AXA

XL Insurance



Your Essential Claims Guide

Who to contact and how to navigate the process



Dear Client,

Thank you so much for choosing AXA XL Design Professional as your professional liability carrier. While we hope you never need to report a claim, we understand that problems do arise. This guide was created to help you learn how the claims team at AXA XL can assist at the first sign of trouble. Whether it's a lawsuit or a demand from your client to provide additional services (at no additional charge), we are prepared to aid in the process to protect and defend you, and your livelihood.

Our claims team is made up of expert claims professionals from legal and technical backgrounds specializing in the design industry that understand your business, insurance, and the regulatory and legal environment specific to your areas of practice. Dedicated and skilled professionals are available to resolve disputes diligently and efficiently. Additionally, we work alongside our panel of experienced defense counsel and network of experts to provide first class service during a claim or a potential issue.

This guide provides information on how to report a circumstance or a claim, and what you should expect during the process. In addition to claim defense and coverage, your policy contains supplementary payments outside of your deductible and policy limits, which are added benefits to assist you in mitigating losses. Those benefits are addressed on page 8 in this guide to show how to get the most out of your policy.

I hope you find this reference guide useful in navigating the loss prevention and claims process. If you have any questions or concerns relating to claims, please do not hesitate to contact your insurance agent, our claims managers or myself. We continue to focus on providing excellent service. We are more than a policy. We are your partner.

Sincerely,



Douglas A. Strong, RPLU, CRIS
Head of Design Professional and
Chief Underwriting Officer at AXA XL
doug.strong@axaxl.com

Table of Contents

2 Be prepared to act: First steps and who to contact
3 Understanding the terms
4 At the first sign of trouble: What to do before a claim
5 What we can do to help: No cost loss prevention assistance
6 Claims do's and don'ts
7 If it does become a claim
8 Additional policy benefits
9 Our claims promise
10 FAQs

Be prepared to act: Know who to contact about a professional liability dispute or claim



In most cases, you will want to contact your professional liability insurance agent to report a matter or assist with your claims-related questions.

First steps in reporting a loss prevention dispute or a claim

The very first step is to report the dispute or claim to your professional liability agent. This will begin the process informing your AXA XL claims team. Your agent will determine the best approach to reporting your claim and will assist you in gathering the necessary information. Your agent will then contact our claims team to open a claim file and a claims specialist will be assigned to work one-on-one with you.

You will need to provide the following information to report a claim or loss prevention matter:

- Named insured on the policy
- Insured claim contact information
- Policy number
- Claimant(s)
- Project
- Loss location
- Particulars of claim or loss prevention dispute

Global Design Professional New Notices Claim Reporting:

DPClaimsReporting@axaxl.com

AXA XL Design Professional claims contact information

In most cases, your professional liability insurance agent will be the first person to assist you with claims related questions. In the event that you prefer to report a matter to AXA XL's Design Professional Claims group directly, email the Design Professional New Notices Claim Reporting inbox.

Global Design Professional New Notices Claim Reporting:
DPClaimsReporting@axaxl.com

Understanding the terms

Are you dealing with a circumstance or a claim?

Claim. A claim, as defined by your insurance policy, is a demand for money or services that can be in written or verbal form, such as a formal lawsuit, request for arbitration or a request for you to correct your alleged errors.

Circumstance. This term refers to an event, occurrence or situation that could reasonably lead to a claim. It is used to identify troubles with a client or project that may be headed towards a claim. Early reporting can help reduce the chance of the circumstance getting worse.

If an actual claim results from a dispute, there are several options to resolve a claim ranging from settlement discussions to litigation. To make sure that you have a basic understanding of your options, we review the most common claim resolution techniques below.

Arbitration. Typically, in arbitration, a panel (usually 1-3 arbitrators) listens to the facts as presented by the parties then renders a binding decision. Arbitration can be agreed to by contract and parties cannot be forced to participate if not required by contract. This can be an expensive venture, depending on the complexity and significance of the case, and often does not give each side an opportunity to hear the other side's position until the arbitration proceeding begins. Arbitrations are usually governed by a process with limited discovery and are not subject to appeal unless for limited circumstances such as fraud or duress.

Litigation. Like arbitration, litigation is an adversarial process that may damage client-consultant relationships. The process is initiated by a complaint or summons served on you and notifies you that you are being sued. Litigation is a time consuming and expensive process. Given that almost any relationship with a client could become one that spans a career, that loss alone could be worth millions of dollars in terms of lost fees, lost billable hours, lost recommendations and lost referrals. Consider, too, that lawsuits can hurt morale and lower productivity by virtue of the distractions they create and impair reputations.

Mediation. Mediation can be part of litigation or arbitration and can occur at many stages in the claims process. It is a non-binding process that is facilitated by an unbiased party (a mediator) and is ultimately decided by the parties themselves. It is a relatively inexpensive process in which the parties discuss their position and resolve their differences — hopefully before substantial legal expenses are incurred. The process allows the parties to withdraw at anytime but assists with discussions to help with an agreed upon settlement.

We believe there should be a mediation clause in every contract and that mediation should be the initial process in resolving any dispute. If mediation does not result in a resolution, it at least helps the parties stay focused on issues raised at mediation, allowing for faster resolution and potential cost savings. Overall, mediation offers the best chance for salvaging the relationship, finding an appropriate resolution and minimizing costs.

