

Professional Claims Management Is Key to Long-Term Success in Run-Off Deals

THE VERY LONG LIFE OF INSURANCE CLAIMS

Run-off claims are typically legacy claims, and thus we often view them as “old”. However, there is not necessarily any relationship between the age of a claim, new or old, and its legitimacy. In fact, older claims can present just as much or even more risk than new ones. Look at the long tail of an asbestos or pollution claim at 45+ years or of a construction defect (CD) claim, which can last over 10 years, and you are looking at relics of the past. Yet despite their age and in some cases because of it, a little digging can reveal serious hazards as plaintiff attorneys continue to pursue novel and innovative theories of liability.

For many claims in run-off, neither the underwriters nor the Managing General Agents are around anymore. While the claims remain, the infrastructure, focus and institutional knowledge that often goes with specific books or lines of business for a particular company are now gone. Sometimes it’s not just the underwriters who are gone but the insureds as well. An example is the home building boom of the early 2000’s leading up to the sub-prime mortgage crisis, which generated numerous CD claims. Often it can be hard to find original contractors and builders. Nonetheless, insurers still must honor those policies and defend any valid claims.

While some stakeholders tend to be more aware of losses that are reported during the actual policy period, often losses will occur and thus be reported many years later. This problem can be especially acute in emerging CD Class Action suits. In one sample CD case, a particular plaintiff alleged that the originally installed plumbing in an entire housing development had reacted with high levels of water-soluble elements that then corroded the pipes, resulting in large portions of the insured’s work being implicated... again, this occurred many years after the policy had expired.

AN OUNCE OF CONTAINMENT IS WORTH MORE THAN A POUND OF REMEDIATION

Even if you have seen dozens of cases, it can still be challenging to get out ahead of such issues, much less predict and avoid the potential negative impact of misunderstood or poorly handled claims. Insurers and re-insurers selling their

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books know this, and in many cases they can understandably feel stuck and overexposed, if for no other reason than they simply do not know what sits behind the curtain of any given policy, much less a group of them. So, it's fair to say that claims management is one of the single greatest 'unknowns' and ongoing points of care in any successful run-off transaction. The right claims ethos, understanding, process and professionals are vital to mitigating risks and managing run-off's impacts, and potential fallout.

- ***The Right Ethos***

Proper claims management begins with the right approach and mindset. Providers with a culture of accountability and who value their people – with the accompanying limited turnover and greater continuity – tend to fare better in their overall claims management efficiency and effectiveness. For example, RiverStone maintains a ready bench to take on new business and avoids last-minute “staffing up” to compensate for increased loads in claims processing and management. We also treat the claims as our own, as insureds become OUR customers and part of our customer service culture.

- ***The Right Understanding***

Sellers need to know their claims managers have the right depth of subject matter expertise and industry understanding to handle a particular book. This includes knowing the players involved and what motivates them (it's the “street smart” part of being RiskSmart!). For example, there are creative ways to approach law suits to mitigate defense costs, risk and overall financial exposure. On more than one occasion RiverStone has leveraged our relationships to avoid “over-litigation” because we understood everyone's leading motivators.

- ***The Right Process***

Proper claims management starts at the beginning of any prospective run-off transaction in the due diligence process. Recall in another point of view paper, RiverStone pulled back the curtain on a single claim in a single jurisdiction as part of a run-off due diligence, only to discover a potential \$100M liability (per the seller!). Additionally, professional claims management requires extreme care with proper document retention. RiverStone handles the majority of claims in house and prefers to maintain claims control. We have the right expertise, and we are actively vested in the claims process. As a result, we are proactive in our claim handling, which ultimately leads to better outcomes.

- ***The Right People***

When it comes to managing claims, experienced providers and professionals understand that there is often a difference in how the process actually unfolds versus how it “should” work. It takes experience and expertise to understand

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that gap. Exemplary claims professionals – the kind sellers should seek – play a combination of roles: part historian, part investigator, part industry expert and part analyst. For example, the claims professionals at RiverStone are business people who have, on average, more than 20 years of industry experience and many of whom have law degrees.

Insurers and re-insurers with strategic vision focus on claims management as part of their run-off sale. Although price is always a driving factor in any deal, the long-term impacts and risks can easily undermine and claw back any “deal” the seller gets when price trumps proper diligence, understanding and care in claims management. All carriers have their name and reputation to uphold. When claims are not managed appropriately and coverage litigation ensues, then an insurer’s brand can become etched in case law and the market’s long-term memory. It is vital to do business with providers who understand this and want to protect your reputation as part of protecting theirs.

“We’re a complete solution provider to the reinsurance and insurance industry and the solution we offer gives our customers the kind of security they want, the kind of regulatory safety that they need... which means that we want to handle it all when it comes to claims.”

MICHAEL BRYANT

Vice President and Director of Liability Claims, The RiverStone Group

ABOUT RIVERSTONE

RiverStone is a group of insurance, reinsurance, and service companies specializing in the management of legacy and run-off insurance businesses and portfolios. With nearly 500 professionals with deep industry expertise in claims, customer service, litigation, and financial restructuring, we offer creative and varied deal structures to deliver sustainable outcomes you can count on. We lean forward to develop and deliver innovative exit solutions to help shore up capital and meet board-level mandates to help focus an insurer’s business. We know that reliability, security, and finality all come from an ability to not only assess the risk up front but to execute the deal at the scale and speed required by the business.

For more information, please visit our website at www.trg.com.