

# MARSH

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## The Wise and The Why's of Restaurant Risk and Insurance Solutions

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# Emergency Management – Tabletop Exercises

- **Tabletop exercises (TTX) are one of the most cost-effective ways to assess an organization’s preparedness capabilities.**

- **Formula for Success\***

- **50% Process**
- **30% Training**
- **20% Planning**

**\*While the percentages might vary from organization to organization, exercising is by far the most critical element.**

# Emergency Management – Tabletop Exercises

## Types of Exercises

- **Orientation (Low Stress)**
  - Discussion-based classroom format requiring minimal resources
- **Drills (Low to Limited Stress)**
  - Requires a field response or activity. Develops a preset prescriptive response capability and narrow in scope.
- **Tabletop (Limited to Moderate Stress)**
  - Discussion-based and facilitated classroom activity. Focuses on roles and responsibilities, and communication channels.
- **Functional (Moderate to High Stress)**
  - Operational-based field exercise that is limited in scope. Performed in real-time and requiring the coordinated response of multiple resources.
- **Full Scale (High Stress)**
  - Multi-faceted real-time scenario requiring the coordinated response of multiple resources intended to mimic a real emergency event.

# Emergency Management – Tabletop Exercises

## **Common Program (TTX) Weaknesses:**

- **Incorrect assumptions about internal or external resources**
- **Untested or incomplete communication channels**
- **Lack of understanding of credible threats**
- **Poor incident command knowledge or protocols**
- **Poor decision making in a stressed environment**
- **Misunderstood roles and responsibilities**
- **Training deficiencies**
  
- **Likewise...program strengths will also be identified.**

# Restaurant Risk Issues

- **Food borne Illness and Injury**
- **Guest Liabilities**
  - Lawsuits born from heightened interest in health and nutrition
- **Alcohol Safety & Service Problems**
- **Supply Chain Disruptions**
- **Property Exposures**
  - Fires
- **Employee Safety**
- **Security/Theft**
- **Technology/IT Failures**

# The Challenge of Managing These Risks

- **The desire for and ownership of your response to any incident occurring on the premises that can impact your patrons, guests, tenants, employees and the company.**
- **Developing the means and capability to effectively communicate to your occupants during an emergency condition.**
- **Minimizing the consequences of any incident.**

# The Solution: Business Continuity Planning

## **Program Implementation – Self Assessment Questions**

1. Do we have adequate procedures in place to communicate with employees, suppliers, customers, the media and public officials during times of disaster?
2. Have our key suppliers/vendors developed a viable business continuity program?
3. Have we included administrative support functions in the recovery effort, e.g., HR, insurance, legal, security, etc.?

# The Solution: Business Continuity Planning

## **Program Implementation – Self Assessment Questions**

4. Have we identified our company's "mission-critical" processes and the corresponding resources required to continue operations after a disaster occurs?
5. Do our strategies match our business needs?
6. Is our plan all-encompassing, including business operations, technology and suppliers?

# Reputational Risk

## **The Common Thread:**

- **Every business problem or risk issue has the potential to harm (or improve) reputation.**

## **What is Reputation:**

- **The sum total of everything you do and say as a company.**
  - Food Quality
  - Marketing
  - Customer Service
  - Safety & Security
  - Crisis Response
  - Complaint Resolution
  - Regulatory Actions



# Current State of the Restaurant Insurance Market

# Rates – Through Second Quarter 2008

<b>Insurance Segment</b>	<b>Typical Rate Change at Renewal (Average-Good Risk Profile)</b>
<b>Property (Non-Catastrophe)</b>	<b>10% to 20% Decrease/Softening</b>
<b>Catastrophe Exposed</b>	<b>Flat to 10% Decrease/Softening</b>
<b>General Liability</b>	<b>15% to 20% Decrease/Softening</b>
<b>Liquor Liability</b>	<b>10% to 20% Decrease/Softening</b>
<b>Auto Liability</b>	<b>Flat to 10% Decrease/No Change</b>
<b>Workers Compensation</b>	<b>10% to 15% Decrease or More and Softening</b>
<b>Umbrella Liability (Program &amp; Non)</b>	<b>5% to 15% Decrease/No Change</b>
<b>Crime</b>	<b>Flat to 10% Decrease/Softening</b>

# Insurance Marketplace Drivers

- **Increased Competition**

- Increased demand for complete and detailed specifications prior to releasing quotations.

- **Need to Maintain Premium Volumes**

- More aggressive on pricing
- Increased Appetite for Risk
  - In some cases...business they have no experience in writing.

- **Change in Behavior in Admitted Insurance Markets**

- Writing coverages that were previously only written by surplus lines companies.

