Module 9

Fundamentals of Inland Marine Claims

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Chapter 9

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Learning Objectives

- Obj I – Transportation Loss Exposures
- Obj II – Handling Transit Insurance Claims
- Obj III – Handling Motor Truck Cargo Liability Insurance Claims
- Obj IV – Handling Contractors Equipment Insurance Claims
- Obj V – Handling Builders Risk Insurance Claims

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Transportation Loss Exposures

Objective I

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Transportation Loss Exposures

- Almost all organizations have transportation loss exposures.
  - Even a service organization may be exposed to loss of property during a move.
- Issues to consider when analyzing transportation loss exposures:
  - Parties involved in transportation.
  - Ownership of goods.
  - Carrier responsibility for loss.

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Parties Involved in Transportation

- Loss exposures involving property in transit can be uncomplicated or complex.
  - Depends on how many parties are involved.
  - Shipment of goods transported by two or more carriers using two or more modes of transportation can raise complex issues.
- Generally, the party that owns the goods at the time they are damaged bears the loss.
  - If title has passed from seller to buyer, the buyer would bear the loss.

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Parties Involved in Transportation

- Parties in transportation losses:
  - Consignor (shipper/seller) – party with whom transportation of property begins.
  - Consignee (buyer) – party to whom goods are to be delivered.
  - Carriers – party that transports goods; are usually legally liable for loss or damage to goods in its custody.

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Ownership of Goods

- Terms of sale for domestic shipments:
  - FOB (Free on Board) Point of Origin – buyer responsible for loss that occurs when goods are accepted by the carrier for transit.
  - FOB (Free on Board) Destination – buyer responsible for loss that occurs when goods are delivered to the buyer's premises.

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Ownership of Goods

- Terms of sale in international commerce:
  - Ex Point of Origin – buyer responsible for loss that occurs after taking delivery of goods.
  - Free on Board (FOB) Vessel – buyer responsible for loss as soon as goods are placed aboard the transportation vessel.
  - Free Along Side (FAS) Vessel – responsible when goods placed alongside vessel.
  - Cost, Insurance, Freight (CIF) – buyer responsible when goods are placed in custody of the carrier.

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Carrier Responsibility for Loss

- Common carriers offer transportation services to the general public.
  - A bill of lading is the contract for carriage between the carrier and the shipper.
- Common carriers of goods by land – usually liable to shipper for any cargo losses except:
  - Acts of God or of a public enemy.
  - Exercise of public authority.
  - Shipper's fault or neglect.
  - Inherent vice.

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Carrier Responsibility for Loss

- Contract carriers carry goods of certain customers only.
- Contract carriers of goods by land – liability depends on the contract terms.
  - Typically, a contract carrier's liability for cargo loss is not as strict as a common carrier's liability.
  - Common approach is for carrier to be liable for loss resulting from their negligence.

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Carrier Responsibility for Loss

- Waterborne carriers – common or contract.
  - Common carrier – liability for foreign sea shipments is specified under U.S. Carriage of Goods by Sea Act (COGSA).
    - Contains exceptions to relieve liability.
    - Carrier generally not liable for cargo loss arising from unseaworthiness of vessel.
  - Contract carrier – liability determined by contract of carriage.
    - Arranging for contract carrier is "chartering."

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Carrier Responsibility for Loss

- Air carriers – foreign or domestic.
  - Foreign – liability is governed by rules of the international Warsaw Convention.
    - Not liable if carrier can prove it took all steps necessary to avoid loss.
  - Domestic – carriers have latitude in choosing liability rules under which they operate.
    - Might be subject to a negligence standard.
    - Might also limit their liability to a certain amount per pound.

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Practice

- Which one of the following statements is correct regarding transportation loss exposures?
  - A. Common carriers are usually only responsible for losses if they are negligent.
  - B. Contract carriers have a higher degree of responsibility for losses than common carriers.
  - C. Generally, the party that owns the goods at the time of the loss bears the responsibility of the loss.
  - D. Arranging for a common carrier over water is called chartering.

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Handling Transit Insurance Claims

Objective II

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Transit Claims

- Transit claims present unique challenges in:
  - Coverage verification.
  - Fact-checking and documentation.
  - Inspection.
  - Salvage.
  - Subrogation.

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Transit Policies

- Transit insurance is designed to cover property:
  - Transported by carriers, or
  - On the insured's own trucks.
- Transit policies can be written on a special-form or on a named-perils basis.
  - Both usually contain exclusions for war, governmental action, and nuclear hazard.
  - Some theft losses are covered.

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Transit Policies

- Transit policies typically use the invoice price as the basis for valuing shipments.
  - If the shipment is not between a buyer and seller, ACV may be used.
- Types of policies:
  - Annual transit insurance – designed for organizations that frequently ship or receive property.
  - Trip transit insurance – designed for occasional shippers.

