Chapter 7 Umbrella – Introduction

We've just spent a few sections discussing the Personal Umbrella policy, but we're about to go into greater detail as to what umbrella insurance is, who needs it and how risks are assessed.

Why would I need an umbrella insurance policy?
There are many situations where a standard liability policy is simply not enough coverage. An umbrella policy allows you to protect yourself against major lawsuits in two ways. First, the umbrella provides excess liability over underlying coverage. Second, the umbrella provides liability coverage that may be excluded by homeowners or auto policies.

Just what is a personal umbrella policy?
Often times referred to as a personal catastrophe policy, a personal umbrella policy supplements the basic personal liability coverage provided under homeowners' and auto policies. The umbrella was created to protect people from large losses.

What special protection is afforded by an umbrella policy?
Personal injury losses that may be limited or excluded under most homeowners' policies will receive broader coverage under an umbrella policy. As a rule, personal injury does not have a uniform definition. However, just about all umbrellas will refer to personal injury to include bodily injury. Most policies also include these in their definition of personal injury:

Mental anguish, false arrests, wrongful eviction, wrongful detention, malicious prosecution, invasion of privacy, assault and battery, slander, libel and defamation of character.

Are there differences in personal umbrella policies?
There is no standard personal umbrella policy. The insurance coverage, as well as the exclusions, will vary by company. It is important that you compare the costs against the coverage the policy provides. In some cases, it is more important to know what is excluded from coverage. Additionally, you need to know what coverage and limits are required on the underlying homeowners and auto policies.

How the Policy Works
Generally, an umbrella policy pays all of the covered loss that exceeds the limits of the base or underlying policy.

If, for example, the basic policy paid $200,000 on a slip and fall injury and the claim was for $250,000, the umbrella would cover the $50,000 over the basic policy's $200,000 limit.

Deductibles
Usually umbrella liability policies have two types of deductibles. These are also referred to as retained limits. Depending on the loss, one of them pays first before the umbrella pays. If the loss is covered by the underlying policy, that policy pays first up to its maximum limit and then the umbrella policy kicks in. Another consideration is that a loss may occur and is covered by the personal umbrella but not by an underlying policy. In this case, the insured must meet a deductible that is referred as the SIR, which stands for Self-Insured Retention. For example, a $1 million umbrella usually has a $250 SIR that the insured must pay before the umbrella kicks in.

Other Exclusions
Typically, the umbrella policy will exclude losses that are better covered under other policies. Although there are differences, most umbrellas will not cover the following:

> -Obligations under workers' compensation or similar laws. If a domestic employee is injured, coverage is afforded under workers' compensation and will not be duplicated under

the umbrella policy.

-Damage to property owned by you. This precludes any coverage for property damage best insured under some form of property (homeowners') or inland marine (jewelry floater) insurance.

-Damage to property on which you have agreed to provide insurance. The intent is to prevent the insurance company from paying for a loss that should be insured under some form of property insurance, especially since the insured has agreed to provide coverage.

-Liability arising out of a business pursuit - unless it is covered by your homeowners' or auto insurance. If your homeowners' policy covers some business pursuits (i.e., an office at home), the umbrella will also extend coverage. Some policies also provide coverage to persons who are involved in civic activities, other than a person's regular employment, that may prompt lawsuits.

-Liability arising from your rendering (or failing to render) professional services. This typically excludes malpractice, which is better covered by malpractice insurance.

-Liability arising from the ownership, maintenance or use of any aircraft. Such potentially catastrophic losses are excluded.

-Liability arising from the ownership, maintenance or use of watercraft not covered under the homeowners' policy (subject to certain restrictions). The umbrella covers small boats that are typically afforded coverage under the homeowner's policy. However, large watercraft are excluded because of the increased liability risk.

-Liability covered by a nuclear energy policy. Nuclear energy policies contain a person's insured or "omnibus" clause that encompasses virtually everyone who may be responsible for a nuclear accident, barring only the U.S. government. If a person should become involved in a nuclear incident covered by a nuclear energy policy, such a person would be covered by that policy and would not need protection under the umbrella. Therefore, coverage is excluded under the personal umbrella policy.

The Process of Risk Management

Unfortunately, an unavoidable part of everyday life is risk. Different people handle risk in different ways. Usually past experience or personal experiences determine how you will respond to uncertainty. Before you can determine the best way to handle a risk, you must be able to identify risk probability and severity.

This is, referred to as risk management. It is the process of

-Determining what exposures to loss exist
-Determining the seriousness of exposures
-Developing a way of minimizing the effect of the loss exposure

The goal of risk management is to make the best possible arrangements ahead of time so that one will not be seriously financially affected when a loss occurs.

Risk management is intended to protect income and assets against unforeseen, unintended or accidental loss.

