

Wednesday, October 9, 2013

FDIC and "Regulatory Claims" Exclusions in Appraiser E&O; Policies

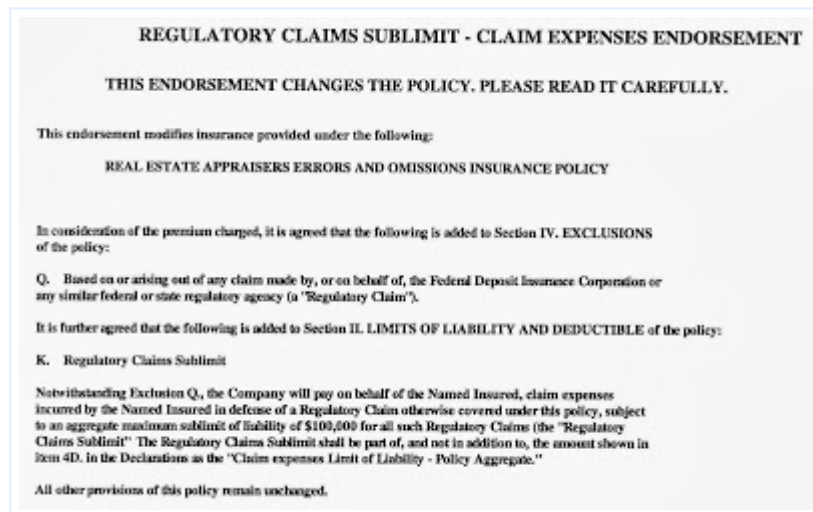
By Peter C

Many appraisers don't know about or don't understand the new FDIC and "regulatory agency" exclusions found in many appraiser E&O policies. Why is it relevant to know if your policy has an FDIC or regulatory agency exclusion of some sort? The main reason is because the FDIC sues appraisers for professional negligence -- such lawsuits are discussed in prior posts: [here](#) and [here](#).

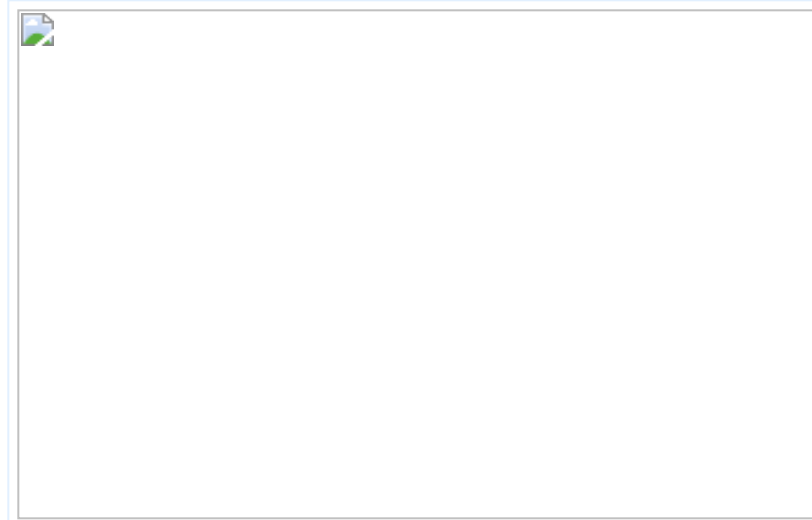
How do you determine if a policy being offered to you contains an FDIC exclusion?

Not all policies contain FDIC-related exclusions. For some of the insurance providers below, it depends on the state or dates of the appraiser's coverage. Other insurance providers do not include any FDIC or regulatory claims exclusions in any policies. No policies sold by LIA in its [appraiser E&O](#) program contain any FDIC-related exclusions; and there are policies available in other programs such as Intercorp and FREA, which do not contain the exclusions. For those policies which may include FDIC or regulatory claims exclusions, these are the provisions to look for -- they are usually added as endorsements to the policy:

Navigators Insurance Company. The following exclusion is applied as an endorsement to many appraiser E&O policies issued by Navigators in states where appraisers are at highest risk for being sued by the FDIC (I believe the selected states presently are: Arizona, California, Florida, Georgia, Illinois, Michigan, Nevada and Washington). The effect of the endorsement is to exclude coverage for damages in any claim by the FDIC or by *any similar federal or state regulatory agency* and to cap the attorneys' fees available to defend such a claim at \$100,000.



General Star. The following exclusion is added in an endorsement to many appraisers E&O policies from General Star.



Five Star/Lloyd's. The exclusion below is found within the main policy text of current Five Star/Lloyd's appraiser E&O policies:

- U. Any "Claim" arising out of appraisals, for or on behalf of the Federal Deposit Insurance Corporation or any other Governmental entity having regulatory authority over a Bank or Credit Union or Savings and Loan Association.

CNA. The exclusion below is contained in endorsements to some E&O policies from CNA:

**ERRORS AND OMISSIONS COVERAGE FORM
REGULATORY EXCLUSION ENDORSEMENT**

It is agreed that the following exclusion is added to Section V., EXCLUSIONS:

This Policy does not apply to any claim made against the Insured by or on behalf of the Bank Insurance Fund, The National Credit Union Share Insurance Fund, the National Credit Union Administration, the Office of Thrift Supervision, the Federal Housing Finance Board, **the Federal Deposit Insurance Corporation**, the Federal Home Loan Bank, The Federal Reserve System or any other federal, state or local regulatory agency or office, whether any such claim action or proceeding is brought in the name of such regulatory agency or office or by or on behalf of such regulatory agency or office or in the name of any other entity.

This exclusion does not apply to any claims based upon professional real estate services rendered by the Insured directly for any such regulatory agency or office who is a direct client of the Insured where such claim relates solely to such professional real estate services.