

Professional Liability

P&C Brokers - Canada Instructions for reporting E&O claims and potential claims

Swiss Re's Commercial Insurance team is the leading provider of professional liability solutions for insurance professionals in North America. The professional liability products are underwritten by Westport Insurance Corporation, a member of the Swiss Re Group, rated A+ by AM Best.

A. When to report a claim

Your Swiss Re E&O policy provides coverage on either a "claims made" or "claims made and reported" basis. In order to better protect your rights under the policy, you should timely report claims and potential claims to Swiss Re. Check your policy's Definitions section to become familiar with its definitions of "Claim" or "Potential Claim." Generally, however, a "Claim" is notice of legal process or a demand for money or services (including a subpoena or request for a recorded statement), and a "Potential Claim" occurs when you become aware of a proceeding, event, or development that has resulted in or could in the future result in a "Claim" against you. You should immediately report all "Claims" and "Potential Claims" to Swiss Re. For "Claims Made" policies, your notice must be provided "as soon as practicable." For "Claims Made and Reported" policies, your notice must be provided during the same policy period as that in which the claim was made against you. As outlined below, all claim reports should be in writing and sent via Swiss Re's toll-free fax number.

In summary, should you have a claim or potential claim, please report it. When in doubt about whether to report a claim, it is generally better to err on the side of caution and report it. Your Swiss Re claims team can be a valuable resource if involved early enough in the process.

B. How to report a claim and send claim documents

Please send initial claim reporting form (available at Swiss Re's Commercial Insurance Professional Liability claims page) and all subsequent documents to the below email address, toll-free fax line or hard copy. Swiss Re utilizes a paperless electronic imaging system for document management, so fax and email are the preferred methods.

If reporting via toll-free fax:
 +1 877-880-1590.

If reporting via email:
CI_SpecialtyClaims@swissre.com.

For voluminous documents (over 100 pages), you can send them by mail if absolutely necessary, to:

Swiss Re's Commercial Insurance
 Westport Insurance Corporation
 Insurance Industry Professional
 Liability Claims
 150 King Street West
 Suite 1000
 Toronto, ON
 M5H 1J9
 Canada

C. What to include when reporting a claim or potential claim

Please list your Swiss Re policy number along with all of your contact information on your fax cover page

1. For all cover transmissions (email, fax or hard) please include your Swiss Re policy number along with all of your contact information (phone, cell phone, fax, e-mail). Please indicate the designated person who is the point of contact from your office, along with an alternate contact.

2. Swiss Re claims reporting form: This is available for download at Swiss Re's Commercial Insurance Professional Liability claims page, or you can obtain it from your state or provincial association.

3. Brief description: Please provide a brief narrative explaining the chronology of events leading up to the claim submission.

4. Documents: Include all legal papers, including but not limited to any Summons, Subpoena, Complaint, Petition, or Statement of Claim. Please attach any other relevant documents.

D. How to send additional information for existing claims

Upon receipt of your claim reporting form, you will receive a claim number from the claim handler assigned to your claim. Please include that claim number conspicuously on all further correspondence so that your documents can be processed as efficiently as possible. Please use the toll-free fax number (877-880-1590) or email (CI_SpecialtyClaims@swissre.com) for all correspondence and document transmissions if at all possible. For voluminous documents (over 100 pages), you can send them

by mail if absolutely necessary to the address above (section B).

E. What to Expect After Reporting Your Claim

1. Within 72 hours of reporting your claim, you should receive a phone call from the Swiss Re claims professional assigned to your claim. If you do not hear from anyone, you should contact your provincial association, or contact Swiss Re at +1 800-241-3470. You will additionally receive an acknowledgement letter with your claim number. The claim handler will request any additional documents or information required, and you can take this opportunity to explain any additional details about the situation.

2. If the claim involves litigation against you or your brokerage, assuming that coverage has defence confirmed, Swiss Re will assign a defense lawyer to represent your interests. That lawyer will be in touch with you defence after the matter is assigned to the defense firm.

3. Please understand that litigated claims can develop over months and years, depending on the circumstances. The lawyer assigned to defend you and the claim handler assigned to your claim can provide some guidance as to what the litigation process is likely to entail for your claim.

4. If your E&O policy has a deductible that applies both to expense and loss, then you will be required to contribute your deductible to pay the defence costs until your expense deductible is exhausted.

5. In some instances, settlement negotiations are likely to occur at various points throughout the life of the claim. Your defence lawyer and/or claims professional will keep you advised of the settlement negotiations as they occur. Most E&O policies require that you give your consent prior to any settlement being finalized. If you do not wish to consent to a settlement your claims professional will discuss the options available per the terms and condi-

tions of the policy and the circumstances of your particular claim situation.

Swiss Re's Commercial Insurance protects insureds with specialized needs in niche markets in the U.S. and Canada. Products include property and casualty insurance, professional liability insurance, excess medical expense and risk management services. Swiss Re's Commercial Insurance has served the primary insurance community since 1908 and is committed to providing service, creative solutions and security for its clients.

The material contained herein is for informational purposes only and is not intended as legal or other professional advice. Please procure the appropriate legal or other professional advice and services to address your individual needs and circumstances.