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Insurance and Risk Management Perspectives Available Only from IRMI

101 Common Commercial Lines Coverage Gaps To Avoid

IRMI Research Analysts

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One of the best ways for an insurance agent or broker to lose a client or face an errors and omissions (E&O) claim is to fail to tailor a customer's insurance program to its exposure to loss. Similarly, coverage gaps that result in uninsured claims become career-limiting crises for risk managers. For this reason, IRMI set out to identify 101 common coverage gaps to help you avoid the embarrassment that they may cause.

The following list of coverage gaps and errors was first compiled from reader responses posted in the IRMI Group on LinkedIn in response to an editorial by Jack Gibson in *IRMI Update* #252. (*IRMI Update* is a free risk management newsletter delivered via e-mail.) The IRMI research analysts then edited, expanded, and enhanced the list. These represent some of the most common—and dangerous—mistakes that are made when placing commercial lines insurance. Use this document as a handy checklist to avoid these mistakes in the insurance programs you buy or sell.

We have included links to five IRMI knowledgebases where you can find explanations of these gaps and how to close them. Of course, you must subscribe to the knowledgebases for the links to function (see sidebar on page 2). IRMI also offers two other products that focus on helping you understand and eliminate these coverage gaps. The first is an online course,

About the Authors

This list was compiled by the IRMI editorial team with input from members of the IRMI Group on LinkedIn. At 12 research analysts and editors, the IRMI editorial team is likely the largest in the US property-casualty insurance and risk management reference publishing field. It is also probably the most experienced team, having collectively worked for more than 3½ centuries as underwriters, risk managers, consultants, agents, brokers, attorneys, and, of course, IRMI research analysts. Collectively, the team holds 12 undergraduate college degrees (many with honors), 10 graduate-level degrees, and 35 CPCU and other insurance designations. Additionally, the team members have received many accolades, honors, and awards. View biographies of our editorial team members on IRMI.com.

101 Commercial Lines Coverage Gaps & How to Close Them, which has been approved for insurance CE in all states. The course discusses each of the coverage gaps included in the following checklist and is a great training tool for agents and brokers. The second is The Gapper, which is an online commercial lines insurance coverage gap finder that helps you identify these gaps and generate a report documenting the gaps you find. The Gapper is a powerful sales and E&O prevention tool for agents and brokers.

How To Use the Buttons in This Checklist

Many of the knowledgebases available from IRMI address topics covered by this checklist. However, to keep the checklist uncluttered, we linked it to only five of our most popular knowledgebases.

- *Commercial Auto Insurance* (CAI)
- *Commercial Liability Insurance* (CLI)
- *Commercial Property Insurance* (CPI)
- *Professional Liability Insurance* (PLI)
- *IRMI Workers Comp* (IWC)

To use the buttons, you must be a subscriber to the particular knowledgebase to which the gap is linked on either the IRMI Online or ReferenceConnect platform (from Vertafore), and you must sign in on the platform prior to using the link. Each link identifies the applicable knowledgebase and platform using the abbreviations shown in the list along with "IRMI Online" and "RefCon." If you are uncertain as to whether your firm subscribes on your behalf, contact IRMI through our website or by phone (800–827–4242) and our client services team will be happy to help you.

All Policies

1. Specifying an improper "first named insured" on a policy

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2. Including an incomplete or inaccurate list of insureds on the declarations page

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Commercial Auto Policy

3. Improperly insuring private passenger autos that should be insured by a personal auto policy in a business auto policy (or vice versa)

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4. Inaccurately assigning covered auto symbols

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5. Not covering executives or others who are provided with company vehicles with drive other car coverage when they have no personal auto policy (including no-fault coverage, where applicable)

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6. Failing to procure hired and non-owned auto liability coverage for in-

sureds that do not have any owned vehicles

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7. Failing to complete and file with the insurer appropriate uninsured/ underinsured motorists selection or rejection forms

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8. Failing to identify mobile equipment subject to motor vehicle laws and cover it under a business auto policy

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9. Allowing multiple comprehensive coverage deductibles to apply to vehicles parked or garaged together rather than using an aggregate deductible

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10. Failing to provide hired auto physical damage coverage

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11. Failing to provide liability and physical damage coverage to employees who hire autos in their own names for business use

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Commercial General Liability Policy

12. Relying on commercial general liability fire legal liability coverage to insure leased premises when commercial property insurance is needed to satisfy the obligations in the lease

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13. The lack of an employee benefits liability endorsement in the commercial general liability policy (or coverage in a separate fiduciary liability policy)

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14. Inattention to retroactive date and extended reporting period on claims-made coverage endorsements attached to occurrence trigger commercial general liability policies (e.g., employee benefits liability)

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15. Failing to provide additional insured status as required by contract

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16. Lack of coverage, or inadequate coverage, for joint ventures and newly acquired companies

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17. Relying on the commercial general liability or umbrella policy to cover professional liability exposures

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18. Failing to arrange coverage for leased workers in states that do not bring leased workers within the workers compensation system

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19. Failing to arrange "loss of electronic data" coverage resulting from physical injury to tangible property