A risk manager follows these five basic steps in the risk management process:

-Identifying the loss

-Evaluating the exposure and eliminating the severity and frequency
-Selecting the most economical way of handling the risk
-Formulating a risk management plan
-Revising and monitoring the risk management plan

In the next sections, we'll discuss each of these in detail.

Five Basic Steps

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Identifying Loss Exposures

Before a person can "manage" risk, he or she must first identify all the possibilities of loss or the loss exposures to which he or she is subject and that can be guarded against in some way. The term loss exposure is used to describe the property or person facing a condition in which loss is possible and unpredictable. Potential property losses include direct and indirect losses. Potential liability losses are those associated with torts or, to a much lesser extent, breach of contract.

Property Loss Exposures

The individual risk manager begins the risk management process by compiling an inventory of all real and personal property that indicates the amount of property owned and its present value. Real property consists of land and, generally, whatever is erected or growing upon or affixed to it. The definition of real property included the earth's surface, the air above and the ground below, as well as all appurtenances to the land, including buildings, structures, fixtures, fences and improvements erected upon the land. Excluded are growing crops. The term also includes the interests, benefits and rights inherent in the ownership of real estate. Personal property consists of tangible, movable possessions and includes things such as furniture, jewelry, automobiles and recreational vehicles.

After the inventory is complete, the risk manager can identify the possible property loss exposures that should be addressed. The possible causes of property losses that should concern property owners are too numerous to list. However, two basic types of risk that may cause financial loss may classify these losses. These risks include the following:

-Direct physical damage to property caused by perils such as fire, wind, water and other perils that may damage or destroy the property

-Indirect loss that occurs following a direct loss to property by an insured peril and that included additional loss expenses for the extra cost of food, transportation and housing incurred by the insured.

Property may be damaged or destroyed by physical perils, such as fire, smoke, explosion, hail, etc. Deviations from expected individual conduct, such as theft, vandalism, or arson, may be termed social perils that cause property loss. Finally, certain economic perils, which occur less frequently, may result in property loss. For example, people protesting a factory layoff may cause damage to nearby property. Two or more perils, such as fire and vandalism, may be involved in a loss.

Liability Loss Exposures
The term liability may be used in a number of ways. Generally, the term is synonymous with moral or legal responsibility and involves the concept of facing a penalty when a particular responsibility is not met. In this text, we are primarily concerned with the term legal liability, which is defined as the condition of being bound in law to do (or not to do) something that may be enforced in the courts. The law does not recognize moral responsibility alone as legally enforceable, but people who do not meet their moral responsibility may also become legally obligated to pay for another's injuries.

Under our legal system, a person may be held responsible for causing injury to another person or damage to another's property. People are faced with the possibility of having to defend themselves against a lawsuit, even if the suit is groundless. The risk of being held financially responsible for judgments and legal defense and court costs, as well as the indirect expenditures of time, energy and money, is the greatest risk that most people face. Therefore, in addition to property loss exposures, risk managers must identify these two basic types of liability loss exposures:

-Casualty loss that results from perils such as robbery, burglary, vandalism or arson

-**Liability risk** where the law of negligence is used as the basis to determine whether an individual may be held responsible for the financial cost of other people's bodily injuries or for damage to their property

People may incur liability loss exposures in a number of ways. A person may be held legally responsible for injuries or damages that result from his or her ownership of an auto, recreational vehicle, watercraft or residence premises , from personal or business activities, from obligations assumed under a contract, from the employment of domestic workers, from libel, slander and other personal injury offenses, and from a number of other events.

Individuals may be held criminally or civilly liable, depending on the nature and form of their actions. Criminal liability is clearly established by statute or administrative rules. In a criminal action, a district attorney or attorney general of either the state or federal government initiates the criminal action against the accused wrongdoer. For example, a district attorney will file charges against an accused murderer. If the accused is convicted, the state or federal government imposes penalties.

On the other hand, civil liability is established by statutes, administrative rules and prior court decisions that outline the rights of the parties as opposed to each other. One party normally brings a civil liability action against another party for the wrongs alleged. The litigants at their own expense bring these legal actions (with the court costs usually imposed on the losing party). The sources of civil liability are classified as those arising from the following:

-Contractual or similar agreements
-Torts, which are acts or omissions other than breach of contract
-Equitable actions such as fraud, errors or mistakes
-Actions that do not fall into the first three categories

Remedies based on contractual agreements and tort actions seek monetary damages: those based on equitable actions usually seek some other remedy, such as performance of a contract.

Evaluating Loss Exposures
In the second step of the risk management process, the risk manager must evaluate the loss

exposures and decide which risks are intolerable, which are difficult to tolerate and which are tolerable. Intolerable risks are those that are so large that a loss from one might cause a person's bankruptcy. These risks typically include liability risk and the risk of the destruction of a home because of a natural disaster. Difficult to tolerate risks are those that would cause the individual a significant financial loss but that would not lead to bankruptcy.

