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## Findings from *The Chubb 2007 Private Company Risk Survey (Canada)*

Talking Points for Agents & Brokers and Frequently Asked Questions  
November 2008

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These talking points are intended to be used in conjunction with your marketing activities with producers. They align with findings from *The Chubb 2007 Private Company Risk Survey*. As with past surveys, we only presented the key findings that will assist producers in educating their clients and non-buyers.

To further enhance the competitive edge the survey findings provide you, these talking points also include data from other sources. Use them in telephone conversations, emails, presentations, and other forms of communication.

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## **Overall Findings**

### **Are Canadian private companies exposed?**

1. **Two out of three (66%) Canadian private companies experienced some kind of top management/professional liability event in the past five years**, including workplace crime (35%), employment practices liability (34%) and directors and officers liability (25%), according to the *Chubb 2007 Private Company Risk Survey*. Furthermore, in 2008, 34% of the companies expect to experience workplace fraud, 31% a D&O liability lawsuit, and 25% an EPL charge or lawsuit.
2. **However, the private companies may not be purchasing sufficient insurance** to help protect their bottom line from a costly event, such as a liability lawsuit or employee fraud.
  - The Chubb survey found that 31% of Canadian companies *do not purchase any type* of management liability/professional liability coverage.
  - *Few companies purchase* crime (39%), D&O liability (35%), errors and omissions liability (29%), EPL (22%), fiduciary liability (13%), cyber liability (10%), workplace violence expense (8%), or kidnap/ransom and extortion (5%) insurance.
3. **Today's global economy and widespread economic downturn creates risks for companies of all sizes.** Private company executives indicated their firms are likely to broaden product offerings (61%), make a major acquisition (30%), reduce workforce size (25%), outsource functions or operations (24%), and/or reduce or eliminate employee benefits (11%) in 2008, according to the Chubb survey.
4. **Funds are limited.** A 2008 *Inc./Fast Company* survey asked small to midsized businesses what it is that marketers don't understand about them, the most common answer given was "limited funds available." This suggests a critical need for financial protection that many businesses seem to overlook.
5. **Agents and brokers are trusted sources of information, referrals, or advice.** When it comes to seeking information or advice on handling employee fraud, errors and omission liability, and kidnapping and extortion, the Chubb survey found that Canadian private company executives consider insurance agents/brokers to be their #1 resource. Following an outside attorney, an agent/broker is the executives' #2 resource for advice on handling cyber liability, D&O liability, fiduciary liability, workplace violence, and EPL.

***Conclusion: Although many Canadian private companies buy management liability and crime insurance coverage, most do not, suggesting that their executives have a critical need for more information about the risks their companies face, for several reasons:***

- Litigation against "deep pockets" is commonly seen as the means to correct perceived wrongs.
- A management liability lawsuit can result in significant financial loss to the company in the form of defence expenses, judgments, and penalties, not to mention *personal* financial loss to company executives.
- A decision to not properly mitigate potentially serious management liability and crime risks through insurance could prove financially disastrous.

***Our best advice to private companies in the years ahead:***

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its management liability and crime exposures and insurance coverage.
- Look for an insurance carrier that can tailor its coverage to fit the needs of the business and also offers loss control services (for a reasonable or no added cost).

**Directors and Officers Liability Findings**

**Are Canadian private company executives underestimating their D&O liability risk?**

**1. *Not unlike public companies, Canadian private companies and their directors and officers are vulnerable to lawsuits.***

- Some private company executives may believe that only public companies need to worry about lawsuits against their directors and officers. This simply isn't true. According to the *Chubb 2007 Private Company Risk Survey*, 1 in 4 private companies (**25%**) were hit by a D&O liability lawsuit during the past five years.
- Tellingly, **63%** of the executives of the companies that experienced a D&O lawsuit in the past five years are concerned about the possibility of another D&O suit in the year ahead, according to the Chubb survey.

**2. *Who is suing?***

The Chubb survey found that lawsuits against Canadian private companies and their leaders came from:

- Customers (**47%**)
- Vendors (**18%**)
- Competitors (**15%**)
- Partners/shareholders (**9%**)
- Government/regulatory agency (**9%**)

**3. *A D&O lawsuit can be costly.***

- The average loss (including settlement or judgment, and legal costs) to private companies that were sued in the past five years was **\$338,699**, according to the Chubb survey.
  - Interestingly, the average reported costs were highest for smaller companies (25-49 employees): **\$725,280**

**4. *Most companies forego coverage.***

- Only about one-third (**35%**) of Canadian private companies surveyed by Chubb purchase D&O liability insurance.
- Even among the largest companies (more than 250 employees), only half buy D&O coverage.