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Annual Transit Policies

- Annual transit policies cover all shipments during policy period.
  - Primary purpose is to cover property transported by carriers.
- Many policies cover property shipped by any land vehicle owned or operated by the insured.
  - Insured should make sure the Declarations page indicates all possible modes of transportation that might be used are covered.

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Annual Transit Policies

- Types of property typically excluded:
  - Contraband.
  - Precious metals, furs, jewelry, money, and securities.
- Policy may contain an exclusion for overseas shipments or imports.
  - Usually covered by ocean marine policy.

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Annual Transit Policies

- Most annual transit policies provide coverage on an open-perils basis.
  - Flood/earthquake are usually covered.
  - Policies contain various coverage extensions.
- Many policies cover only within continental U.S. and Canada, including airborne shipments between these places.
- Property is usually valued at amount of invoice if being transported between buyer and seller.

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Claims Handling Challenges

- Transit insurance claims handling presents unique challenges.
  - Claims reps must check for unique coverages that can be added by endorsement.
- Transit policies can be written using a value reporting form.
  - In this case, claims rep must verify that the insured’s reporting is up to date.

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Claims Handling Challenges

- A claims rep typically begins an investigation by verifying the facts.
  - Must be done quickly after a loss.
- A key part of adjusting transit losses is obtaining and verifying key shipping documents.
  - Bill of lading is the primary document used to evaluate the liability of the carrier.
  - Other documents include the shipping invoice, purchase document, inspection records, and master contracts.

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Claims Handling Challenges

- Salvage is an important part of handling transit losses.
  - Insurer may be able to recover a significant part of its loss through salvage receipts.
  - Important to promptly inspect and sell items that have value.
- Subrogation is possible in a transit loss.

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Practice

- Which one of the following statements is correct regarding annual transit insurance?
  - A. Annual transit policies value covered property at replacement cost.
  - B. Most annual transit policies cover property on a named-perils basis.
  - C. Annual transit policies only cover cargo on a specific trip.
  - D. Annual transit policies typically exclude precious metals and jewelry.

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Handling Motor Truck Cargo Liability Insurance Claims

Objective III

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Motor Truck Cargo Liability

- Motor truck cargo (MTC) liability policies cover a trucker's liability for damage to cargo of others.
  - Purchased by carriers to protect themselves if they are held liable for damage to cargo.
- The types of property covered vary by policy.
  - Some policies only covered specified perils.
- Even though it is a liability policy, it is usually handled by property loss adjuster.

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Motor Truck Cargo Liability

- In order for coverage to apply, the carrier must be legally liable.
  - Not direct property insurance that benefits the cargo owner.
- Policies generally cover most property that the insured accepts for transportation.
  - However, valuable property that is often targeted by thieves is usually excluded.
  - Valuable property can be covered for an added premium.

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Motor Truck Cargo Liability

- A motor carrier's liability is strict liability, subject to these defenses:
  - Act of God.
  - Public enemy.
  - Acts of public authorities.
  - Shipper's fault or negligence.
  - Inherent vice.

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Determining Coverage

- MTC liability insurance presents unique challenges for the claims rep.
  - The handling of a claim begins with a review of the coverage.
- If the policy is written on a scheduled-vehicle basis, the claims rep must verify vehicle in the accident is scheduled.
  - Some policies are written on a blanket/gross receipts basis.
- Identity of the named insured can be an issue.

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Determining Coverage

- MTC liability insurance may contain additional coverages, such as debris removal and reloading expenses.
  - Endorsements can be used to add coverages such as refrigeration breakdown.
- Claims rep needs to determine if carrier deviated from the customary route.

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Determining Liability

- After confirming coverage, the claims rep must determine if insured was legally liable.
  - Claims rep should obtain bill of lading as well as any master contracts.
- A released value bill of lading may apply.
  - Carrier charges a lower freight rate in return for the shipper's allowing the carrier to limit their liability loss.

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Inspecting Damaged Property

- The damaged property should be inspected as soon as possible after a loss.
  - Must determine amount of damage and aid in mitigation of damage.
  - Claims rep should try to determine the cause of loss.

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Salvage and Subrogation

- MTC liability claims present the possibility of salvage and subrogation.
  - Addressing salvage can be difficult for claims rep, especially with perishable goods.
  - The chance for subrogation is maximized through the claim rep's timely and thorough investigation.

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Practice

- A manufacturing company ships its cargo with a trucking company that is insured under a Motor Truck Cargo (MTC) Liability policy. In which one of the following circumstances would the policy provide coverage?
  - A. A tornado destroys both the truck and the cargo.
  - B. A public authority seizes all the cargo on the truck due to suspicion of drug trafficking.
  - C. The cargo is damaged because it was not packaged properly by the manufacturer.
  - D. The cargo is destroyed when the truck gets into a traffic accident.

