

Professional Liability: What Limit Should I Carry? Do I Have the Right Deductible?

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One of the common questions we get asked as insurance brokers specializing in the design profession is, "What is an appropriate limit for our professional liability policy?" Another question is, "What should our deductible be?" While there is no one right answer, there are various factors that need to be considered.

Limits of Liability

Professional liability insurance for architects and engineers is written on a *claims made* basis. The policy currently in force provides coverage for any claims made during the policy term. Coverage is also subject to a retroactive date. This is usually the date the firm started business or the date it first purchased coverage. Any claims made arising out of work done on or after the retro date are covered.

It is important to point out that the limit of liability includes and will be reduced by defense costs. This is also known as a *burning limits* policy. The limit of coverage applies on a per claim basis and in the aggregate. The per claim limit is the most the policy will pay for any one claim. The aggregate limit is the most the policy will pay for all claims during the policy term. If the per claim limit and the aggregate limit are the same, it is conceivable that one large claim could wipe out both. Any existing claims or subsequent claims would then have no coverage. Because of this, we generally recommend that the aggregate limit be at least double the per claim limit.

There are four main factors that need to be considered when selecting a professional liability limit.

1. What are your clients requiring? Often your clients may require a specific limit of liability. While you can



generally satisfy this requirement by carrying that limit on your practice policy, there are other options as well. For example, your practice policy has a \$2,000,000 per claim and aggregate limit but your client is requiring that you have \$5,000,000 limit to work on their project. You can purchase a specific job excess endorsement with a limit of \$3,000,000 for that project alone. This would give you the \$5,000,000 required. You can also purchase specific client excess limits or project professional liability. This is a separate policy for a given project which usually covers the prime design professional and any subcontractors contracted to them. Coverage extends through project completion plus a period of years thereafter known as the reporting period. While project insurance is the only way a project owner can guarantee that certain limits of liability will be available, costs can be rather high.

2. What is common in the industry? What are your competitors carrying? There are industry surveys of what firms of a similar size to yours typically purchase. In the table on page 3, you will see examples of various sized companies and the limits and deductibles they carry.
3. What could go wrong and what would it cost? While you can't insure for the worst possible loss, you should purchase limits appropriate to the type of work you do. An architect working on modest single family homes won't need the limits that a larger architect working on high rise office buildings would need. Looked at another way, if you clearly made a major mistake, what level of coverage are you going to be comfortable with?
4. What can you afford? While professional liability rates have dropped in the past five years, it can still be a large number often equaling 2-3% of a company's gross revenues.

Deductibles

Professional liability deductibles apply per claim. If you have three separate claims during a policy term, you could pay your deductible three times. Note that multiple lawsuits arising out of the same act, error or omission are treated as one claim. So what is an appropriate deductible? Once again, the answer varies by firm. Here are some considerations:

1. How risk tolerant are you? Some of our clients feel they will never have a claim and are willing to take more risk. We have other clients that want to purchase the lowest deductible they can. Regardless of your risk tolerance, we recommend obtaining various deductible options and deciding based on the relative costs and what makes the most sense for your company.
2. What is standard in the industry? Most underwriters expect deductibles to be in the 1/2 of 1% to 1% of gross revenues range. If your company does \$5,000,000 in annual revenues, a deductible of \$25,000 to \$50,000 would be appropriate.
3. Are there any client imposed requirements? Occasionally, a client will impose a maximum deductible that they will allow. They do this because they are not

confident the design professional will have the cash flow to pay the deductible if required.* Many professional liability insurers will offer a reduced deductible endorsement. This allows the insured to show a lower deductible to satisfy the client requirement. There is generally no charge for this since the insured will still have to pay their full deductible (see example on next page). Basically, the insurance company has agreed to assume the credit risk that the made the client uncomfortable.



Deductible Options

- **Shared Expense** - A typical shared expense option provides that the insured will only pay 20% of their deductible until they reach their deductible amount. This applies only to defense costs and helps ease the burden of defending a frivolous lawsuit.
- **Dollar One Defense** - DOD eliminates your deductible as it pertains to legal fees. This is usually available for smaller firms only with deductibles of \$50,000 or less.
- **Reduced Deductible Endorsements** - see above.
- **Aggregate Deductible Endorsements** - An aggregate deductible is usually set at two or three times the per-claim deductible. It caps the amount an insured can pay for multiple claims in a given year.

Conclusion

A number of factors need to be considered when selecting an appropriate limit of liability and deductible. At a minimum, for smaller firms we recommend a \$1,000,000 per claim and aggregate policy, and ideally a \$1,000,000 per

claim and a \$2,000,000 aggregate. A two times aggregate limit will usually add about 15% to the cost of the coverage. As a firm grows, their limits need to grow as well. This is reflected in the table below. Deductibles are all about risk tolerance and cash flow. Generally, your deductible will increase as your company gets larger, as shown in the table below. We recommend that our clients always seek quotes for various limits and deductibles. It is only by evaluating the factors discussed above and taking into consideration the cost of your options that an appropriate limit and deductible can be selected.

