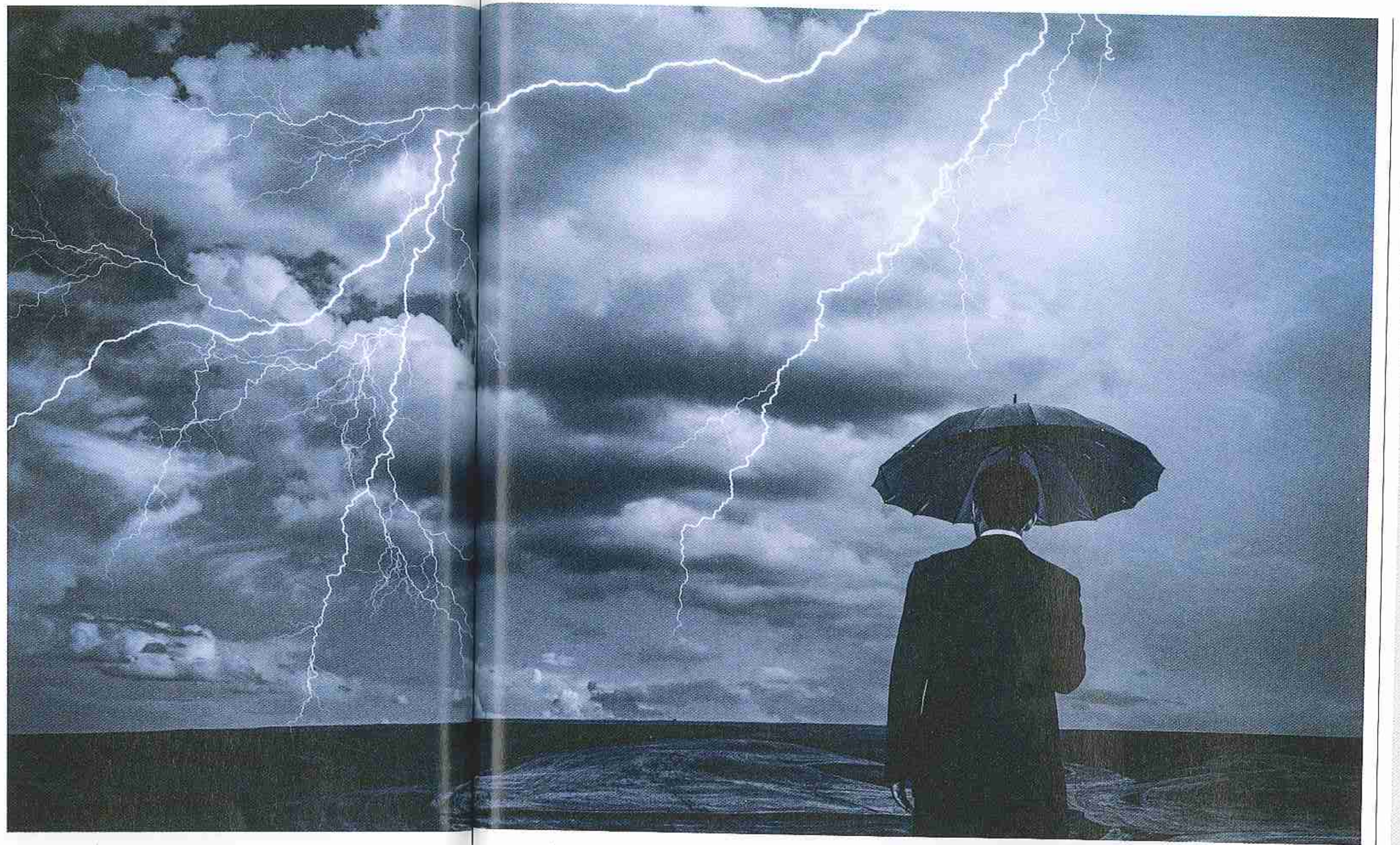
WHEN LIGHTNING STRIKES

Avoiding business disaster with a magnum PI package



PROFESSIONAL INDEMNITY is essential for insurance brokers, yet most regional brokers will have changed PI insurers probably once or twice in the last five years, mainly due to new entrants coming into the market and crashing out several years later.