An example would be the destruction of an automobile. Finally, tolerable risks include loss or damage to personal property that might be large but are not intolerable in terms of the individual finances. An example would be the replacement of a broken windshield.

Having identified the risks, the risk manager then estimates both the maximum possible loss and the maximum probable loss the property owner faces. These two estimates are useful in determining the best way or ways to handle a loss exposure. The maximum possible loss is the worst loss that could possibly happen, while the maximum probable loss is the worst loss that is likely to happen. For example, it is possible for a house located in Arizona to be completely destroyed by flood. However, it is unlikely that such a loss will occur. Therefore, if a house is not located in a flood area, it is usually unnecessary (and sometimes impossible) for the insured to purchase flood insurance.

After the risks have been classified in this way, the risk manager then evaluates the frequency and severity of each loss. Frequency is a measure of how often a particular event has occurred: severity is a measure of the damage caused by each incident. For example, counting the number of times a person's dog has bitten a neighbor is a frequency measurement, but calculating the medical and legal costs of those bites is a severity measurement. After this step has been completed, the risk manager can decide how to effectively deal with his or her property and liability loss exposures.

Handling Risk

The risk manager may select one or more risk management techniques to handle the risks he or she has identified.

These techniques include avoidance, retention, loss control, non-insurance transfer and insurance. When considering which of the risk management techniques to implement, the risk manager should remember these three general, practical rules of risk management:

> -The size of the potential loss must relate favorably to the resources of the one who must bear the loss.
> -The possible benefits of taking a risk must be reasonably related to the possible costs.
> -The amount of potential loss can usually be reduced or prevented through effective loss control programs.

The risk manager must determine whether it is best to reduce, eliminate or transfer the risk. Let us look at how these general rules of risk management apply when selecting a risk management technique.

First, selecting a technique begins by using information gathered in the second step of the risk management process. The risk manager has approximated the total loss from one event or occurrence and has estimated how often a particular loss is likely to occur (loss frequency) and how much could be lost if a certain event should occur (loss severity). For example, if a homeowner is estimating the potential loss frequency and severity of a fire, the following losses are possible:

> -Direct fire and smoke damage to the house and its contents
>
> -Indirect damage in the form of burn injuries to a visitor in the house

-Damage to neighboring property if the fire spreads

-Loss of use of the property because the fire damage makes it necessary for the homeowner to move to another location, at least temporarily

The risk manager should determine the probability and possibility of each type of loss, as well as the loss frequency and severity of those losses.

Second, the risk manager must determine the amount of money that will be available to meet the potential loss. Obviously, this amount will vary widely by individual. To find out how much a person is worth in dollars and cents, he or she should complete a personal balance sheet. This is a financial inventory of all personal assets (that which is owned) and liabilities (that which is owed). The difference between assets and liabilities is a person's net worth.

The balance sheet provides people with a record of their financial progress and can help them with a future savings and investment program. By determining net worth on an annual or semiannual basis, people can see whether their net worth is increasing, decreasing or remaining the same, and if they are keeping pace with the rate of inflation. They can also determine what portion of their assets could easily be converted into cash if they experienced a property or liability loss and needed cash to pay for the loss.

Finally, the benefits and costs of any available alternative method of handling the risk in certain situations must be considered. In many cases, insurance is the answer. However, other risk management techniques, such as loss prevention or self-insurance, may also be viable options under various circumstances.

Implementing a Risk Management Plan

The fourth step of the risk management process is executing the plan that the risk manager has devised. Insurance coverage, which is the focal point of most individual plans, is usually purchased. The risk manager's objective is to purchase policies that will provide the most comprehensive coverage at the most reasonable cost. Insurance contracts will be one of these three types:

-**Primary** insurance required by law (e.g., automobile liability insurance) or by contract (e.g., homeowners' insurance required under a mortgage contract)

-**Desirable** insurance that provides protection against losses that could financially harm an individual but that would not completely destroy his or her savings (e.g., physical damage insurance protects against damage to the insured's auto)

-**Catastrophic** insurance that provides protection against losses that could financially destroy an individual (e.g., flood, earthquake and personal umbrella liability insurance provide protection against devastating losses)

The risk manager selects limits of liability that adequately cover the risk's probable maximum loss, as well as reasonable deductibles that help to reduce the annual premium for insurance coverage. Because some of the risks faced by the individual may not be insurable, these risks must be handled in some other way. For example, war risk is not covered by insurance so individuals must retain that risk. In other words, if property is damaged or destroyed by an act of war, property owners must pay for the loss themselves.

In the last section, we discussed the process of handling risk and developing a risk management plan. Once the plan has been developed and implemented, it must be monitored. This is the final step in the risk management process.