# What Can You Do To Improve Your Position in the Insurance Marketplace?

- **Submit Renewal Information As Early As Possible**
  - 90 – 120 days is not unusual...it is still advisable.
- **The Impact of a Favorable Loss History is Priceless**
  - Companies with a commitment to loss-control efforts will be in the best position to benefit from falling rates.
    - “Safety” Hiring
    - Training
      - Across all lines of insurance
    - Preventive Maintenance and Inspection Programs
    - Vendor and Sales Contract Review
    - Certificates of Insurance Program Management
    - Pre- and Post-Claim Management

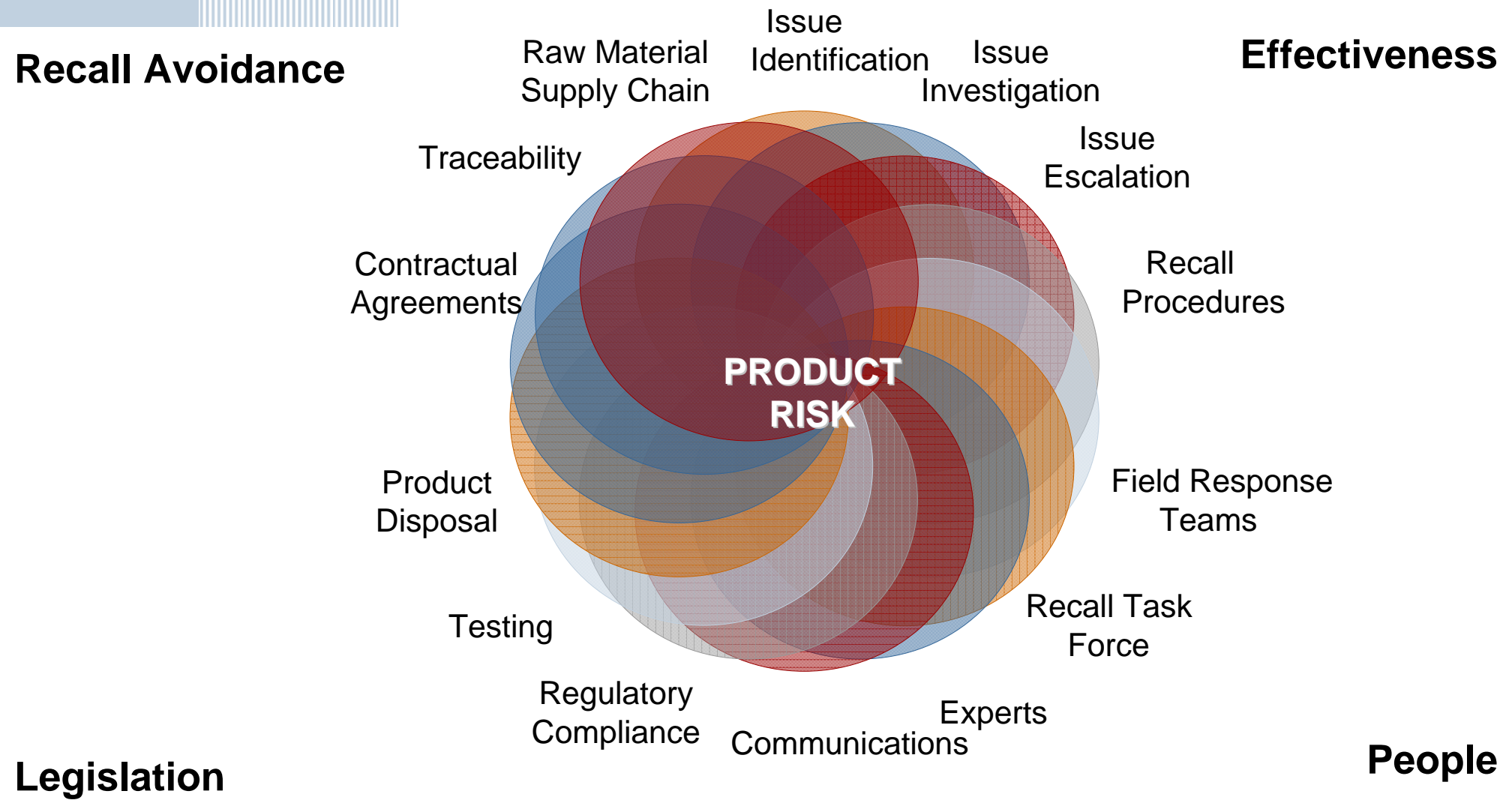


# Specialty Markets and Coverages for the Restaurant Industry

# Restaurant Insurance Products You Need to Know – You Need to Have?

- **Product Recall**
- **Trade Name Restoration**
- **Restaurant Contamination**
- **Crime and Employment Practices Liability**
- **Information Security & Privacy Liability (Cyber) Risks**

# Product Recall - The 14 Steps



# Trade Name Restoration (PLIS)

## Key Coverage Concepts:

- **Covered Losses.** An occurrence of a food borne illness, accidental contamination, malicious contamination or extortion threat resulting from the operations at a covered location, at a location of any trade name, or at a supplier's location.
- **Waiting Period/When Coverage will Apply.** An incident that results in a reduction in normal gross revenues of at least 10% which continues for a period in excess of seven days at each single affected covered location.