**In the event of a claim, the design professional would pay the amount of their deductible to the plaintiff and the insurance company would pay the difference. If, as mentioned above, a client is not confident the design professional will be able to pay the deductible, they may impose a maximum allowable deductible. The reduced deductible endorsement helps a design professional resolve this issue, usually at no cost. Let's assume a design firm carries a \$100,000 deductible but they are entering into a contract that allows a maximum deductible of \$25,000. If they have a reduced deductible endorsement on their policy, it enables the broker to provide a certificate of insurance which shows the deductible as being \$25,000. In the event of a claim that exceeds \$100,000, the design professional will pay the plaintiff \$25,000 and will pay the insurance company \$75,000. In other words, the deductible obligation is the same for the design professional, it simply differs regarding to whom it is paid.*

Size of Firm (Revenues)	Average Per Claim Limit	Average Aggregate Limit	Average Deductible
\$2,500,000	\$1,700,000	\$2,350,000	\$22,000
\$7,500,000	\$2,835,000	\$3,450,000	\$54,750
\$15,000,000	\$3,650,000	\$4,650,000	\$108,000

What limits and deductibles are your competitors purchasing?

XL Catlin, one of the leading providers of professional liability insurance for the design profession shared the above information for various sized design firms. These are based on the 20 clients in their database closest to the targeted size. ■

Risk Management Seminar Series



Managing Difficult Employees

Wednesday, July 11, 2018
 6:30am Registration
7:00am - 4:00pm Program

Sexual Harassment Prevention Training

Wednesday, Sept. 5, 2018
 7:30am Registration
8:00am - 10:00am Program

Safety Management Systems 101
(This is an all-day seminar)

Wednesday, Oct. 3, 2018
 7:30am Registration
7:30am - 4:30pm Program

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Health and wellness tips for your work and life—
presented by Cavnac & Associates



Myth Busted: Sweating More Doesn't Necessarily Mean You Burned More Calories

Many people wrongly believe that how much you sweat indicates how effective your workout was. How much you sweat during a workout is due to a variety of factors such as weight, gender, age, genetics, temperature and even fitness level.

For example, men tend to sweat more than women, younger people tend to sweat more than older people and fit people tend to sweat more than those who are less fit.

So remember, don't use sweat as an indicator for how intense your workout was. Instead, track your heart rate, level of muscle soreness and amount of progress seen to evaluate whether or not your workouts are effective.

WHO Calls for a Ban on Artificially Produced Trans Fat

The World Health Organization (WHO) says that the artificially produced trans fats found in junk and fried foods contribute to more than 500,000 preventable deaths annually. That's why the WHO has released [REPLACE](#), a guide for governments to eliminate industrially produced trans fat in their countries. Their goal is to remove all artificially produced trans fats from the global food supply by 2023.

What exactly is trans fat?

Trans fat is vegetable fat that has been chemically altered by a process called hydrogenation. This process turns healthy fat into a solid, unhealthy fat that is worse for you than saturated fat. Trans fats boost low-density lipoprotein (LDL or bad cholesterol) levels and can increase your risk of heart disease by 21 percent.

What can you do now to avoid eating and drinking trans fats?

The WHO's campaign was launched mid-May 2018 and is in its early stages, which means it might take some time to see changes in the United States. In the meantime, you can read nutrition labels and look at the amount of saturated fat and trans fat per serving.

It's also important to check the ingredient list, which is different from the nutritional label. Ingredient information is listed from greatest to smallest amounts, so if partially hydrogenated oils or high fructose corn syrup are listed as the first few ingredients, choose another product.

To learn more about trans fats and their health effects, click [here](#).

Lemon Velvet Supreme

2 cups fat-free vanilla yogurt
3 Tbsp. instant lemon pudding mix
4 graham crackers (crushed)
½ cup mandarin orange slices (drained)

PREPARATIONS

1. Combine vanilla yogurt and pudding mix. Stir until combined.
2. Layer bottom of serving dish with crushed graham crackers.
3. Immediately pour pudding mixture over cracker crumbs.
4. Top with mandarin oranges.

Makes: 6 servings

Nutritional Information (per serving)

Total Calories	138
Total Fat	1 g
Protein	4 g
Carbohydrates	29 g
Dietary Fiber	0 g
Saturated Fat	0 g
Sodium	189 mg
Total Sugars	23 g

Source: USDA

Snack Smart, Save Money, Time and Calories

It's completely normal to snack throughout the workday. While it can be tempting to opt for the fast, easy (but unhealthy) option, taking a minute to snack smart can save you time, money and calories. Keep the following three tips in mind to help you snack smart at the office.

1. **Take a break.** When you reach for your snack at work, don't eat it while working. Instead, take a quick break to eat your snack uninterrupted to avoid overeating.
2. **Meal prep your snacks.** One of the best ways to avoid impulsively purchasing unhealthy snacks from the vending machine is to pre-portion your healthy snacks at the beginning of the week and bring them with you to work.
3. **Think about macronutrients.** Try to combine macronutrients (protein, fat and carbohydrates) at each snacking session. Doing so will help you feel satisfied and full until it's time for your next meal.

Click [here](#) to learn about nutritionist-approved healthy snack options.

Snacks with 100 Calories or Less

Here are some great snack options that come in portion sizes of 100 calories or less:

String cheese—Opt for an individually wrapped piece of string cheese to get your fill of protein and calcium at less than 100 calories per serving.

Popcorn—Available in 100-calorie individual servings, you can get a good amount of whole grains from this snack.

Nuts—Unsalted nuts and seeds have many beneficial nutrients to keep you feeling full. Check portion sizes to keep your calories under 100.





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- Nutrition
- Housing
- Social services, case management and support
- Lifelong Learning
- Health and Wellness Services
- Support groups



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