Monitoring the Plan

The final step in the risk management process involves a well-planned program for monitoring and updating the original plan. This consists of regularly identifying any changes in the risk manager's loss exposures, net worth, ability to personally bear financial losses and so forth. All of these are very important considerations for individuals. Risk management as a process grew out of businesses, insurance management, but insurance is hardly the sole method of treating risk. As noted earlier, there are various alternative methods available. For example, as a person's net worth increases, he or she needs more insurance to protect the possible financial costs of losses to that property, the loss of use of that property, and additional expenses that could arise from such losses. Or, on the other hand, increased wealth might mean that a person would feel comfortable retaining more losses and may, therefore, take a larger deductible to reduce the cost of his or her insurance premiums.

When an insurance agent participates in the risk management process with a client, he or she assumes important responsibilities. The client looks to the agent as a professional who can provide sound advice and, when necessary, can work with other experts in applying the principles of risk management. When insurance protection is necessary for transferring a risk, the agent will be expected to propose a practical and effective insurance plan that provides proper coverage in the correct amounts to offer adequate protection at the most reasonable cost.

Primary Insurance Policies

The average person selects insurance, with some retention in the form of a deductible, as his or her primary risk management technique. Most people will purchase homeowners' and/or a personal auto policy to cover their loss exposures. The policies are referred to as primary, basic or underlying insurance policies. Although various homeowners and personal automobile forms are in use, most follow a format similar to the programs developed by the Insurance Services Office (ISO). When we refer to any personal insurance coverage in this text, we will be referring to the standard ISO forms.

Handling Liability Loss Exposures

We will primarily be concerned with liability losses in this text. Most people handle the risk of legal liability arising out of their personal acts with personal liability insurance. Because liability losses involve a third party, the insurance company or the courts must make a determination of fault. In the event of a lawsuit involving bodily injury or property damage to another person, the insurance company will provide a legal defense and will pay those sums the insured is legally obligated to pay, up to the limits of the policy. Bodily injury refers to bodily harm, sickness or disease, including injury that results in death. Coverage also applies for any required care or loss of services of anyone whose bodily injury is negligently caused by the insured. For example, at common law, a husband may be entitled to monetary compensation if his wife is injured in an accident and unable to provide certain duties owed to her husband under the marriage contract. These duties are collectively call consortium and the spouse may be compensated for lack of consortium. Additional coverage called property damage coverage applies to damage to or destruction of tangible property, including the loss of such property.

Personal liability insurance may be purchased as a separate policy or, more commonly, it is provided as part of a package policy, either an auto or a homeowners' package. Because these liability coverages are quite similar, we will primarily discuss the homeowners' liability coverages. The liability section of the homeowners' policy protects the insured in at least two ways:

If a claim is made or a lawsuit is brought against an insured, the policy will pay for damages for which the insured is found legally liable, up to the policy's limit of liability, typically $100,000 per occurrence. Higher limits may be obtained for an additional premium. Typically, coverage will apply for claims arising out of the ownership or use of the insured location, personal activities, such as sports or social activities on or away from the insured premises, and actions of a residence employee, such as a cook, maid, nanny or baby sitter, in the course of employment.

In addition to the limits of liability, the insurance company must defend any claim or lawsuit that is brought against the insured for bodily injury or property damage - even if the claim is false, baseless or groundless. In some cases, the policy specifies that the insurer's obligation to settle or defend claims ends when the amount the insurer pays for legal defense equals the policy's limits of liability. As a practical matter and to avoid expensive litigation, most personal liability lawsuits are settled out of court.

As mentioned earlier, individuals who own or operate automobiles may purchase liability protection in the form of an automobile policy. The Personal Auto Policy, for example, includes Part A Liability Coverage, which provides protection against economic loss to an insured for "bodily injury" or "property damage" that arises out of the operation, maintenance or use of an insured automobile. Under this policy section, the insurance company makes these two promises to the insured:

-To pay damages on behalf of the insured for which he or she becomes legally responsible because of an accident

-To settle or defend any claims under the policy, up to the policy's limit of liability

It is important to note that the insurer has no duty to defend lawsuits or to settle any claims that are not covered under a particular insurance policy. For example, an insurer who provides automobile or homeowners' insurance is not required to defend an insured who is sued by a neighbor for intentionally using a motor vehicle to damage the neighbor's lawn because intentional damage is not covered.

Handling Personal Liability Injury

The personal liability provided under the ISO homeowners' policy specifically covers these two types of liability:

-Bodily injury, meaning bodily harm, sickness or disease, including required care, loss of services and death that results
-Property damage, meaning physical injury to, destruction of or loss of use of tangible property

The policy does not mention coverage for personal injury losses, defined as any injury to another's person, rights or reputation, including torts such as libel, slander or invasion of privacy. Many insurers contend that they did not intend to provide coverage for personal injury liability under a standard homeowners; policy and coverage is often denied on that basis.

When coverage is not provided by the homeowners; policy itself, a personal injury endorsement may be added to the policy to provide coverage for certain offenses committed during the policy period.

