Umbrella Coverage

Chapter Objectives

- Know the function of an Umbrella Policy
- Understand the meaning of retention limit

I. Umbrella Coverage versus Excess Coverage

Some of the state testing outlines include the term “excess coverage.” Excess coverage should not be confused with Umbrella coverage. They are somewhat different in their scope of coverage.

Excess Coverage Defined - Excess coverage provides higher limits of coverage but the coverage merely follows the forms for which the higher limits are provided. It does not broaden coverage.

For example: A contractor carries $1,000,000 Commercial General Liability policy and $1,000,000 under a Commercial Auto policy. A policy can be issued to provide an extra layer of coverage in excess of the $1,000,000 CGL policy or an extra $1,000,000 in excess of the Commercial Auto policy or both. So if a claim occurs and the limits under either policy to which excess coverage is provided are exhausted, the excess policy continues to pay until its limits are exhausted. An Umbrella policy provides these higher limits as well for both coverages but also broadens some of the coverages by way of fewer exclusions or modifying some of the exclusions or coverages.

There are two types of Umbrella policies:

- Personal Umbrella
- Commercial Umbrella

Both policies are designed to provide coverage for:

1. Higher limits than are generally available under basic liability policies.

2. Liability exposures that may be limited or excluded by the underlying coverages. In other words, the Umbrella policy offers broader coverage than the underlying coverage and provides additional liability protection.
II. Personal Umbrella

As the name implies, the Personal Umbrella policy applies to personal liability exposures. The coverage does not apply to physical damage coverage for the insured’s real or personal property. Personal liability exposures are covered under the following types of policies:

- Personal automobile for the negligent acts of the insured and members of the insured’s household while operating owned or non-owned vehicles
- Personal liability for the negligent acts of the insured for personal activities including home premises liability
- Watercraft liability
- Recreational vehicle liability (where coverage is written as a separate policy)

Insurance companies will require the insured to carry reasonable underlying liability limits in these policies. In case of a covered claim under any of these policies, the Umbrella policy will only pay when the limits are exhausted by the payment of covered claims. If the claim is still not satisfied, the Umbrella policy begins paying up to its limit. The defense costs in all of these polices are in addition to the limit of liability.

It is the insurer that establishes the required underlying limits that the insured must carry. The insured can increase the underlying limit but cannot reduce the limits without a great penalty if a covered claim should occur.

For example: The insurer requires the insured to carry $100,000 per person for auto bodily injury. The insured complies and an Umbrella policy is issued on this basis. After the Umbrella policy has been issued the insured reduces the limit to $50,000 and shortly after has an at fault accident and loses the case in court with a judgment of $150,000. The auto insurer pays its limit of $50,000; the insured must pay $50,000; the Umbrella insurer then pays the remaining $50,000. The Umbrella insurer does not accept a reduction in coverage.

The Personal Umbrella policy contains a deductible for claims that are not covered by the underlying coverage but are covered under the Umbrella policy. The deductible will range from $500 to $10,000. This deductible is referred to as a self-insured retention or SIR.

For example: The insured travels to Great Britain and rents a vehicle. His Personal Auto policy has a territory restriction. You may recall that the Personal Auto policy has a covered territory of the United States, its possessions, Canada and Puerto Rico and will not cover driving a vehicle in Great Britain. Most Umbrella policies do not have this restriction and would cover the loss. They cover insured losses on a worldwide basis. Since underlying coverage would not apply to an auto claim outside the covered territory, the insured would have to pay a small deductible (SIR) and then the Umbrella policy would pay for the covered claim up to its limit.

**Note:** There are variations in coverage offered by insurers. Most cover on a worldwide basis, include broader coverage than the underlying policies such as personal injury liability, and can include uninsured and underinsured motorist coverage. Defense costs are always included. If
the loss is excluded under the underlying coverage there is a chance it may be covered under
the Umbrella policy.

III. Commercial Umbrella

The Commercial Umbrella policy is a very popular contract for commercial lines liability
exposures. Like the Personal Umbrella policy, it is designed to provide higher limits in excess of
the underlying liability policy and provides, in some cases, broader coverage. Coverage varies by
insurers offering this stand-alone policy.

