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Top 10 Mistakes to Avoid in Your Insurance Program



Top 10 Mistakes to Avoid



10. Missing Policies?

- Consider adding Privacy & Data Breach Policy, if you haven't already or consider more limits if you have
- E&O
- Product Recall
- Wage & Hour
- Patent (Troll) Defense Coverage

Top 10 Mistakes to Avoid



9. Missing Coverages?

- Add Social Engineering Coverage to your Crime Policy
- Make sure your cyber policy contains all of the coverages available in the marketplace
 - PCI Fines & Penalties
 - Media Liability
 - Business Interruption
- Contingent Business Interruption

Top 10 Mistakes to Avoid



8. Sublimits and Maintain Separate Buckets of Limits in Package Policies (Management Liability)
 - Best to avoid smaller sublimits if possible
 - Sharing limits seems like a good idea when you are looking at premium savings, but any other time?

Top 10 Mistakes to Avoid



7. Broad Imputation to Entity in Severability Clauses (Management Liability)

- Best to limit imputation to the top 2 or 3 key officers
- Try to be consistent and have these same key officers named throughout policy for imputation of warranties and notice purposes

Top 10 Mistakes to Avoid



6. Broad Bodily Injury Exclusions (Management Liability)
 - seek “for” prefatory language to pick up contingent bodily injury claims in lieu of more standard “based upon, arising from, or in consequence of...”

Top 10 Mistakes to Avoid



5. Be Mindful of Professional Services Definitions and Exclusions (E&O)

- sometimes definitions are written too narrow to encompass all of the professional services that your company provides
- sometimes the exclusions include services that you offer and that you think you have insurance to cover
- watch breach of contract exclusions

Top 10 Mistakes to Avoid



4. Broad Bad Acts Exclusions (Management Liability)
 - seek to narrow
 - seek to limit to a final, non-appealable adjudication
 - make sure you have tight severability and seek to apply this severability to all exclusions and warranties

Top 10 Mistakes to Avoid



3. Conflicting Endorsements

- Read your policies, especially the endorsements, when they come in and make sure that endorsements don't conflict
- Seek to add a liberalization provision in case you have conflicting provisions

Top 10 Mistakes to Avoid



2. Excess policies that do not pay defense costs (GL), do not follow form or have shaving of limits issues
 - Read your policy language and definitions, particularly definition of “damages” and “ultimate net loss”
 - Consistent choice of law throughout tower
 - No excess layer outlier with Bermuda Arbitration
 - Be careful settling for less than limits with primary

Top 10 Mistakes to Avoid




1. Not Covering Everyone

- Who do you intend to cover? Start with your Organization Chart, but don't stop there!
- Be certain "Insured" is defined broadly to include every entity you intend to cover
- Avoid scheduling entities as much as possible – broad form named insured end, but be careful of LLC, JVs and entities owned 50%
- What happens with newly created entities?

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Top 10 Insurance/Indemnity Tips In Negotiating Vendor Contracts



Top 10 Insurance/Indemnity Tips



10. Conduct Due Diligence on Your Vendors' Practices – their problems become yours

Top 10 Insurance/Indemnity Tips



9. Allow Right to Audit Vendor

Top 10 Insurance/Indemnity Tips



8. Require That Vendor Provide Immediate Notice of Breach

Top 10 Insurance/Indemnity Tips



7. Make Vendors Insurance Name Your Company Primary/Non-Contributory Over Your Company's Insurance
 - Better to have your company scheduled rather than subject to blanket AI endorsements

Top 10 Insurance/Indemnity Tips



6. Address Who Pays Deductibles/SIRS and potentially coverage disputes

Top 10 Insurance/Indemnity Tips



5. Best Practice is to Get Copy of Your Vendors' Full Insurance Policies Every Year and read them!

Top 10 Insurance/Indemnity Tips



4. Be Careful with AI – You don't want to be named on the vendor's E&O policy due to I v. I issues

Top 10 Insurance/Indemnity Tips



3. Address Indemnity Separate From Insurance – do not limit indemnity to insurance recovery

Top 10 Insurance/Indemnity Tips



2. Consider and Negotiate Limits You Are Requiring Vendor to Carry for Each Type of Policy Carefully

Top 10 Insurance/Indemnity Tips



1. You Can't Be Specific Enough in Contracts on Insurance Requirements for Vendors – limits, coverages, AI