The ISO personal injury endorsement does not provide coverage for liability in these situations:

-Arising out of disputes between insureds
-From contracts not related to the premises
-From the injured person's employment by the insured
-Involving a violation of a penal law
-Arising out of business pursuits
-Arising out of civic or public activities performed for pay

Personal injury liability protection may also be extended by a personal umbrella liability policy.

The Structure of Primary Policies

Property-casualty policies usually contain the same policy elements, regardless of what type of property or liability coverages they provide. Each policy begins with a Declarations page that contains information found on the client's application for insurance and any information that is unique to that particular policy. A Declarations page usually contains the name and mailing address of the insured(s), the name of the insurance company providing coverage, the policy number, the inception date and expiration date of the policy, the dollar amount of the applicable policy limits and deductibles, the numbers and edition dates of any forms and endorsements and the premium.

Policies usually contain a separate Definitions section that explains the meaning of certain words that are used in the insurance contract. The defined words may appear in boldface type, italics or within quotation marks. For instance, this section often explains that throughout the policy the named insured is referred to as "you," "your" and "yours" and the insurance company is referred to as "we," "us" and "our." If a word is not defined in the Definition section or in the body of the policy, rules of contract interpretation are used to determine the meaning. For example, technical words are interpreted according to their ordinary technical meaning and legal words are assigned their usual legal meaning.

The policy's Insuring Agreements provision sets forth the insurance company's promise to pay the insured (or to pay on behalf of the insured) for a covered loss. In return for the insurer's promise, the insured must pay a premium and comply with certain policy requirements which are spelled out in a section call Conditions. The Conditions section states that the insured must, in addition to paying a specified premium, report losses promptly, cooperate with the insurer in settling a loss and avoid anything that might harm an insurer's right to recover damages from a responsible third party. If the insured fails to comply with these conditions, the insurer may be relieved of its obligation to pay for the loss or defend a lawsuit.

Policies also contain a number of coverage exclusions that restrict or eliminate insurance coverage for specified loss exposures. These exclusions appear throughout the policy as well as in a separate section call Exclusions. Finally, some policies may contain various amendments or endorsements to the basic policy provisions. The insurance company or its duly appointed agent must issue these endorsements.

The Need for Umbrella Insurance

People can be held legally liable to pay damages for the bodily injury or property damage caused by their negligence. The need for liability can arise as a result of a person's personal or recreational activities as well as a person's business. Some of the higher liability claims arise when insured's are entertaining guests or permitting people to use their property.

Consider how a jury's desire to punish a negligent person could result in a judgment for damages in the following situations:

-A practical joke misfires and results in a lawsuit for defamation of character.
-A neighbor or guest falls on a person's property, resulting in permanent disability.
-A protective watchdog proves that his bite is even worse than his bark.
-A person's child accidentally breaks an expensive vase while at another person's house.
-A moment's inattention while driving results in a multi-car accident.
-A spark from burning leaves starts a fire that inadvertently burns a neighbor's roof.
-A letter to the editor triggers a libel suit.

At this point, it is important to make a distinction between two terms frequently used in liability suits: coverage and liability.

The word coverage refers to the contractual obligation imposed on the insurance company that agrees to indemnify the insured for sums he or she becomes legally responsible to pay as damages. Liability refers to the legal responsibility of the policyholder to other persons arising out of an occurrence. In some cases, a particular peril will not be covered by the policy and the insurance company is under no contractual obligation to indemnify the insured. For example, assume the insurer issued homeowners' policy covering an insured's liability arising out of the ownership of a certain property. The insurer is under no obligation to provide coverage under that homeowners' policy for an automobile accident that occurred away from the residence premises, even if the insured was at fault. In this case, there may be liability on the part of the insured, but there is no coverage provided under the policy.

On the other hand, there may be coverage under the policy but no liability on the part of the insured. For example, the Personal Auto Policy provides coverage for property damage up to the policy limits. However, if the insured vehicle is stolen and the thief uses the car to damage several lawns in the area, the insured has no liability for the damage. Even if the insured feels sorry for the neighbors and perceives some moral obligation to repair their lawns, he or she has no legal liability to do so. Likewise, the insurance company has no responsibility, either by way of settlement or as a gift, to make any payment to the neighbors. In this case, while there may be coverage under the policy, there is no liability on the part of the insured.

Insured's should be cautioned to remember that even when there is no apparent liability on the part of the insured or available insurance coverage, the insured may still be sued and found legally responsible. In a civil case, it is possible that the plaintiff, who must establish his or her claim by a preponderance of evidence, may produce evidence that is more credible and convincing than that of the defendant's. And, if the plaintiff's case is more believable, the plaintiff will win.

The settlement the plaintiff receives might be quite substantial because of these three factors:

-The public's attitude toward claims
-The application of the law of negligence
-The jury's opinion about damage awards

Identifying Gaps in Liability Coverage

Insureds routinely believe that their policies cover every possible loss exposure, but this is simply not the case. When a liability loss occurs, insureds may be surprised to learn that there are serious holes, or gaps, in their insurance coverage. As stated earlier, an insurance policy covers the insured only up to its liability limits. Beyond these limits, a liability insurance policy does not protect the insured.