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20. Failing to add coverage for contractual assumptions of personal injury liability claims stemming from false arrest, detention, or imprisonment by indemnitors that provide incidental security services

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21. Failing to endorse coverage in connection with herbicides and pesticides, as required by manual rules, for insureds engaged in lawn care, fumigation, pest control, and crop spraying services

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22. Failing to arrange contractual liability coverage for hold harmless agreements entailed in work for railroads or near railroad property

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Workers Compensation Policy

23. Failing to provide other states insurance under the workers compensation and employers liability insurance policy for incidental exposures in other states

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24. Not ensuring that all applicable states are listed for coverage under Item 3.A of the workers compensation policy (e.g., adding an employer's new permanent operations)

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25. Not including the voluntary workers compensation endorsement to address claims brought by workers (e.g., volunteers) to whom no workers compensation act may apply

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26. Failing to establish who is responsible for insuring leased workers when a professional employer organization is utilized or failing to follow up to ensure that insurance

placements are made in accordance with jurisdictional and contractual requirements

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27. Not utilizing an employers liability coverage endorsement (stop gap) to provide coverage for employers liability claims brought by employees in monopolistic fund states (North Dakota, Ohio, Washington, and Wyoming)

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28. Failing to procure a foreign voluntary workers compensation endorsement to provide coverage for endemic disease and repatriation costs of employees working abroad (as well as medical and wage benefits when extraterritorial provisions of the state of employment do not apply)

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29. Not including the Longshore and Harbor Workers' Compensation Act Coverage endorsement (on an "if any" basis) in the policies of employers that have a potential but remote exposure under the Act

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30. Not including the maritime coverage endorsement (on an "if any basis") in the policies of employers that have a possible but remote exposure under maritime law

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31. Failing to cover employees working overseas at U.S. government facilities or for the benefit of the armed forces with a Defense Base Act endorsement

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Umbrella Liability Policy

32. Failing to completely and accurately schedule the underlying policies in the umbrella

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33. Purchasing lower primary or underlying limits than are required by the umbrella

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34. Not including all parties insured by the primary policy as insureds in the umbrella

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35. Improper "follow form" provisions that turn an umbrella policy into a stand-alone excess policy

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36. Failing to discover additional or broader exclusions in the umbrella than in the primary

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37. Using narrower definitions in the umbrella than are included in the primary policies

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38. Strict exhaustion language in the umbrella policy that requires the actual payment of the entire underlying limit before the excess coverage applies

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39. Potentially violating the umbrella policy's aggregate limit prerequisite via an underlying policy term that is different or nonconcurrent with the umbrella policy term

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40. No coverage for punitive damages where permitted by law

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41. Drop down clause of the umbrella policy is limited to claims that are covered by the umbrella

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42. Failing to secure umbrella coverage over foreign general and auto liability policies

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43. Failing to ensure coverage for insured versus insured claims

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Professional and Errors and Omissions Liability Policies

44. Inadequate limit due to inclusion of defense coverage within the limit

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45. An erroneous description of professional services contained in the application for coverage negating coverage for the insured's actual services

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46. Lack of or faulty coordination of insuring agreements, exclusions, and definitions between the profession-

al liability policy and the commercial general liability policy

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47. Failing to obtain coverage for predecessor firm exposures

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48. Coverage denials caused by "absolute" exclusions that use "arising out of, involving, or in any way related to" wording, rather than "for" language

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49. No coverage of punitive damages due to an exclusion or absence of a "most favorable jurisdiction" provision

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50. Not providing tail coverage for claims made against professionals following retirement

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Miscellaneous, Environmental, and Cyber Liability Policies

51. Failing to cover environmental liability exposures arising from owned property or construction operations

IRMI CLI | RefCon CLI

52. Failing to cover pollution liability arising from transportation of pollutants

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53. Companies that market or conduct business over the Internet failing to purchase liability coverage for copyright and trademark infringement or data breach

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54. Companies in possession of "personally identifiable data" or health data failing to buy coverage for data breaches

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55. Not procuring nonowned aircraft liability insurance to cover exposures arising from use of aircraft by executives or employees

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Management Liability and Crime Policies

56. Privately held companies failing to buy directors and officers liability insurance without adequately evaluating the exposure to loss

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57. Improperly using retroactive dates and extended reporting periods in claims-made policies

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58. Not adding coverage to the directors and officers policy for executives serving on outside charity or association boards

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59. Failing to include high-level non-officers (e.g., corporate comptroller, human resources director) as insureds in the directors and officers policy

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60. Not considering the purchase of Side-A directors and officers coverage, especially for outside directors

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61. Purchasing a Side-A policy written on a straight excess rather than on a difference-in-conditions basis

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62. Failing to obtain directors and officers coverage for prior acts committed at a newly acquired subsidiary

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63. Buying a directors and officers policy with a "limited" rather than a "broad" severability provision

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64. Buying an excess directors and officers policy that provides overage only when the underlying layer(s) is exhausted by insurer payment (rather than including coverage when payment is made by an insured)

IRMI D&O MAPS | RefCon D&O MAPS

65. Not amending the "damages" definition in the directors and officers policy to include coverage for criminal investigation costs