***Conclusion: Private company executives may be more at risk than they realize, especially when you consider that most do not purchase the protection offered by D&O liability insurance.***

***Our best advice to private companies in the years ahead:***

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its D&O exposures and insurance coverage. Although 35% of the executives surveyed said their companies buy D&O liability insurance, it's possible that some *mistakenly* believe they are covered under other insurance policies.
- Discuss with an insurance expert or attorney the importance of a corporate governance program.
- Look for a D&O liability insurance carrier that can tailor its coverage to fit the needs of the business.

**Employment Practices Liability Findings**

**Most Canadian executives are well aware of their EPL risks, but many still opt to go without insurance.**

***1. EPL lawsuits are among the biggest and most common risks faced by Canadian private companies.***

- Lawsuits alleging employee discrimination, harassment, wrongful termination, and other EPL matters are fairly common. According to the *Chubb 2007 Private Company Risk Survey*, more than 1 in 3 (**34%**) Canadian private companies experienced an EPL lawsuit or complaint in the past five years.
- Larger companies (more than 250 employees) were the most likely to be targeted by an EPL lawsuit. In the past five years, **29%** had an employee file a discrimination or harassment complaint and **50%** were sued by an employee for an employment-related matter, according to the Chubb survey.
- Some facts from the United States:
  - The U.S. Equal Employment Opportunity Commission (EEOC) receives an average of more than **80,000** charges annually claiming various types of employment discrimination—more than 200 every day.
  - Nearly half (**47%**) of U.S. workers say they have experienced discrimination in the workplace, according to a June 2008 Harris Interactive poll sponsored by Adecco USA.

***2. EPL incidents can be costly.***

- Among the Canadian companies in the Chubb study that experienced an EPL charge or lawsuit in the past five years, the average cost was **\$63,724**.
  - Of these companies, **32%** reported costs to the company ranging between **\$35,000 and \$500,000**.
- Some facts from the United States:
  - In 2007, the U.S. EEOC reported that more than **\$290 million** in benefits were paid to plaintiffs to resolve employment-related complaints—an all-time high. This amount does *not* include monetary benefits won through litigation.
  - According to Jury Verdict Research the average award from 2001-2007 for all types of employment-related cases was **\$627,447**:
    - For whistleblower cases, the average award was **\$708,136**.
    - For discrimination cases, the average award was **\$635,404**.
    - For wrongful termination cases, the average award was **\$490,872**.
    - For retaliation cases, the average award was **\$640,015**.

**3. Numerous Canadian private companies have plans that may be risky.**

- According to the Chubb survey, many Canadian private companies plan activities in the coming year that can negatively impact employees and potentially lead them to file EPL lawsuits alleging wrongful termination or discrimination. About **1 in 4** executives say that, in the year ahead, it is likely their company will:
  - Reduce its work force (**25%**).
  - Outsource functions or operations (**24%**).

**4. 4. Companies that have experienced an EPL complaint or lawsuit are more than three times likely to expect another EPL loss event in the year ahead than are other companies.**

- Nearly half (**46%**) of the executives of the companies that experienced an EPL lawsuit or charge in the past five years believe they are likely to experience another EPL suit or complaint in the year ahead, compared to only **13%** of those companies that did not experience such a lawsuit or complaint, according to the Chubb survey.

**5.**

**Conclusion: Private companies are more at risk of an EPL loss than they realize, especially when you consider that most do not purchase the protection offered by employment practices liability insurance (EPLI).**

**Our best advice to private companies in the years ahead:**

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its EPL exposures and insurance coverage. Although 22% of the executives surveyed said their companies buy EPLI, it's possible that some *mistakenly* believe they are covered under other insurance policies.
- Develop a corporate program that provides employment discrimination, sexual harassment, and diversity training.
- Look for an EPLI carrier that can tailor its coverage to fit the needs of the business and also offers loss control services (for a reasonable or no added cost).