The majority of policies covering liability for bodily injury have two limits: a limit of liability for one person and another limit (usually higher) for any single occurrence, where more than one person is involved. For example, assume an insured has a Personal Auto Policy that covers him or her up to a $300,000 liability limit for bodily injury for each accident or occurrence. If the insured is involved in an accident and is held liable for $200,000 in bodily injury damages, the auto policy will pay for those damages. However, if the insured is held liable for damages in excess of $300,000, he or she will be held personally liable for the additional damages.

The underlying personal liability insurance, in addition to paying only up to certain limits of liability, excludes certain loss exposures.

For example, the liability portion of the homeowner's policy does not cover the following:

-Damage from the intentional acts of the insured
-Damage caused by the rendering or failure to render professional services
-Damage from acts of war

-Damage from communicable diseases
-Damage arising out of business activities

In addition, not all individuals on the insured's property or in the insured's auto are afforded coverage by the insured's primary liability insurance. Residence employees, defined as an employee of the insured whose duties are related to the maintenance or use of the residence premises, including household or domestic services, may not be covered under the liability section of the homeowners' policy if the insured is required to have workers' compensation coverage in force for such employees.

The basic Personal Auto Policy excludes liability coverage for the following:

-Damage caused by intentional acts of an insured
-Damage to property owned by, rented to, used by or in the care of an insured
-Bodily injuries to employees covered under workers' compensation
-Damages resulting from the ownership or operation of a vehicle while it is being used as a public or livery conveyance
-Damages incurred while a party is employed or engaged in the business of selling, repairing, servicing, storing or parking vehicles

Finally, underlying policies generally do not provide liability coverage for unusual loss exposures or for losses that occur outside the United States. For example, the Personal Auto Policy limits coverage to accidents and losses that occur within the policy territory, meaning the United States of America, its territories or possessions, Puerto Rico, Canada, or while the auto is being transported between their ports.

Purpose of Umbrella Policies

The Personal Umbrella Liability Policy was created to expand the insured's liability coverage by filling gaps in the basic liability coverage provided by underlying policies and to reduce the insured's worry, trouble and burden of facing personal litigation on his or her own. Personal umbrella liability coverage is usually sold in units of $1 million or more and may be added to a basic homeowners' or auto policy that is already written by the insurance company. Many companies also write stand alone or separate, personal umbrella policies without writing the underlying coverage. To qualify for stand-alone coverage, however, the applicant is usually required to show proof of certain underlying insurance coverage with other insurance companies. Umbrella policies provide insurance for accidents and other situations not ordinarily covered under primary insurance, subject to a deductible of between $250 and $1,000.

There is no standard personal umbrella liability policy. The policy's forms, format and coverage vary by insurer. This does not necessarily mean that because one company's policy looks more extensive that it is superior to another policy. Rather, each contract should be reviewed to determine which offers the best coverage for a particular policyholder. Regardless of which company is providing the policy, all personal umbrella policies are designed to give insured's and their families' two types of extra liability protection.

They add to the liability of any homeowners', automobile or other liability policies currently in force. Most homeowners' policies provide basic personal liability coverage of $100,000. Auto policies typically contain a combined single limit of $300,000 per occurrence. An umbrella policy supplements these basic personal liability coverages. If, for example, the insured has a standard auto policy with liability limits of $300,000 and a personal umbrella policy with limits of $1 million, the insured is protected up to $1,300,000 if a covered auto accident occurs and the insured is found legally responsible.

These policies are designed to cover liability exposures that other policies do not cover. The personal umbrella policy is designed to cover some of the more unusual exposures, such as personal injury claims, that an insured might face but that are typically not covered under most standard liability policies.

A personal umbrella is the liability counterpart of Difference in Conditions (DIC) insurance, a property coverage that expands insurance written on a named perils basis to an open perils basis and protects the insured against risks of direct physical loss to the insured property, subject to certain exclusions and deductibles. An umbrella contract provides (subject to a deductible) liability coverage where no other liability insurance exists, and in addition provides coverage for liability when the limit of the primary or underlying insurance has been exhausted.

Special Characteristics of Umbrella Policies

The insurance company that issues the umbrella policy provides additional liability coverage over the primary policies, up to the limits listed on the Declarations page of the umbrella policy, even if the same insurer does not provide the underlying insurance. The personal umbrella policy covers any number of accidents or occurrences that occur during the policy term, regardless of how many claims are presented. However, the policy restricts payment for any one accident to the limit listed in the policy (usually up to $1 million per occurrence). In other words, even though the insurer may pay for ten claims totaling $10 million during a one-year period, it will not pay more than $1 million for any one occurrence.

