governmental action
- Intentional loss by an insured
- Nuclear hazard
- Power failure
- War and military action
- Water damage

Conditions
As with many other forms of insurance, conditions on the Farm Coverage Form include loss conditions and general conditions.

Loss Conditions
- Abandonment
- Appraisal
- Duties in the event of loss
- Two or more coverages
- Legal Action against the company
- Paying the value of the loss
- Pair or sets
- Other insurance
- Subrogation

General Conditions
Again, as with many other property policies, these are the general conditions.

- Fraud
- Concealment or misrepresentation
- Liberalization clause
- Mortgage holders
- No benefit to bailee
- Policy period

Endorsements
A number of endorsements are available on farm policies including:

- Special limits on specified household property
- Special limits on business property
- Inflation guard
- Replacement cost coverage for household personal property
- Coverage for borrowed farm equipment
Farm Liability Coverage Form

The Farm Liability Coverage Form is used to cover the liability exposures typically found in farms. There are three major liability coverages:

Coverage H – Bodily Injury and Property Damage Liability
Coverage I – Personal and Advertising Injury Liability
Coverage J – Medical Payments

There are also some additional coverages that apply; however, this coverage is virtually identical to the coverage offered under the commercial general liability policy that we covered earlier.
Crop Insurance

The Basics
Crop Insurance provides coverage for loss to growing crops. Crop Insurance is needed as most property policies exclude damage to growing crops. Crop insurance policies are written to cover the amount of reduced yield following the loss, which represents the saleable portion of the crop. The plants or trees on which the crop grows are not typically covered.

The perils commonly insured by Crop Insurance policies include, but are not limited to flood, hail, wind, tornado, fire, lightning, earthquake, drought, insect infestation, and plant disease.

The role of the federal government in Crop Insurance is crucial in that it can also provide insurance coverage. Two major ways the federal government plays a role in the Crop Insurance market are:

1. The FCIC (Federal Crop Insurance Corporation), an agency of the U.S. Department of Agriculture, sells policies through licensed limited agents. The FCIC policy is considered broad, multi-peril crop insurance called “all-risk” coverage.

2. The federal government reinsures policies issued by private insurers. This MPCI (Multi Peril Crop Insurance) is sold by private insurers and is reinsured by the FCIC.

FCIC and MPCI coverage forms are similar and are available for a comparable premium. The MPCI coverage has expanded the opportunities for private insurers to compete with the federal government in offering an “all-risk” type of crop insurance.
National Flood Coverage – Commercial

What is a Flood

A flood is "A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (at least one of which is your property) from:

• Overflow of inland or tidal waters;
• Unusual and rapid accumulation or runoff of surface waters from any source;
• Mudflow*; or
• Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above."

*Mudflow is defined as "A river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water..."

Flood Insurance for Commercial Risks

As with personal property insurance, commercial property insurance forms do not offer protection against floods and related water damage. This is a big problem for insureds in flood zones and coastal regions.

One of the most common uninsured risks that commercial entities—often unknowingly—fail to insure is flood risk.

In this section, we will consider the ways that a commercial insured can make sure it protects itself against flood losses.

National Flood Insurance Program

The National Flood Insurance Act of 1968 established the NFIP (National Flood Insurance Program) which made flood coverage available for properties located in high risk areas and established a floodplain management program. The NFIP is administered by the Federal Insurance Administration (FIA), a component of the Federal Emergency Management Agency (FEMA).

The Flood Disaster Protection Act of 1973 stipulated that flood insurance for properties located in designated flood areas was mandatory if the owners were assisted by federal programs or borrowed from lenders protected or assisted by federal instrumentalities, such as HUD, FHA, VA, FDIC and NCUAB. In the past, the 1973 Act was not actively enforced; in 1990, Congress implemented provisions for penalty assessment for noncompliance.

The 1973 Act established that any new construction that was federally assisted as above and occurred after December 31, 1974, had to be covered by flood insurance. If any substantial improvements were made to structures that were constructed prior to that date, flood insurance had to be purchased. If structures were refinanced by a federally assisted institution (even if flood insurance had not been required originally), flood insurance had to be purchased.
The Federal Emergency Management Agency (FEMA), acting through the NFIP, established the Mortgage Portfolio Protection Program (MPPP). This program allows federally regulated lenders to force placement of flood insurance on existing loans that are secured by property located in Special Flood Hazard Areas and not protected by flood insurance. It is only applicable:

1. To those risks that have been identified as lacking flood coverage during the course of a review of the lenders mortgage portfolio; and
2. When the mortgagor (property owner) fails to respond to prescribed notices requesting evidence of flood insurance coverage.