Commercial liability exposures are covered under the following types of policies:

- Commercial Automobile (BAP, Garage and Motor Carrier)
- Commercial General Liability
- Employer's Liability (a workers compensation policy coverage)
- Other liability coverages acceptable to the insurer (commercial watercraft as an
  example)

ISO Commercial Liability Umbrella Coverage Form

This coverage form assumes that the underlying coverage is written on an occurrence basis. In
the event that an underlying coverage form or policy is written on a claims-made basis, an
endorsement can be added to make it work with the claims-made coverage.

One of its unique features as it relates to claims-made coverage is that the retroactive date on
the claims-made coverage is not listed on the Umbrella Policy Declarations Page but instead,
follows the retroactive date that applies to the underlying coverage. The insurer will require
underlying coverage be in place when the policy is issued. The underlying coverages and limits
will be stated in the policy. The insured cannot reduce the limits without the written approval
of the insurer by way of an endorsement.

Limits of Coverage

The Commercial Umbrella policy contains three specific limits of liability:

- **“Per Occurrence” (Per Loss) Limit** - If a policy is issued with a “per occurrence”
of $1,000,000, this is the most that will be paid on any one claim. Example: The
  Commercial Umbrella policy written on Lisa’s Fabulous Fashions has a $1,000,000 per
  occurrence limit. An explosion occurs while a tour group is on Lisa’s premises and 25
  members of the group are injured. The total value of their claims is $5,000,000. Lisa’s
  Umbrella policy pays only its $1,000,000 per occurrence limit, subject to the general
  aggregate limit. Lisa must respond to the remaining $4,000,000 in claims from other
  insurance or her own financial resources.

- **Personal and Advertising Injury Limit** (any one person or organization) - This is the
  most paid for all covered claims due to a single offense to a specific person or organization.
Example: Jane’s Bagel Bread Company has a $1,000,000 limit for personal and advertising injury liability and a $2,000,000 per occurrence limit. A covered offense involving personal injury liability occurs (an employee wrongfully evicts someone from the premises) and the amount claimed is $2,000,000. Jane’s Commercial Umbrella policy pays only the $1,000,000 personal and advertising injury liability limit.

### Aggregate Limit (Liability Coverage)
- This is the most paid in the aggregate for all losses for Coverage A (bodily injury and property damage) and Coverage B (personal and advertising injury) within the specified policy period. This limit includes products/completed operations but does not apply to auto losses. Commercial auto umbrella losses do not have an aggregate limit. The “per occurrence” limit applies per loss no matter how many losses are paid during the policy period. Consider the following examples:

- **General liability claim:** Mike’s Hardware, Inc. carries underlying General Liability insurance with a $1,000,000 occurrence limit and a $2,000,000 aggregate limit. Mike’s also carries an Umbrella policy with a $1,000,000 aggregate limit. The business has 12 bodily injury claims during the policy period. No single occurrence is for more than $1,000,000 but the total of the 12 incidents is $4,000,000. The underlying General Liability policy pays $2,000,000 which is the total of the aggregate limit for the policy period. Mike’s Umbrella coverage pays its $1,000,000 aggregate limit. The remaining $1,000,000 is uninsured.

- **Commercial auto claim:** Ace Bus Touring Company carries a Commercial Auto policy with limits of $1,000,000 each accident. Ace also carries a Commercial Umbrella policy with an aggregate limit of $2,000,000. Three buses are involved in three separate accidents during the policy period, seriously injuring the passengers. Each accident results in damages of $2,000,000. This is a total of $6,000,000 in claims. The Commercial Auto policy pays $3,000,000 (the limit per accident of $1,000,000). The Umbrella policy pays the additional $1,000,000 per claim or $3,000,000. While the umbrella aggregate limit is $2,000,000, the carrier pays all three losses because the aggregate limit under the Umbrella policy does not apply to auto losses.

### Retained Limit
A section of the Declarations page contains the information on the self-insured retention limit and the underlying coverages and their limits. The self-insured retention (deductible) is usually higher in the Commercial Umbrella policy compared to the Personal Umbrella policy.