To limit the insurer's liability, however, many umbrella policies are beginning to offer aggregate limits, meaning a maximum dollar amount that may be paid during the policy period or during the insured's lifetime, as specified in the policy. A policy with a $10 million aggregate limit, for example, may pay several claims for $1 million each, but it will only pay out a maximum of $10 million during a given policy period.

It is important to remember that the personal umbrella is a third party liability policy that covers only another person's claim against the insured. It does not cover damage to the insured's own property, motor vehicles, home or other valuables.

Basic Policy and Components

Personal Umbrella Liability Policies

The insurance industry has developed a number of liability contracts over the years to meet the basic liability exposures of individuals and businesses. It was not until 1960, however, that a personal catastrophe liability contract (or as it is more commonly called a personal umbrella liability policy) was developed. The contract was originally aimed at insurance buyers with the idea of providing broader insurance protection for individuals, especially professionals and wealthy members of society, who were excellent targets for liability lawsuits that could result in significant claims. Today, however, it is not unusual for liability claims to exceed the basic limits of liability afforded by an average insured's homeowners or auto policy. These claims, which may result from personal activities or professional or business pursuits, are usually covered by a personal umbrella liability policy.

As we have said, there is no standard personal umbrella liability policy form or format. Each insurer develops its own policy based on its own preferences and/or the needs of its clients. Because coverage varies by insurer, it is important for the insurance producer and his or her client to examine each personal umbrella policy to make sure that it is not merely an ordinary excess liability contract. An excess policy provides only additional layers of coverage to the coverage already furnished by the underlying policy. The terms and conditions of an excess policy should be precisely the same as those of the underlying policy. A true umbrella policy, on the other hand, provides not only excess liability but also responds to claims that may be excluded in the underlying policy but are not excluded under its own form.

Personal umbrella liability insurance is intended for catastrophe type claims. An umbrella insurer is simply not interested in covering small claims. To support this intent, personal umbrella policies that cover loss exposures that are not covered by the underlying policies are subject to deductibles commonly referred to as a retention or self-insured retention. Most insurers offer minimum deductibles of $250 but offer higher ones for additional reductions in premium. In some cases, an insurance underwriter will require a substantial deductible when a particular risk is not otherwise insurable because of some unusual exposure to loss.

In general, the purpose of a personal umbrella policy is not only to provide million dollar-plus excess limits but also to broaden basic liability protection in several ways.

In most cases, the personal umbrella liability policy is intended to do these things:

-Apply worldwide coverage (where permitted by law), without territorial restriction as is the case with most primary insurance coverage
-Provide liability coverage for the insured who uses certain non-owned automobiles, watercraft and aircraft when this coverage is excluded under Section II of the homeowners' policy
-Include coverage for liability assumed by the insured under certain oral or written agreements
-Cover a broad range of personal injury hazards such as libel, slander, false arrest, humiliation, defamation of character, false imprisonment, wrongful eviction, wrongful detention, malicious prosecution or invasion of privacy
-Provide payment of defense costs when primary insurance does not apply

To adequately protect the insured, a personal umbrella liability policy should serve three purposes:

-It should add an additional amount of liability coverage above the limits provided by the insured's homeowners', personal auto or other underlying policies.

-It should provide insurance coverage for some exposures that are not covered (or only minimally covered) by the insured's underlying policies.

-It should provide protection for the insured against certain catastrophic liability losses that might otherwise cripple the insured financially.

Basic Policy Component Parts

Depending on the preferences of the insurance company, the actual format of the personal umbrella liability policy will vary among companies. In addition, the amounts and types of coverage may also vary.

Regardless of how it looks or exactly what it covers, however, a personal umbrella policy will usually contain six basic components or policy provisions that outline the details of the contract between the insurer and the insured.

Declarations
This part identifies the parties to the contract and defines who and what the policy insures and for what period of time. The premium and amount of insurance are also stated in the Declarations.

Definitions
The contracts commonly used words and phrases are defined in this section to reduce any misunderstandings between the parties about what the insurer intends to cover.

Insuring Agreements
An umbrella policy contains a number of promises and specific obligations assumed by the

insurance company, including its duty to pay certain losses on behalf of the insured. In addition to an introductory insuring clause, there may be several additional statements within the body of the policy that must be referenced when a loss occurs to determine both the insured's and the insurer's responsibilities.

Conditions
This policy provision describes the policy requirements with which the insured must comply before the insurer is obligated to pay.

Exclusions
This provision specifically lists causes of loss for which the insurer does not intend to provide coverage.

Miscellaneous Provisions
Some policy provisions, such as the insured's duties when a loss occurs, do not neatly fit into the Declarations, Definitions, Insuring Agreement, Conditions or Exclusions headings. These provisions may be grouped together as Miscellaneous Provisions.

In the following sections, we will briefly describe each of these policy components.