66. Not removing or amending the failure to maintain insurance exclusion from the directors and officers policy

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67. Selecting a directors and officers policy with "in fact" rather than "final adjudication" language within the intentional/criminal acts exclusion

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68. Not adding third-party discrimination coverage to employment practices liability policies

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69. Not adding defense coverage for wage and hour claims to employment practices liability policies

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70. Failing to add coverage for leased employees or independent contractors to employment practices liability policies

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71. Not amending or removing limitations in directors and officers and fiduciary liability policy forms for "tag along" claims

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72. Not providing proper directors and officers coverage for directors and officers of foreign subsidiaries

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73. Failing to add coverage for theft of customers' property by the insured's employees to the crime coverage

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74. Failing to cover volunteers or contractors as "employees" under crime insurance

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75. Not adding funds transfer or computer fund fraud coverage to the commercial crime policy

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76. Not purchasing an adequate limit of insurance for crime coverage, especially employee dishonesty coverage

77. Failing to name the insured's employee benefit programs as insureds under the crime policy and, if necessary, add Employee Retirement Income Security Act (ERISA) compliance language to comply with ERISA bonding requirements

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Property, Equipment, and Inland Marine Policies

78. Failing to purchase adequate limits of insurance by using accounting book value as the insurable value of covered property, over-relying on property value estimates from software programs using minimal information about the property, or other causes

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79. Using less than optimal valuation provisions (e.g., actual cash value instead of replacement cost)

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80. Using specific rather than blanket limits of insurance, especially when an insured has multiple locations

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81. Including a margin clause that essentially converts blanket limits into specific limits

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82. Not using an agreed value provision (sometimes called an agreed amount clause) or failing to renew it annually on a multi-year policy

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83. Failing to include all locations for which coverage is needed

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84. Using inadequate sublimits for unnamed locations

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85. Failing to consider the cost of debris removal when determining insurance limits or failing to secure an adequate sublimit

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86. Failing to purchase ordinance or law coverage

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87. Failing to purchase time element ordinance or law coverage or to consider additional time for restoration when selecting time element coverage limits

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88. Not purchasing coverage for loss from flood and earthquake

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89. Failing to arrange equipment breakdown coverage for direct damage to equipment, consequential spoilage, and resulting loss of income

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90. Not adequately insuring vacant property, particularly newly vacated property

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91. Inadequately insuring property under construction, renovation, or ex-

pansion by relying on the commercial property insurance form instead of purchasing a builders risk policy

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92. Not insuring property shipped by common carrier, on the assumption that the carrier will cover all losses

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93. Overlooking the responsibility for property during inland and ocean transit and while stored at warehouses

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94. Failing to arrange coverage for rented or borrowed equipment

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95. Not insuring business interruption, rental value, leasehold interest, and extra expense exposures

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96. Failing to cover business interruption arising from utility interruption that originates away from the insured's premises, including overhead transmission lines

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97. Not arranging coverage for contingent business interruption exposures arising from damage to property of the insured's key suppliers or customers or neighboring businesses that attract the insured's customers

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98. Failing to procure extended period of indemnity coverage when arranging business interruption coverage for an organization that will experience a slow resumption of sales following a shutdown

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99. Failing to consider the possibility that it could take more than 1 year to replace damaged property and resume operations when choosing time element coverage limits

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100. Failing to understand the penalties for not submitting reports on time or failing to arrange for increased limits of insurance when needed under a reporting form

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101. Not insuring finished stock on a selling price basis

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The Gapper

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- Helps you grow your insurance book easily, quickly, and efficiently and blow away the competition! It makes analyzing policies and identifying coverage gaps and potential exposures a snap.
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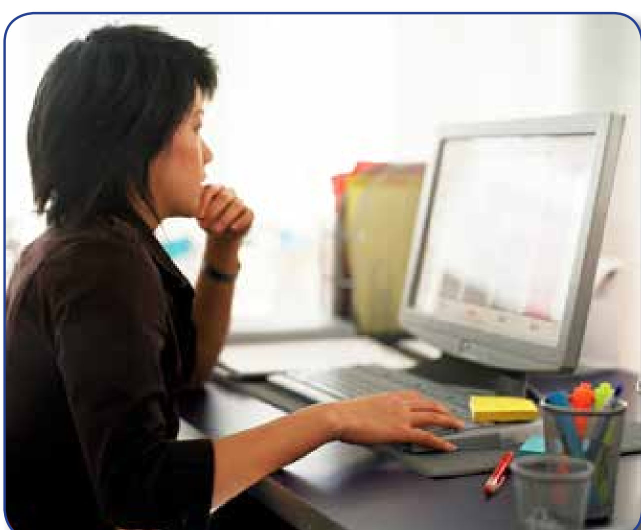

This CE course offers a unique look at commercial lines coverage by examining common gaps in these programs that can lead to embarrassing coverage denials and then reviewing ways to close the gaps.

- Actual practitioners identifed the gaps in a survey.
- Earn 9 to 15 insurance CE credit hours (depending on your state).
- Buy it here in the Course Catalog.