The Renewal Questions That Reveal Hidden E&O Exposures

Your clients' biggest E&O exposures may be hiding in everyday business decisions they don't think to mention at renewal. Read on for practical ways to uncover them.

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It happens all the time: A renewal application lands in your inbox. You scan it, noting that your client, a real estate developer, has updated its revenue numbers, verified its headcount, and reported no known incidents that could lead to a claim. On the surface, little seems to have changed since last year.

But a clean renewal application doesn't always tell the full story, and here's why: It can be difficult to uncover business shifts your clients view as insignificant precisely because they don't think to mention them. Asking a few targeted questions during the renewal process can help you uncover developments that may warrant a closer look.

Three Business Changes That Matter More Than Many Clients Realize

E&O exposures don't always arise from claims or obvious mistakes. In other words, they can stem from business decisions or operational changes that have quietly become business as usual.

Significant changes to revenues, any change or addition to the professional services your clients offer, and any gain or loss of significant customers can affect the firm's professional liability exposure. They're also among the most common factors affecting risk.

Let's take a closer look at each.

Significant revenue changes. Major changes in revenue, either up or down, are worth noting because they can signal changes in your client's operations, customer mix, or project scope. An

increase in revenue may reflect larger projects or expanded operations, while declining revenue may indicate shifts in strategy or demand. Both scenarios mean the firm's exposure profile is evolving.

Pro tip: To uncover whether revenue changes may warrant additional scrutiny, ask your clients:

- What drove the increase or decrease?
- Have project sizes or contract values changed significantly from last year?
- Are you serving different types of clients than you were a year ago?
- Have you expanded into new industries or geographic regions?

Keep in mind that the goal isn't to understand the revenue change itself. It's to understand what's driving it and whether those underlying changes have introduced new exposures we'll need to address.

New or expanded professional services. Professional service firms' offerings rarely remain static. When your clients add services, enter into a new specialty, or take on responsibilities outside their traditional scope, they may introduce exposures they didn't contemplate when the policy was originally issued.

Pro tip: Small changes in a professional services firm's operations can create big exposures. To uncover hidden risks, ask your clients:

- Are you providing any services today that you weren't a year ago?
- Have your customers asked you to assume additional responsibilities?
- Do you have subcontractors performing services on your behalf?
- Have you signed any contracts that require expertise outside your traditional service offerings?

Your objective is to identify responsibilities that may seem like a natural extension of the firm's existing services but could actually introduce new exposures.

The gain or loss of key customers. A new marquee client may bring larger projects, more complex contractual requirements, or different expectations of your client's firm. In contrast, losing a significant client can alter the firm's revenue and may create pressure to pursue unfamiliar opportunities or markets.

Pro tip: To understand how your clients' changing customer relationships may be changing the nature of the work they perform, and the risks that come along with it, consider asking:

- Have your largest customers changed over the past year?
- Did you gain or lose a customer whose business accounts for a significant percentage of your revenue?
- Are you taking on larger or more complex projects than you were a year ago?

- Do any of your new customers require unique contract language, indemnification provisions, or performance guarantees?

Your focus here isn't solely about understanding customer turnover. Rather, it's about understanding whether changes in your client's customer base have introduced new contractual obligations, project complexities, or professional liability exposures.

Where Risk Perception and Reality Often Diverge

When I think about which business changes create the biggest disconnect between a client's perception of risk and the reality of their E&O exposure, growth is the first thing that comes to mind. In fact, the most significant exposures I discover during renewals are undisclosed acquisitions, mergers, or newly formed subsidiaries.

Leadership teams often view these developments as signs of success, and understandably so, but underwriters see potential exposures that require evaluation. For example, the exposure may or may not have coverage under the "Changes to the Named Insured" clause in the policy form. The key concern is whether the new exposure meets the revenue threshold in that clause in our form for automatic coverage. Premium might also be affected. For example, if the acquisition exceeds the revenue threshold, we may require additional premium.

If your client's business has acquired or merged with another company or formed a new subsidiary, be prepared to answer the following to keep their application moving forward:

- What services does the acquired entity perform?
- What is its claims history?
- Does it bring new contractual obligations or operational risks?
- Does it operate in different industries or geographic regions than it used to?
- Are there legacy liabilities we need to consider?

The answers will help your underwriter assess whether the new entity introduces exposures that require additional review, coverage considerations, or premium adjustments.

Pro tip: Don't assume a newly acquired company, merged entity, or subsidiary is automatically covered simply because it falls under the same corporate umbrella.

Bottom Line

E&O exposures don't always announce themselves in claims histories, lawsuits, or obvious mistakes. Some develop gradually as organizations evolve. Asking a few additional questions at renewal can uncover exposures that standard applications may miss and better position you to help your clients avoid surprises down the road.

Final Thought: What Does an Ideal Renewal Submission Look Like?

In a word: complete.

A fully completed renewal application, either ours or a competitor's, with every question answered, updated loss runs if there are prior open claims, any changes to professional services, and an updated project list, client list, or both, is ideal. Brokers who provide this information to underwriters can significantly reduce the back-and-forth that can slow down renewals.

About the Author



Jude Sedliak has nearly 30 years of experience underwriting professional liability insurance. His expertise includes over a dozen E&O classes, with specialization in miscellaneous professional, real estate, and insurance agents. Jude joined Berkley Service Professionals in 2021 as vice president, underwriting and was promoted to senior vice president in 2023. He has previously served as vice president at two leading E&S insurance carriers and a managing general agency.

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