## **Fiduciary Liability Findings**

### **Do signs point to increased future risk?**

**1. Many private companies plan to reduce their employee benefits.**

- According to the *Chubb 2007 Private Company Risk Survey*, **11%** of Canadian executives plan to reduce or eliminate benefits in the year ahead.
  - When a company reduces or eliminates employee benefits, its employees or retirees may take exception to such benefits decisions and strike back with a lawsuit.
  - The most frequent allegations against fiduciaries include denial or change of benefits, administrative error, incorrect benefit calculation, improper advice or counsel, misleading representation, and wrongful termination of plan.

**2. Most executives overlook their company's need for fiduciary liability insurance coverage.**

- Chubb's survey found that more than 4 in 5 Canadian companies (**82%**) do not purchase fiduciary liability coverage.
  - Larger companies are more likely to purchase this coverage than are smaller companies—even so, **71%** of companies with 250 or more employees do not buy it, according to the Chubb survey.

**Conclusion: Canadian private company executives appear to have a critical need for more information about the fiduciary liability risks their companies face.**

**Our best advice to private companies in the years ahead:**

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its fiduciary liability exposures and insurance coverage.
- Look for a fiduciary liability insurance carrier that can tailor its coverage to fit the needs of the business.

### **Workplace Crime Findings**

**Most Canadian private company executives don't seem overly concerned about workplace fraud.**

**1. Employee fraud is a fact of business life even in the best-managed companies.**

- Employee crime is common. According to the *Chubb 2007 Private Company Risk Survey*, more than 1 in 3 Canadian companies (**35%**) experienced at least one incident of employee theft—such as stolen funds, equipment, inventory, or merchandise—during the past five years.
  - Even so, only 1 in 4 executives (**25%**) are concerned about employee theft of corporate or customer assets in the year ahead.
- Facts from the United States—The Association of Certified Fraud Examiners reports that:
  - Organizations lose, on average, **5% of their total annual revenues** to occupational fraud and abuse.
  - The typical fraud scheme lasts **18 months** before it is detected.

**2. Employee fraud can be costly.**

- The average workplace fraud loss reported by Canadian companies in the Chubb study was **\$42,108**.
  - Of these companies, **34%** reported losses ranging between **\$25,000 and \$250,000**.

**3.**

**3. Most Canadian companies go unprotected.**

- Despite the widespread nature of employee theft, only 2 in 5 Canadian private companies (**39%**) purchase crime insurance, according to the Chubb survey.

**Conclusion: When you consider that 35% of Canadian private companies have experienced a crime loss in the past five years, it's surprising that more don't buy crime insurance.**

**Our best advice to private companies in the years ahead:**

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its crime exposures and insurance coverage.
- Crime insurance is only one aspect of a crime loss-control program. A company should conduct regular internal audits and investigate ways to strengthen internal controls. Look for a crime insurance carrier that can tailor its coverage to the needs of the business.

## **Professional Liability Findings**

**Companies may provide products or services but see little E&O liability risk.**

### **1. Companies plan to expand their products and services.**

- Nearly two-thirds of Canadian private companies (**61%**) plan to expand their product or service offerings in the year ahead, according to the *Chubb 2007 Private Company Risk Survey*.
  - By expanding its product offerings, a company broadens its potential exposure to an errors and omissions (E&O, or professional liability) lawsuit.
  - Competition can drive a company to expand its services, some of which may extend beyond its core of expertise, increasing its professional liability exposure.
  - Any company that provides professional services for a fee can be held accountable for those services. No professional is immune to liability.

### **2. Executives worry about losing a key employee.**

- More than 2 in 5 private company executives (**43%**) are concerned about the potential financial damage to the company of the death or loss of capacity of a key employee, according to the Chubb survey.
  - If a customer has been promised that a service will be performed by a certain person, the loss of that person may serve as the trigger for a professional liability lawsuit when the performed service does not meet the customer's expectations.
  - Hiring another firm to perform services does not relieve a company of its responsibility for those services.

### **3. E&O lawsuits can be expensive.**

- For the 12% of Canadian companies in the Chubb study that experienced an E&O lawsuit in the past five years, the average loss was **\$73,649**.

### **4. Contract work is common.**

- Most private companies use contracts (**64%**) when engaging with third parties, clients, and customers, according to the Chubb survey.
  - Professional services contracts normally require the company performing a service to carry professional liability insurance.