The lender must send three notices to a mortgagor advising of the necessity of flood insurance and requesting verification of coverage before the lender may force-place coverage. If the lender does force-place coverage, it must do so with one of the “Write Your Own” companies that has agreed to participate in the program.

Property owners who fail to buy flood insurance when it is available are not eligible for full disaster relief funding in the event of a loss.

Flood insurance is available for individuals and businesses from three sources. Coverage may be placed (1) with an insurer of choice who is willing to underwrite a flood policy, (2) with any of the 50 or more companies participating in the “Write Your Own” program of the National Flood Insurance Program or (3) directly with the NFIP. In order to place flood insurance through the NFIP the three-hour training must be completed before submitting the policy as stated in Section 207 of Flood Insurance Reform Act of 2004

**Business Income and Extra Expense** – Under the flood program there is no coverage for indirect losses. The NFIP does not cover business income and extra expense.

**Binding Authority** – Producers have no binding authority for flood insurance through the NFIP. There is a 30-day waiting period before coverage commences and the annual premium must be paid in full and remitted with the application.

**Difference in Conditions Insurance**

Difference in Conditions (DIC) policies are used to expand or supplement the specified perils of underlying policy coverage to provide “All Risks” coverage. The primary policy is usually written to cover the basic causes of loss and the DIC provides “All Risk” coverage for perils not covered by the Basic Form.

The perils covered by these policies are usually broader than the perils covered under the standard Special Form coverage, because they can cover such perils as earthquake, flood, subsidence, collapse. They may also include burglary and theft, transportation coverage and other perils not usually included in other policy forms.

There is no standard DIC form, although the available forms tend to have a similar format. They can then be tailored to the insured’s requirements. They are normally written without coinsurance and there is a limit applicable for each and every loss at each and every location. Some companies writing highly protected risks (HPRs) or groups writing similar risks will offer separate DIC policies to their insureds.

If the risk is eligible for coverage under the National Flood Insurance Program, the underwriter may require that the insured cover the property up to the maximum limits available under that program. If this is done and depending on the flood exposure, there may be little or no premium charged for the excess exposure under the DIC policy.
The earthquake and flood perils are the major reasons for writing DIC coverage. Depending on the marketplace at the time, the peril of earthquake coverage may be available at a more advantageous rate with a more favorable deductible. Straight dollar deductibles might be negotiated for earthquake instead of a percentage of insurance deductible or if a percentage deductible is used, a smaller percentage than normal may be used. It is also written without coinsurance, so depending on the insured’s exposure, less coverage than required under a coinsurance form may meet the insured’s requirements.

Time element coverage is usually ignored when writing this coverage—but it is at least as important as the property coverage. The insured could suffer a substantial property loss covered under the DIC, but at the same time suffer a large business interruption loss not covered by the DIC. If there is existing primary business income coverage, it should be supplemented with the additional perils of the DIC along with the property coverage.

Burglary is another peril that can be picked up under a DIC policy. An insured may have a very large property exposure to most perils, but a small exposure to burglary or theft. Rather than pay a large load on the property coverage to include the burglary and theft exposures, a smaller amount of burglary and theft coverage can be written under a DIC policy.

As might be expected, the rating of DIC coverage can vary widely. Due to the fact that there is no coinsurance, the amount of coverage written is often 50 percent or less of the values at risk and the rates reflect this. The rating will be similar to a comparison of coinsurance rates for fire insurance versus flat rates on fire coverage, so the advantage of DIC coverage is not necessarily in premium savings, but in the flexibility of coverage. On the other hand, the flexibility and nonstandard forms allow for more negotiation of coverage and premium.

**Commercial Lines New Developments**

Commercial lines legislation and laws are subject to change at any time. Fire and Casualty Broker-Agents are strongly recommended to check with the California Department of Insurance often, as new developments may be present. The California Department of Insurance website is:

www.insurance.ca.gov

**Insurance Products and Services**

In addition to all of the commercial coverages previously mentioned in this chapter, there is also insurance available to transfer risk for identity theft, intellectual property, and cyber threats. Identity theft coverage is an Optional endorsement available under the homeowners policy to insure a criminal event in which an imposter obtains key pieces of personal information, such as social security or driver’s license numbers, in order to impersonate the insured. The information can be used to obtain credit, merchandise, and services in the name of the victim, or to provide the thief with false credentials. This endorsement provides first-party coverage for expenses incurred by an insured as a direct result of any one identity theft first discovered during the policy period. Intellectual Property Intangible products of human intelligence, especially as one may be entitled to the commercial proceeds of such products, such as patents or copyrights. Cyber Insurance is designed to protect businesses should they fall victim to hacker attacks or other forms of online mischief or catastrophe.