# Trade Name Restoration (PLIS)

## Key Coverage Concepts:

- **What Coverage Pays For.** The actual net loss of the insured at each affected covered location during a period of restoration and incident response expenses incurred by the insured.
- **When Coverage Will End.** When gross revenues from normal operations at each affected location are restored within 10% of normal.

# Trade Name Restoration (PLIS)

## Optional Coverages:

- **Royalties Coverage.** This is a premium charge per franchise location. It will indemnify the insured if royalties are reduced as a result of an incident at a franchise.
  - Typical limits are \$250,000 per location, \$5,000,000 in aggregate with a \$5,000 deductible.
- **Terrorism Coverage.** Additional premium of 7.5% of total premium.

# Trade Name Restoration (PLIS)

## **Exclusions:**

- **Bovine Spongiform Encephalopathy (BSE)**
- **Creutzfeldt-Jakob Disease (CJD)**
- **Hoof and Mouth Disease**
- **Genetically Modified Organisms**
- **Avian Flu**

# Restaurant Contamination Insurance (Catlin)

## **Covered Losses and Available Limits:**

### ■ **Accidental Contamination – \$25,000,000**

- Bodily injury or the likelihood of bodily injury occurring

### ■ **Malicious Contamination – \$50,000,000**

- The actual or threatened malicious alteration of the product which gives cause to believe that the product is likely to be rendered unfit for the use intended.

### ■ **Product Extortion – \$50,000,000**

- The demand for ransom monies combined with the threat to contaminate the product.

### ■ **Adverse Publicity**

# Restaurant Contamination Insurance (Catlin)

## **Benefits Available Once the Policy is Triggered.**

- **Product recall expenses**
  - Transportation costs, emergency phone lines, overtime, etc.
- **Product replacement costs**
  - Costs incurred to replace the contamination products
- **Loss of profits**
  - Drop in sales of the product for up to 12 months after the contamination incident.
- **Rehabilitation expenses**
  - Sales and marketing expenses to re-establish the reputation and sales of the affected product, i.e. buy one get one free offers.
- **Fees and expenses of crisis consultants, both pre and post loss**

# Restaurant Contamination Insurance (Catlin)

## Optional Coverages:

- **Adverse publicity for malicious and or accidental contamination.**
- **Retailers fines.** This is when you have to act on your supplier's behalf, removing the contaminated product from your shelves and destroying it on the client's behalf.
  - Slotting Fees. They lose their position in the store and have to pay to get it back.
    - The ends of aisles, for example, being the most sought after slots in the store.

# Restaurant Contamination (Catlin)

## **Exclusions:**

- **Any bioengineered, genetic engineered or genetic modification of any insured product**
- **Hormone treatment of any insured product**
- **Irradiation of any insured product**
- **Transmissible Spongiform Encephalopathy (TSE)**
- **Avian Flu**



# Crime & Employee Practices Liability

## Overview.

- **A crime insurance policy typically protects the insured from financial loss due to dishonest acts of employees.**
  - This may include coverage for certain types of acts of non-employees, such as theft of property located on the insured's premises or while in transit, loss due to forgery, alteration of negotiable instruments or loss due to electronic funds transfer.

## What is a “dishonest act”?

- While there is some variation among the forms of coverage available in the marketplace, in general, a dishonest act is an act committed with the intent both to cause the Insured to sustain a financial loss and to provide a financial gain for the employee, which is outside the scope of normal employment compensation.

## **Who is insured?**

- Only those entities and/or employee benefit plans named on the policy as insured's are covered.

## **Whose property is covered?**

- The policies general cover property that is owned by the insured, property of third parties that is held by the Insured in any capacity and property for which the Insured is legally liable.

## **What is not covered?**

- Indirect or consequential loss of any nature
- Loss of potential income
- Legal expenses or expenses incurred in compiling a proof of loss
- Loss arising out of war, riot, civil commotion or nuclear radiation
- Loss caused by an employee after the Insured has knowledge of prior dishonest acts committed by the employee

# Employment Practices Liability

## Overview.

- Employment Practices Liability Insurance (EPLI) is designed to cover the entity, subsidiaries, directors and officers, and employees for claims brought by past, present or prospective employees for claims alleging discrimination, harassment or wrongful termination or other employment-related torts/common law violations.