### **5. In spite of the risks, many executives overlook their company's need for professional liability coverage.**

- Only **29%** of Canadian private companies purchase E&O coverage, according to the Chubb survey.

**Conclusion: Private company executives appear to have a critical need for more information about the professional liability risks their companies face.**

### **Our best advice to private companies in the years ahead:**

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its professional liability exposures and insurance coverage.
- Look for a professional liability insurance carrier that can tailor its coverage to fit the needs of the business and also offers loss control services (for a reasonable or no added cost).

## **Kidnap/Ransom and Extortion Findings**

**Blind spot: Private company executives see little kidnap or extortion risk in an increasingly dangerous world.**

### **1. *Today's marketplace is increasingly global.***

- According to the Chubb survey, nearly 1 in 5 Canadian private companies (**17%**) plan to add international offices in the coming year.

### **2. *Products and services are expanding.***

- Nearly 2 in 3 Canadian private companies (**61%**) plan to expand their product offerings in the year ahead, according to the *Chubb 2007 Private Company Risk Survey*.
  - As companies diversify their products and services, they open themselves to additional threats of kidnapping and extortion.
  - Companies producing products that are ingested into or worn on the body are especially vulnerable to extortion schemes.

### **3. *Yet few executives see the need for protection against kidnap/ransom and extortion risks.***

- Only **5%** of private companies purchase kidnap/ransom and extortion insurance, according to the Chubb survey.
- The Chubb survey found that the buying rate (**12%**) for kidnap/ransom and extortion insurance is highest among larger companies (250 or more employees), which are more likely than smaller companies to have international business dealings.

***Conclusion: Any company of any size can be a target for kidnappers or extortionists, whether domestically or abroad. The Chubb survey shows that private company executives may have a critical need for more information about the kidnap/ransom or extortion risks their companies face.***

### ***Our best advice to private companies in the years ahead:***

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its kidnap/ransom and extortion exposures and insurance coverage.
- Look for a workplace violence expense insurance carrier that can tailor its coverage to fit the needs of the business and also offers crisis management services (for a reasonable or no added cost).

## **Workplace Violence Expense Findings**

**Few Canadian companies take steps to mitigate the potentially devastating financial consequences of workplace violence.**

### **1. *Many companies plan to reduce their workforces.***

- One in four Canadian executives (**25%**) said a RIF (reduction in force) is likely in the year ahead, according to the *Chubb 2007 Private Company Risk Survey*.
  - Workplace reductions can trigger violence by employees who either 1) hold a grudge as a result of being laid off or 2) are fearful of being laid off and, under stress, take drastic action.

**2.**

### **2. *Many Canadian companies also plan to outsource functions or operations.***

- According to the Chubb survey, about 1 in 4 (**24%**) companies plan to outsource functions/operations in the year ahead.

- Outsourcing job functions can cause employees to feel threatened and, like workforce reductions, may trigger violence by outsourced employees or those who fear their jobs will be outsourced.

### **3. Even though many companies take these risky actions, few executives worry about possible incidents of workplace violence.**

- About 1 in 4 executives (**27%**) in companies with at least 250 employees are concerned about the potential financial impact of a workplace violence incident, according to the Chubb study.
  - However, the Chubb survey found that only **5%** of these larger companies purchase workplace violence expense insurance.
    - In fact, small (25-49 employees) and midsize (50-249 employees) are more likely to purchase this coverage (12% and 7%, respectively) than are large companies.
  - Regardless of company size, nearly half (**46%**) of executives cite “low risk/no exposure” as the reason for not purchasing workplace violence expense insurance, according to the Chubb survey.

**Conclusion: Canadian private company executives appear to have a critical need for more information about the workplace violence risks their companies face.**

#### **Our best advice to private companies in the years ahead:**

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its workplace violence exposures and insurance coverage.
- Develop a corporate program that includes performing new-hire background checks, offering on-site counseling and third-party mediation, and other workplace violence programs.
- Look for a workplace violence expense insurance carrier that can tailor its coverage to fit the needs of the business and also offers loss control services (for a reasonable or no added cost).