The problem with insurance brokers' E&O is that it loses money, and can, in some cases, lose a lot of money. The trap some new entrants fall into is that brokers' own E&O is a fairly long tail line of business, and like most long tale lines it can be written for two or three years before the claim payments catch up, and when they do they really hurt. This is compounded in the case of insurance brokers because they have some spectacularly large losses that the inexperienced don't see coming, coupled with attritional losses.

So catering to this market requires a specialist appetite. The kind of appetite that Manchester Underwriting Management (MUM) has, having launched a Brokers' Own PI product into the market this year.

Charles Manchester wrote his first broker E&O policy in 1986 but it wasn't until January 2016, six years after MUM launched, that he believed there was a big enough gap in the market for the product. The opening came after, unusually, an insurer approached MUM and said it would like to target this market and would like Manchester to do it for them.

According to Manchester, the main source of a large loss is generally a large property placement where the insurer doesn't pay, and that is normally because there is a breach of a fundamental condition or warranty by the insured. Often it's a survey requirement the insured says they've done but haven't.

"So when you get a £20m property in a fire loss, insurers crawl all over it to find something wrong. Brokers typically have £1m to £5m in cover and if there's a £20m fire claim that's not properly insured, that just gets wiped out. The premiums just aren't sufficient to cover multiple large losses as there simply isn't enough money in the market," Manchester says.

Now with the FCA's focus on conduct risk and the new Insurance Act coming into force, there is an increasing pressure on the insurer to "do the right thing" when there is a loss. So the culture in insurers is beginning to change to one where the claim starts off as covered until (and if) it is found to be void. Whereas the starting point historically has been more along the lines of insurers saying "how do we get out of this?"

So what Manchester did, to try and head these large losses off at the pass, was to package insurance with a legal support service that actually helps the brokers deal with the situation.

"When they get a large loss and the insurer starts to wriggle, before the insurer gets entrenched in kicking out the claim and finding defects, the broker gets a lawyer," says Manchester. "And it might not even be a claim under their E&O. There might be no evidence they've done anything wrong, or any circumstances that could lead to a claim, but none the less, their client is in trouble. So they get a lawyer that helps them put together a case to justify the insurer paying the claim (if it's possible)."

Manchester, along with several other industry players Insurance Business UK has spoken to, believes there is a significant underinsurance problem in the broker community.

"A lot of brokers buy the bare minimum of cover and buy from the cheapest market without reading the wording," he says, recognising that there are those that do read the wording and buy the correct cover. "But, remarkably, many brokers are just like consumers and I don't think they would buy PI if they weren't forced to," he says.

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"Ask them what their largest sum covered is and they might say £47m, then they go and buy £2m in cover," Manchester says. "This is their business, they've worked hard for it, and they will go out of business if lightening strikes and they get a large loss because they're not covered adequately."

Manchester believes his Brokers' Own PI product has "a really good wording", with no warranties and no conditions precedent, coupled with legal support "from a proper lawyer and not just a helpline," as well as an accreditation from BIBA for the offering.

"Sure, times are tough," says Manchester, "but not as tough as a big PI claim that could have been prevented with the right cover." IB

BROKERS' OWN PI PRODUCT - KEY FEATURES

- No contracting out of the Insurance Act 2015
- No Basis Clause
- No warranties
- No conditions precedent (not even claim notification)
- Very broad protection against innocent non-disclosure
- Late notification protection
- Seven days after expiry to notify claims
- Civil liability cover including defamation, dishonesty, loss of client money and joint ventures
- Costs in addition to the limit of indemnity
- Regulatory investigation costs
- Compensation for court attendance
- Automatic binding authority cover
- Data Protection defence costs cover
- Hacker cover Loss of client cover – if your business makes a loss in its P&L because of your losing a client following the payment of a PI claim, MUM will indemnify you up to £25,000 for that loss (exclusive to BIBA members)
- Fidelity automatically covered (exclusive to BIBA members)
- Totally fair treatment not only promised but written into the wording