Shadow Policies Offered

Last week we wrote about the way brokers and clients were dealing with the potential fallout from the AIG implosion. The consensus seemed to be that though there was little immediate impact, the prospects for a wrenching break in coverage certainly existed.

This week we bring news of an innovative insurance product offered by the Los Angeles-based Executive Perils Inc which functions as a shadow policy that can be implemented immediately if the insureds' main policy becomes compromised or collapses altogether.

Peter Taffae, managing director of Executive Perils, said he first offered the so-called Super-Continuity Program in mid June, after he became worried about AIG's future following a precipitous stock decline. But the program only gained traction following the demise of AIG last month. "We are overwhelmed," said Taffae. "From Fortune 50 companies to household names, our phones are ringing off the hook. We didn't want this to happen but we felt a fiduciary issue to our clients. We have to protect them under any circumstances."

How does it work? Basically the insured and their brokers negotiate a shadow policy that uses different carriers than the main policy but otherwise tries to mirror it as closely as possible. Much like an options contract the insured pays a small fee that ranges between one and two percent of the policy premium that grants the right to trigger a specified 12 month policy for a designated period of time.

In return the carrier agrees in advance to provide the terms, conditions and pricing agreed upon, even if the market has shifted. If the trigger point is not crossed or the insured does not exercise the option during the specified time frame, the carrier that offers the option keeps the fee.

Even if the specified trigger event does occur, the insured retains the sole right to discontinue the impaired policy and activate the shadow policy. Taffae also pointed out that the insured retains the right to trigger the 12 month shadow policy for the entire option period of the super-continuity program.

The insured may or may not have to pay cancellation fees on the original policy, and there is no guarantee that the shadow policy will exactly mirror the terms of the original policy since the first choice carrier may have offered uniquely attractive terms, premiums and limits. But at least the insured will have the benefit of a known backup plan in place with the price, terms, conditions and payments agreed in advance. The areas of insurance covered by the plan are limited to the coverages offered by Executive Perils: D&O, E&O, EPLI, cybercrime, legal malpractice and medical malpractice.

Taffae believes the demand for this new product will grow as more insurers face the same ratings issues that hammered AIG, and on the day we spoke, The Hartford. "We think that AIG is only the first company that's going to be in the news," he said. "I think there's more bad news to come – the rating agencies have been overwhelmed and are not keeping their eye on the ball."

AB 2139 (De La Torre) Auto Insurance: In-Home Supportive Services. AB 2139 would have prohibited an auto liability policy from excluding coverage for use of the insured vehicle by the insured in the performance of certain in-home supportive services.

AB 2825 (Carter) Automotive Repair: Crash Parts. AB 2825 would have authorized customers of auto body repair shops to receive copies of all invoices from the distributor, dealer or manufacturer for each specified crash part installed in excess of $50 and would have required automotive repair dealers to provide these invoices upon request by the customer.

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