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Handling Contractors Equipment Insurance Claims

Objective IV

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Contractors Equipment Floater

- Contractors Equipment policy covers mobile equipment or tools located anywhere in the coverage territory.
  - Largest class of commercial inland marine insurance.
  - Covers cranes, earth-movers, tractors, etc.
- Policy typically contains a schedule listing each piece of equipment and its limit of insurance.
  - Policy may also provide blanket coverage.

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Contractors Equipment Floater

- Common covered perils under a named-perils form:
  - Fire, lightning, explosion.
  - Windstorm, hail.
  - Vandalism, theft.
  - Earthquake, flood.
  - Collision, overturn.
  - Collapse of bridges.
- Open-perils coverage is also available.

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Contractors Equipment Floater

- Policies can be designed for equipment used in specialized situations.
  - Policies may also include usual perils.
- Policies often include rental reimbursement coverage.
  - Pays the cost of renting substitute equipment.

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Verifying Coverage

- Claims rep usually begins by verifying coverage.
  - Policies may consist of manuscript forms, endorsements, or both.
- Claims rep must consider if property is scheduled or unscheduled.
  - If coverage is on a scheduled basis, must confirm damaged property is on the list.

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Verifying Coverage

- Common policy exclusions:
  - Employee dishonesty.
  - Failure to use safety equipment.
- Coverage can be written for actual cash value, replacement cost, or agreed value.
- Loss payable provisions are often included.

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Investigating the Claim

- The investigation should begin by taking statements from the insured and the equipment operator.
  - Statements can be written or recorded.
- Experts may need to be consulted to determine cause of loss.
  - If applicable, a copy of the police or fire report should be obtained.
- If fraud is suspected, SIU investigation may be necessary.

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Determining Amount of Loss

- Most claims involve equipment that can be repaired.
- Claims rep often relies on experts to determine amount of loss.
  - Heavy-equipment appraisers (HEAs) meet minimum levels of experience and training in determining heavy-equipment loss values.
  - Engineers, manufacturers, or dealers' representatives can also help in the case of specialized equipment.

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Determining Amount of Loss

- Constructive total loss – cost to repair property plus salvage value exceeds pre-loss value.
  - Insurer will pay the claims as if it is an actual total loss.
  - Insurer will sell the damaged property for salvage.

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Salvage and Subrogation

- Subrogation recovery is often possible.
  - Can be pursued through courts or intercompany arbitration.
- Salvage also offers significant potential for recovery.
  - Alternative markets, such as online salvage pools, can help maximize recovery.

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Practice

- William is a claims representative who has been assigned a loss involving the damage to several bulldozers owned by Rogers & Associates. Which one of the following experts is most likely to be needed by William in this situation?
  - A. A salvor.
  - B. A fraud investigator.
  - C. An accountant.
  - D. A heavy-equipment appraiser.

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Handling Builders Risk Insurance Claims

Objective V

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Builders Risk Policies

- Builders risk is one of the largest classes of commercial inland marine insurance.
  - Policies respond to parties with interests in construction projects.
- A Builders Risk policy typically covers:
  - Building under construction.
  - Temporary structures at the building site.
  - Uninstalled building materials.

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Builders Risk Policies

- Most policies include an endorsement for soft costs.
  - Loss of rental income from project delays.
  - Interest on loans used to reconstruct building.
  - Additional real estate taxes.
  - Additional advertising expenses.
  - Additional legal and professional fees.
  - Additional insurance premiums.

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Covered Causes of Loss

- BR policies usually apply on an open perils basis.
  - Includes coverage for flood and earthquake.
- Coverage usually excluded for loss resulting from faulty design or work.
  - Many policies also exclude coverage for hidden defect and mechanical breakdown.
- Some policies cover loss resulting from operational testing.

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Verifying Coverage

- When a policy is written on a reporting basis, the claims rep determines whether the property values have been reported.
  - Also must determine accuracy of reports.
- Must pay attention to exclusions relating to defects or faulty work.
  - Must also consider when coverage ends and if policy offers coverage for soft costs.

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Coverage Period

- Coverage terminates when one of the following first occurs:
  - Policy expires or is cancelled.
  - Property is accepted by the purchaser.
  - Builders interest in the property ceases.
  - Builder abandons the construction with no intention of completing it.
  - 90 days after the construction is complete or 60 days after the building is put to its intended use.

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Investigating the Claim

- Receipts, subcontracts, and other records can help determine the amount of work completed at the site prior to the loss.
  - Charts, minutes of site meetings, and other documents can help with claims that include soft costs.
- Experts may need to be consulted when determining the amount payable.
  - If the loss is large, claims rep may need to manage the experts and integrate opinions.

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Practice

- Which one of the following is a scenario in which a builders risk policy will terminate?
  - A. When there is a labor strike, but the builder hopes to start work again soon.
  - B. Immediately after the first tenant occupies the property.
  - C. When the builder has no more financial interest in property.
  - D. 30 days after construction is complete.

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