# RISK NOTE

HIROC

## Occurrence vs Claims-Made Policy

### OVERVIEW OF ISSUE

Insurance policies can be written as either occurrence or claims-made policies. They differ in how coverage is afforded. Some types of insurance can only be written in one form and not the other. We will discuss the differences between these two policies and discuss which is better depending on the type of insurance being provided.

### KEY POINTS

- Occurrence policies are triggered when the act that led to a claim took place during the policy period.
- Claims-made policies are triggered when the claim is made and reported for the first time during the policy period (written or oral demand) or within the extended reporting period, even if the act that caused the loss may have happened in the past.

### Why are some policies on an occurrence basis vs on claims-made basis?

- Some policies are intended to cover claims that may not be made until sometime after the incident that caused the loss took place. A good example is a healthcare professional liability loss where a medical malpractice may have occurred during a birth but signs won't show until later in the child's life. For these types of losses, a claims-made policy is the best way to cover them.
- Some losses are easy to quantify and pinpoint in time such as a slip and fall claim or a fire. For these types of losses, an occurrence-based policy is the best way to cover them.

## THINGS TO CONSIDER

### How does an occurrence policy work?

- An occurrence policy is triggered when the act that caused a loss took place. The policy in effect at the time of the act will respond to any losses arising from that act, regardless of how many years later the claim is reported.
- Most property and casualty insurance policies are occurrence-based policies.

### How does a claims-made policy work?

- The need for claims-made policies arose when it started getting difficult to discern which occurrence policies should respond in certain cases. An example is in pollution claims, where a long-term exposure spanning over several years makes it difficult to establish when the loss actually occurred and therefore which policies should apply. To address this issue, claims-made policies were created. It helped avoid the uncertainty of how many and which policies should respond.
- A claims-made policy is triggered when the claim is made even if the act that caused the claim took place prior to the policy period, so long as it did on or after the retroactive date. In many cases, this is the date when the claims-made policy was first put in place. Therefore, the key to a claims-made policy is continuity of coverage.
- A claims-made policy will only apply if the insured had no previous knowledge of the claim and when that claim had not previously been reported to another insurer.
- Some claims-made policies also have a reporting requirement. These policies are called claims-made and reported. They require that not only the claim be made but that it also be reported to the insurer within the policy period or extended reporting period.
- Some acts may not trigger a loss right away so a claims-made policy allows a claim to be made even years after the incident that caused the loss had taken place, subject to statutes of limitations governing the offense.

## Occurrence vs Claims-Made Policy

### BUT WHAT EXACTLY IS...

#### Extended Reporting Period?

Also known as ERP, it is *a designated time period after a claims-made policy has expired during which a claim may be made and coverage triggered as if the claim had been made during the policy period.* In practicality, because some claims may only come to light later on, insurance companies will offer a "grace period" when insureds can report claims after a policy has expired. At HIROC, that automatic period is 90 days and may be extended for up to 12 months at the option of the Insurer and at a premium to be determined. HIROC's ERP includes Limited Retroactive Excess Coverage (LREC) where an insured, who had a loss on a prior occurrence policy may apply for coverage with HIROC. However, LREC will apply only in excess of the limits of the prior occurrence policy and only after the prior policy's limit has been exhausted.

#### Retroactive Date?

It is *a provision found in many (although not all) claims-made policies that eliminates coverage for claims produced by wrongful acts that took place prior to a specified date, even if the claim is first made during the policy period.* The retroactive date serves to preclude coverage for known circumstances as well as to *make policies more affordable by precluding coverage for events that, while insurable, are remote in time.* At HIROC, our retroactive date is very generous going back all the way to 1986 for most coverages with a few exceptions on new coverages added throughout the years. It's important to know that this generous retroactive date applies only to circumstances not known to the subscriber.

### REFERENCES


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- www.americanprofessional.com
- International Risk Management Institute Glossary (www.irmi.com)
- Merriam Webster Dictionary




Date last reviewed: August 2018