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Selecting the right TPA partner

An explosion in the MGA Market – the need for 3rd party claims management expertise is growing

The 2019 Conning Strategic Study ("*New Fronting carriers and MGA incubators fuel growth*") reported that MGAs (Managing General Agencies) generated $45B of Gross Written Premium in 2017 which was double the premium recorded in 2012. The MGA sector now represents over 25% of the GWP written by the P&C market and involves over 600 underwriting groups working with over 250 carriers. Also exploding is the number of new and anticipated fronting companies serving the needs of these MGAs. Importantly, the carrier groups understate the number of other alternative sources of risk bearing capital (eg Insurance-Linked Securities investment funds) that support these underwriters.

Much has been written about the explosion of the MGA marketplace and the increase in both the number of the new underwriters as well as the number of new products that meet a rapidly evolving demand from consumers. Some of the new emerging risks like Cyber, Intellectual Property, Product Tampering, risks from the Sharing Economy and others are often being addressed by MGAs rather than traditional carriers. At the same time, emerging technology is helping MGAs connect with customers in a more rapid and simpler way while also generating new information that helps them price the risk they insure. **Despite the significant amount of press and attention to this sector, little is written about the role of claims and litigation management in the MGA market.**

As important as the selection of the underwriting partner (MGA) is, it is equally important for the carrier to select the right claims management partner. In many cases, carriers elect to go-it-alone with respect to their claims management strategy. For some, this strategy is prudent. They have the volume of claims to justify the internal expense associated with maintaining the necessary expertise to stay on top of the ever-changing litigation environment and coverage issues. For other carriers, it makes more sense to utilize external claims management partners. Where this can be especially true is when the carrier;

1. Does not have a high enough claims volume to warrant the high fixed-costs associated with an internal claims staff
2. Is rapidly moving in and out of various lines of business for tactical reasons and needs to match claims expertise to their existing risk appetite at any time
3. Is focused more on providing a service (e.g. fronting) rather than retaining risk
4. Prefers to access the "latest and best" technology, knowledge base and legal expertise without having to pay for it themselves

At the same time, many MGAs want a carrier to utilize an outside claims manager rather than the carriers own inhouse claims team as they may view the carrier as too focused on settling all claims rather than defending claims that have no real liability.

Where the need to insert expert outside help becomes even more obvious is when a fronting carrier is partnering with an alternative marketplace (for example, an ILS fund) to assume the risk from an MGA. Given the differing incentives between many MGAs (focused on maximizing premium volumes) and carriers (focused, generally, on maximizing underwriting profits), an independent Third-Party Administrator (TPA) could help provide some balance. On the surface, this appears simple but all too often TPAs do not improve the situation. Many will tailor their service and responsiveness to match the fee structure they have with carriers.

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When paid a fixed-fee per file, some TPAs do as little as possible on a claim to maximize their profits. When they bill on an hourly rate, some TPAs will try and draw out a claim far longer than they should.

Importantly, great claims management by the TPA is necessary but not sufficient. Another important factor to consider is the focus of the carrier or their TPA on litigation management for a book of business. For some casualty lines of business, doing this well could be the difference between a book of business being profitable or not. Assuming an average of 52% Loss Ratio and 15% ALAE ratio, around 67% of premiums leave carriers to pay claims and the expenses associated with claims. In many cases, carriers do not have the necessary personnel to manage all of the law-firms they use to represent them in court or settlement discussions. At the same time, carriers have little or no technology to help them to manage this process. In some cases, carriers cede the responsibility of managing 3rd party panel-counsel to the TPA. Carriers need to ensure that this produces results that are not in conflict with their own goals and objectives.

Using a TPA to support an MGA book of business often makes sense, especially when the TPA has a level of service and technical expertise in a challenging line that the carrier doesn't. This is especially true if the TPA can do this cheaper while generating better than expected results for the carrier. As importantly though, carriers should look to use TPAs that understand the importance of managing the litigation resulting in the book of business. This management implies a level of legal expertise not always found in TPAs as well as a level of technology that many do not employ. This technology includes workflow management, real time communications (replacing emails and calls) including defense strategy, extensive reporting on claims status, expense budgeting and performance measurement. A good litigation management partner can help a carrier control or reduce their ALAE expense, ensure the correct panel members are representing the carrier and help lower total claims costs.

Picking a TPA to support your underwriting objectives makes sense in many situations. However, it is important to pick the right TPA, one that understands how important their role is and how their work can contribute to the underwriting profit of a book of business. Whenever you are selecting a TPA to handle your claims and litigation, they should have at least the following qualifications:

- Related experience in the lines of business you want them to handle
- Qualified staff and minimal turn-over
- Licensed personnel as needed
- A robust and accessible IT platform
- Workable procedures and industry standard best practices
- Proven success – demonstrated by the standard metrics used to evaluate insurance results and performance
- No or minimal regulatory complaints

Claims and litigation management are important components to financing risk. To see how we can help, contact David Mocklow at 516 962 4618 or dmocklow@gramercyrisk.com