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**Technical Advisory**

**TA 258**

**January 25, 2007**

**Subject: Certificates of Insurance – Special Report**

**Background:** Certificates of insurance are among the most perplexing issues an agency faces today. What seemingly is a simple confirmation of insurance has morphed into a high stakes activity fraught with E&O danger. In fact, E&O claims involving certificates of insurance have increased 28% during the past year. In addition, requests to alter certificates, or use non-ACORD certificates, add another dimension of risk for agents.

**Main Points:** The Virtual University of the Independent Insurance Agents & Brokers of America (IIABA) has just released an excellent 53-page special report titled, "Certificates of Insurance – Issues and Answers." Reprinted below is the announcement from the Virtual University's "VUpoint Newsletter," which contains a complete description of how to obtain the report.

**Necessary Action:** Circulate this Technical Advisory to all appropriate agency staff. In addition, it is strongly recommended that each staff person subscribe to the Virtual University. It is free to all staff of member agencies. The Virtual University contains hundreds of excellent articles on technical coverage issues, agency operations, E&O, and other important subjects. In addition, subscribers will receive a free subscription to the bi-weekly email newsletter "VUpoint," which currently has over 25,000 subscribers in 70 countries.

**The VUpoint Newsletter Vol. 8, No. 1 - January 12, 2007**

**FROM THE EDITOR**

**"Special Issue: Lenders Refuse Certificates of Insurance"**

Because of two recent events, we are publishing this special edition of The VUpoint. Recently Freddie Mac announced that they will no longer accept ACORD Evidence of Insurance forms. Similarly, just this week we learned that Bank of America has decided to no longer accept ACORD Certificates of Insurance or Evidence of Insurance forms effective Monday, January 15, 2007.

We are currently working towards a resolution of this problem, including communications with ACORD and hopefully involvement in an NAIC task force. In the meantime, IIABA has published a new report that addresses a number of problems involving certificates of insurance.

During the past year, E&O claims involving certificates of insurance have increased 28%. Almost 1 in 20 E&O claims now involves a certificate of insurance. The two main sources of certificate E&O claims are failure to add, or improperly identifying, additional insureds (36%) and misrepresenting coverage on the certificate that doesn't actually exist (21%).

These statistics track closely with the experience of our Virtual University "Ask an Expert" service in answering dozens and dozens of questions about certificates over the past seven years. Our experience (and the statistics) seem to indicate three major recurring problems involving certificates of insurance:

- The unwillingness of insurers to provide notice to certificate holders of cancellation, despite the "we will endeavor to" language in most certificates of insurance.
- Onerous insurance requirements by large contactors, huge corporations, governmental/public entities, etc. that cannot be met by coverages typically available in the admitted marketplace.
- Certificate fraud by agents and insureds (including the indication of coverages or conditions that don't exist) so an insured subcontractor can get a construction job or get paid for one.

The first problem above has existed for many years and is just now being questioned in an ethical context. The other two problems represent an emerging issue that has become an increasing problem for agents and insureds alike.

For example, a contract might require that the certificate requestor be named as an additional insured (something the insurer may or may not be willing to do), be provided notice of cancellation (something rarely afforded to additional insureds in an insurance contract), or be provided with a type of coverage (e.g., completed operations) that the insurer cannot or will not provide. Such contracts may specify certain endorsements by form number and edition date that the insurer cannot provide because they have been superseded by new editions and the older ones have been withdrawn.

As a result, agents are sometimes asked to produce a certificate that cannot comply with the contract the insured has signed. Refusing to do so, agents are often faced with the claim from the insured or certificate requestor that they know of agents who can or will provide such certificates. Failure to do the same could mean the loss of an account for the agency. These unreasonable requests too often lead to the issuance of fraudulent certificates by insureds or agents.

To respond to the escalation of E&O claims and problems involving certificates of insurance and related forms, IIABA has developed a new 53-page white paper entitled, "Certificates of Insurance: Issues and Answers" along with some related information. All of this can currently be found on the VU home page: <http://independentagent.com/vu>.

Important: This paper is free to IIABA member agencies and paid VU subscribers. All other parties may order the report using the order form on the home page. Please honor the copyright on this paper and do not distribute it to anyone who is not a Big "I" member, paid VU subscriber, or who has purchased the document.