## **Cyber Liability Findings**

**An emerging and dangerous risk is becoming commonplace.**

### **1. Canadian private companies are more likely to be concerned about their cyber liability risk than are their U.S. counterparts. Still, not many have taken steps to manage their cyber risk.**

- More than 1 in 5 Canadian private company executives (**22%**) are concerned about a possible electronic security breach in the year ahead, compared to only 11% of U.S. private company executives.
- Cyber crime may still be relatively uncommon, but when it occurs it can be costly. According to the *Chubb 2007 Private Company Risk Survey*, for the 3% of Canadian companies that experienced an electronic security breach in the past five years, the average reported loss was **\$217,804**.
- Facts from the United States:
  - Nearly half (**46%**) of U.S. companies (public and private) reported experiencing a computer security incident in the Computer Security Institute's (CSI) *2007 Computer Crime and Security Survey*.
    - Of these, **26%** reported experiencing *more than 10* such incidents.
    - These companies reported an average loss of **\$345,000**.

## **2. Cyber insurance is a rare purchase.**

- Although 22% of Canadian private company executives expressed concern over a possible cyber crime loss in the year ahead, only 1 in 10 companies surveyed purchase cyber liability insurance.
  - The most common reason given for not purchasing cyber coverage was “low risk/no exposure”—cited by **41%** of the executives.
- *The Betterley Report: Cyberrisk Market Survey 2008*, states: “As one knowledgeable product manager has said in the past, but still seems to be true, ‘Cyber risk coverage is a new product line, and will take a few years to really penetrate the marketplace.’”

***Conclusion: Canadian private company executives appear to have a critical need for more information about the cyber liability risks their companies face.***

### ***Our best advice to private companies in the years ahead:***

- With the help of an insurance agent or broker or other risk management adviser, a company should conduct a thorough risk assessment of its cyber liability exposures and insurance coverage.
- Look for a professional liability insurance carrier that can tailor its coverage to fit the needs of the business.

## **The Chubb 2007 Private Company Risk Survey Frequently Asked Questions**

### **What is the Chubb 2007 Private Company Risk Survey?**

Chubb commissioned the *Chubb 2007 Private Company Risk Survey* to gain a better understanding of the many risks facing private companies and their executives. The purpose of the study was to learn:

- Private company executives' level of concern about and perceived impact of management liability and professional liability exposures.
- What measures private companies have taken to mitigate potential risks.
- The incidence of events that could trigger litigation.
- The actual financial impact of litigation and other risk events.

Survey topics included company experience with the following types of risk, as well as company purchase and planned purchase of insurance coverages that are designed to mitigate these risks:

- Directors and officers liability
- Employment practices liability
- Crime
- Fiduciary liability
- Professional liability
- Cyber liability
- Kidnap/ransom and extortion
- Workplace violence

### **Why does Chubb produce this survey?**

Chubb solicited this information for many reasons, including to:

- Provide our producers with information to sell *ForeFront Advantage* to non-buyers.
- Educate Chubb producers and potential and existing customers about the commercial liability exposures that privately held companies face. It also helps reinforce purchases by existing customers.
- Establish Chubb as a thought leader and expert in the private company marketplace.

***Most importantly, Chubb continues to be the only source for this type of information about private companies.*** This survey is a great differentiator for Chubb producers because it educates them on the current thinking of private company executives and provides them with a tool to share with their clients regarding what their private company executive peers are thinking and the actions they are taking.

### **Who was surveyed?**

Chubb engaged an external research vendor to survey 300 executives of privately held companies in Canada. Respondents were executives who made decisions regarding the company's management and professional liability insurance coverages, including:

- President/owner/CEO/partner
- CFO, controller, treasurer/VP of finance
- HR director/manager
- Risk manager

Company size of the respondents was balanced according to the following breakouts:

Company size	Canadian respondents
25-49 employees	108
50-249 employees	150
250 or more employees	42
<b>Total</b>	<b>300</b>

**How is the *Chubb 2007 Private Company Risk Survey* being launched?**

In addition to a national public relations effort to support the roll-out, including a 28 October, 2008, press release, CSI Canada is relying on the branches and EP staff to roll out the survey to their producer base. Local relationships remain a competitive differentiator for Chubb and are the foundation for our marketing successes. We want to capitalize on these critical relationships to distribute the survey.

**How often will the survey be done?**

Our intention is to survey private company executives every two years.

**How will this survey help sell more *ForeFront Advantage* coverages?**

The survey will help sales efforts in several ways:

- It differentiates Chubb from the competition.
- It helps producers establish themselves as experts in private company business risks.
- It identifies critical marketplace data that can be used in the needs-identification and selling process.