Policy Components

Declarations Page
The preliminary section of each umbrella liability policy contains a Declarations page (also called a "Dec page," or the "Dec") that contains pertinent information about the insurance risk on the basis of which the policy was issued. The insurer, which draws up the insurance contract, is expected to represent clearly the intent and terms of the policy. Therefore, the purpose of the Declarations page is to provide information about who is covered (the named insured), what is covered (the property and perils listed in the policy), when it is covered (the effective dates of coverage), where it is covered (the described location) and why it is covered (a premium has been paid) so that there is no ambiguity.

The entire policy, including any endorsements or changes to the policy, is inserted into a policy jacket that serves the same function as the covers of a book. The policy jacket keeps the Declarations page and all the policy forms in one place, thereby allowing the insured to easily find, read and review his or her insurance policy.

Insuring Agreements
Every umbrella liability policy contains an insuring clause that is a general statement of the promises the insurance company makes to the insured. In addition to this general clause, the policy often contains a number of other guarantees referred to as Insuring Agreements. These Agreements state what the company promises to do, such as agreeing to defend the insured in a liability lawsuit.

Definitions
In response to complaints from insureds and the courts that the terms used in insurance policies were not clearly defined, the insurance industry developed a section called Definitions that is now contained in every insurance policy, including a personal umbrella policy. Personal umbrella liability policy definitions are not standardized. An insurer develops its own definitions and policy wording, which may later be modified by the underwriter to meet the requirements of the applicant or to adapt to unique situations presented by different underlying forms of coverage. For example, an insurance company's definition of an insured may include the person named in the Declarations page (the "named insured"), the named insured's spouse, any relatives and persons under a specified age and in the care of any of the persons previously named - if they live in the insured residence. However, another company's definition might specifically remove coverage for

any person, other than the named insured, using automobiles or watercraft while engaged in an automobile or boat-related business.

Conditions
Like other insurance contracts, the umbrella policy is a conditional contract. The insured must pay the premium indicated in the Declarations and abide with certain requirements specified in the policy. The personal umbrella policy's Conditions component describes the rights and duties of both parties to the insurance contract - the insurer and insured. Conditions are provisions inserted in the contract that qualify or place limitations on the insurer's promise to pay for losses. In addition to being contained in a separate section, a policy's conditions may also be found anywhere in the contract where the insurer intends to limit coverage.

Exclusions
A personal umbrella policy does not cover every risk that the insured faces. For example, many insurers will not provide coverage for perils that they consider being uninsurable, such as war or some other potentially catastrophic event. They also intend to deny coverage under the umbrella if coverage could be better provided by another type of insurance policy or if there are extraordinarily hazardous conditions present. Finally, insurers exclude coverage for losses that are difficult to measure or for perils that are not needed by the typical insured. Therefore, the personal umbrella policy also contains an Exclusions component that specifically lists causes of loss for which there will be no coverage. The policy may place limitations on coverage or exclude certain perils or types of losses.

Typically, personal umbrella policies exclude the following types of losses:

> -Obligations under workers' compensation, unemployment compensation, disability benefits or similar laws
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> -Business pursuits, professional services and liability resulting from owned or rented aircraft and watercraft excluded under the homeowners' policy
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> -Property damage to any property owned by the insured or in the care, custody or control of the insured
>
> -Any act committed by or at the direction of the insured with the intent to cause personal injury or property damage
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> -Personal injury or property damage for which the insured is covered under a nuclear energy liability policy

Although these exclusions are fairly standard, additional exclusions may be listed in the policy. In some cases, the insurer allows the insured to "buy back" certain coverages, such as workers' compensation, for an additional premium. The agent should be familiar with each insurer's exclusions and be careful to point them out to his or her clients so that there will be fewer surprises if a loss occurs that is not covered under the umbrella liability policy.

Miscellaneous Provisions
Some umbrella policies contain provisions that cannot be strictly classified within one of the previous five policy components. These Miscellaneous Provisions might include a discussion of the insurer's production and underwriting rules, its required underlying limits or any other special company guidelines. In addition, any endorsements that add to, delete or modify the provisions in the original contract may be included in this section.

An endorsement is an attachment to an insurance policy that is used to clarify, extend or restrict coverage with regard to perils, coverage periods or premiums. It can be a standard endorsement that is used to fit a general situation,fgvb or it may be worded to fit a particular situation. These special endorsements are called manuscript forms. When an endorsement is attached to a policy, the endorsement's terms normally take precedence over any conflicting wording in the policy. However, if state law requires any provisions in the policy, an endorsement cannot be used to subvert the intention of the required legislation.

For example, the law may hold a person liable for damages if he or she is found guilty of negligently operating a motor vehicle. The personal umbrella and underlying auto policies cannot be endorsed to delete liability for negligence. If endorsements are in conflict with a state regulation or law, the laws take precedent and the policy is read and interpreted as if the conflicting endorsements had not been added. In other words, the original intent and coverage are preserved.