### Schedule of Underlying Insurance
The underlying coverages and limits provided are entered in the spaces provided and must be maintained in full force and effect during the Umbrella policy period. If they are not, the Umbrella coverage still responds as if those underlying coverages are maintained.
Under the employer’s liability, commercial general liability and commercial auto liability sections, the name of the underlying insurance company, the policy number, the policy period and the minimum limits are entered in the spaces provided. The same information must be provided for any other coverage provided. Note: Promptly informing the insurance company of any changes in this information cannot be emphasized enough.

The insuring agreements, exclusions and conditions follow the underlying forms with only a few variations. The policy expands the coverage territory to cover claims outside the United States. As mentioned, there are many insurer variations in the coverage.
Review Questions

1. A Personal Umbrella policy:
   A. Extends the coverage on personal effects
   B. Insures yachts for physical damage
   C. Is a modified form of excess liability coverage
   D. Is a basic liability policy.

2. Under an Umbrella policy, an insured has a retention limit which is a/an:
   A. Deductible
   B. Waiver
   C. Exclusion
   D. None of the above

3. A Personal Umbrella policy provides additional limits of liability for which of the following types of policies?
   A. Personal Auto
   B. Personal Liability
   C. Watercraft Liability
   D. All of the responses are correct

4. An insured carries a Commercial Auto policy. He leases a vehicle in Germany and has an accident. Which policy might respond to provide coverage on a worldwide basis?
   A. The Commercial Auto policy
   B. An excess policy
   C. A Commercial Umbrella policy
   D. None of the policies would respond to cover the accident

5. What is the term to describe the amount the insured must pay when the underlying coverage does not apply and the Umbrella policy does apply but the insured must participate in part of the claim?
   A. A loss deductible
   B. A participating amount
   C. A self-insured retention
   D. The share the loss provision
6. What are the three limits of liability coverage that are listed in the Commercial Umbrella policy?

A. The “per occurrence” limit  
B. The “personal and advertising injury” limit  
C. The “aggregate limit”  
D. All of the responses are correct

7. The insured carries a Homeowner policy with an underlying liability limit of $300,000 as required by the insurer providing the Personal Umbrella policy. The Umbrella policy limit is $1,000,000 with an SIR of $10,000. After the policy is issued the insured reduces the limit to $100,000 and does not notify the insurer. The insured’s dog bites a child causing severe facial injuries. The insured is sued for $300,000 and the court awards this amount. What will the insured have to pay before the Personal Umbrella policy participates in the claim?

A. Nothing  
B. $10,000  
C. $200,000  
D. $100,000

8. The insured carries a Commercial Auto policy with the required underlying limit of $300,000 for bodily injury claims. The Commercial Umbrella policy is written with a “per occurrence limit” of $5,000,000 and an “aggregate limit” of $25,000,000. He is involved in an accident causing a passenger train derailment and hundreds are injured. Several individuals make claims in excess of $1,000,000 each. When will the aggregate limit under the Umbrella policy be a factor in this auto claim?

A. When claims exceed $5,000,000  
B. Never  
C. When the losses exceed $5,000,000  
D. After the underlying insurer has paid its limit of $300,000 per claimant
Review Answers

1. C. The Personal Umbrella policy provides excess coverage over underlying insurance. It also provides broader coverage than most underlying policies.

2. A. The retention limit is a deductible.

3. D. The Personal Umbrella policy can provide excess and somewhat broader coverage with regard to all of the policies.

4. C. Depending on the insurer, the loss would normally be covered in a foreign country. In some cases it may be a reimbursement payment after the insured has settled the claim in a foreign legal system.

5. C. This is called the self-insured retention (SIR).

6. D. All of the responses are correct.

7. C. The underlying carrier will pay the first $100,000; the insured will pay the next $200,000 and the Umbrella policy will pay nothing because the insured reduced the underlying limit without notification to the insurer.

8. B. Auto claims are not a factor in the “aggregate limit” in a Commercial Umbrella policy. The insurer will be liable for those individual claims in excess of the $300,000 “per occurrence” limit up to $5,000,000 each.