# Employment Practice Liability

## **Who is typically covered?**

- The entity and all subsidiaries, directors, officers, and employees.
- It is designed to cover claims brought by past, present or prospective employees.

## **What is the definition of an employee?**

- “Employee” may include full-time, part-time, seasonal, temporary, and leased employees. Independent contractors are generally not included.

# Employment Practices Liability

## **What are typically covered perils?**

- Wrongful dismissal, discharge or termination, including whistle-blower claims
- Harassment, including sexual harassment
- Discrimination
- Other employment-related torts/common law violations, such as constructive discharge, defamation, libel, slander, infliction of emotional distress, mental anguish, humiliation, failure to enforce company policies and procedures, invasion/breach of privacy, negligent supervision/hiring/retention and employment-related misrepresentation.

# Employment Practices Liability

## **What is a claim under the policy?**

- A claim is typically defined as receipt of a lawsuit, receipt of a demand for arbitration or notice of an administrative proceeding, written demand for payment of money or other redress, or request to toll statute of limitations.

## **Are claims by third-parties covered?**

- Some EPLI policies provide third-party liability coverage—for an additional premium and usually be endorsement—for discrimination and sexual harassment claims made by non-employees.

# Employment Practices Liability

## What is a “loss”?

- Judgments, i.e. compensatory damages, back-pay, front-pay, defense costs (included in policy limit)

## What does “loss” not include?

- “Loss” would not generally include any injunctive or non-pecuniary relief (i.e. training programs), including:
  - Costs incurred to acquire, modify or construct any building or property
  - Benefits due
  - Fines, penalties and taxes
  - Stock options (although most policies are silent, this is the general view)
  - Costs associated with building modifications/alterations under the ADA

# Employment Practices Liability

## **What is typically not covered?**

- Pending and prior litigation
- Benefits under workers' compensation and unemployment insurance
- Assumption of contractual liability of another entity
- Claims for which prior notice under any other policy was given
- Bodily injury (restricted to rape and sexual assault), except for emotional distress, humiliation and mental anguish
- Worker Adjustment and Retraining Notification Act
- Amounts payable under written employment contracts; however, defense coverage is typically provided.



A Look Ahead:  
Information Security  
& Privacy Liability Risks (Cyber Risks)

# Information Security (Cyber Risks)

## **Overview and Homework:**

- Security & Privacy Risks
- Threat Environment
- Gaps in Traditional Insurance Policies
- Information Security & Privacy Insurance
- Risk Management
- PCI (Payment Card Industry) Compliance

# Summary – Improving Your Risk Profile

# Summary – Ten Steps to Improving Your Risk Profile

## **10. Assess where you stand today**

- Positioning research
- Benchmarks
- Performance Metrics

## **9. Identify gaps**

- Perception v. Reality
- Baseline
- Build/adjust programs

# Summary – Ten Steps to Improving Your Risk Profile

## **8. Build reputational equity over the long term**

- Stakeholder understanding and support
- Values are systemic
- Differentiation is clear and appreciated

## **7. Speak and act with one voice, always**

- Values drive behavior
- Integrated and aligned across divisions, brands, geographies
- Train, train, train

# Summary – Ten Steps to Improving Your Risk Profile

## **6. Company-wide crisis management planning**

- Assess overall risk profile
- Demonstrate clear leadership and values
- Supplant everyday decision-making
- Emphasize both internal and external communications
- Know that all crises are global
- Plan in the context of current environment
- Actively manage the crisis

# Summary – Ten Steps to Improving Your Risk Profile

## **5. Assure incident response plans (BCP, ERM) are part of overall crisis management planning**

- Ownership often in separate silos
- Internal missteps can turn a problem into a crisis

## **4. Exercise the plans**

- All levels
- Direct correlation with success

# Summary – Ten Steps to Improving Your Risk Profile

## **3. Adjust, refine, improve**

- Reputations are fluid, constantly evolving
- Not improved by a new marketing program, new menus or a fresh coat of paint

## **2. Recognize that every adverse incident or crisis is also an opportunity to strengthen your reputation**

- To demonstrate to all stakeholders the concern, competence and quality of the organization
- Adversity becomes opportunity

# Summary – Ten Steps to Improving Your Risk Profile

## **1. Remember...everything communicates.**

- What can be known, will be known
- Develop communication protocols that are:
  - Consistent
  - Simple
  - Logical
  - Flexible
  - Clear
- Stakeholders read the signs very well
- Walk the talk

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