At the first sign of trouble: What to do before a claim

Do you know the warning signs of a potential claim (AKA “red flags”)?

In order to know when to use loss prevention assistance, you must recognize some of the first signs of trouble on a project. Some are apparent, while others are more subtle. Recognizing and reacting to the danger signs is your first line of defense. Listed below are some of the more common “red flags” on a project that you may want to report to your insurance agent and AXA XL:

- Costs or billings are significantly over budget
- Signs of a communications breakdown, a bad attitude or your phone calls are not being returned
- You receive combative correspondence from your client, subconsultant or contractor
- The work has stopped
- An accident happens on the job site
- Your client has retained another professional for the same job
- You are excluded from meetings you would typically attend
- Your client is slow to pay or is not paying
- Staff members hear reports that differs from what your client is telling you
- A risk manager appears on the project
- A forensic expert is retained to review your services
- Meetings or communications are argumentative

You’re experiencing difficulties on a project, or a client relationship is getting rocky. You’re on top of it because you’ve noticed the warning signs, so you can take early action to try and prevent the circumstance from turning into a claim.

Follow the Do’s and Don’ts (listed on page 6), as they’ll help ensure that you have documented the circumstance and followed recommended steps to ease the process.

Here are the steps of how a circumstance will be handled. It’s better to know what happens when you report. This is the process for a loss prevention file:

1 You contact your agent to report

2 You’ll receive an Acknowledgment Letter from the claims handler assigned to work with you

3 We’ll set up a meeting with you or appropriate person(s) involved in the dispute to obtain facts and review coverage under terms of the policy

4 We may retain defense counsel or expert for consultation

5 Together, we develop strategy on resolving the circumstance

6 We will monitor the circumstance to its resolution or take more active steps if it converts to an actual claim

What we can do to help: No cost loss prevention assistance

What to know before (and during) a problem

We believe early intervention into problems on a project saves time and money related to claims. The process of learning how to recognize and manage risks can improve business practices and your bottom line. Our no cost loss prevention assistance gives you access to a claim specialist prior to an actual claim being made against you to mitigate damages.

If you observe any of the warning signs on a project, reach out to your insurance agent as soon as possible and they will assist in reporting the matter to our claims team. After that, our loss prevention assistance program assigns a claims specialist to work with you and retain counsel or experts to prevent litigation or mitigate costs early in the process. Our experienced claims staff will work with you to resolve the matter while protecting your interests.

We establish a “loss prevention file” that does not negatively impact your loss run, your deductible, policy limits or premium. You (and the members of your firm) have the most knowledge about the situation, so we will likely ask you to stay involved. Your participation will allow us to better analyze the liability and damage issues presented in the matter.



Do

- Do gather all relevant documentation.
- Do notify your employees of the situation and ask them to not discuss the matter outside the firm.
- Do assign a person to respond to potential media inquiries.
- Do remember, we need access to your key employees regarding the matter.
- Do take photographs of site conditions, as appropriate.
- Do keep the lines of communication open with all parties to help protect and preserve important relationships.
- Do document facts while the details are fresh in your mind.
- Do accept all letters and suit papers without comment.

Claims Do's and Don'ts

Don't

- Don't assume, indicate, suggest or accept that you are at fault until we investigate and analyze the issues.
- Don't write or make statements to other parties that could be construed as admitting fault.
- Don't place blame on others or criticize subconsultants and other team members.
- Don't sign or accept releases from any parties.
- Don't expose yourself to unsafe conditions.
- Don't destroy documents.

If it does become a claim...

What does the claims process look like?

It is important to understand the process after you report a direct claim. Many times, our clients are unfamiliar with the steps of claims handling or the tools used to resolve a dispute. In all situations, our claims team will immediately begin to evaluate the facts of the claim and determine the best course of action. Because every claim is different, the assigned claims counsel will work with you to analyze the situation, define the issues, provide strategic advice and take appropriate actions that may include:

- Undertaking investigation of a claim
- Reviewing contractual duties
- Consulting and retaining experts
- Gathering and reviewing file materials
- Interviewing key personnel
- Analyzing legal responsibilities
- Exploring appropriate dispute resolution options
- Retaining legal counsel and assistance in assessing liability damages
- Determining strategy with defense counsel and your firm's leadership
- Working to communicate and maintain a good level of cooperation with all parties

Here is an outline of the claims process to help you understand how it all works:

1
You contact your agent to report the claim

2
You'll receive an Acknowledgment Letter from the claims handler assigned to work with you

3
We'll set up a meeting with you or appropriate person(s) involved in the dispute to obtain facts and review coverage under terms of the policy

4
We will retain defense counsel as appropriate

5
Together, we will develop a defense strategy

6
Experts will determine your liability and assess damages related to the claim

7
We will settle claim through mediation or other pre-trial procedures or informal discussions

8
If necessary, we will arbitrate or litigate to obtain award or verdict and pursue any appeal, if necessary

Additional policy benefits to assist your firm in managing risk

Along with our Loss Prevention Assistance program, your policy includes other benefits that can assist you and your firm when responding to claim. These benefits include payments and reimbursements to your firm, often outside of your deductible and your practice policy limits. You can ask your agent or claims handler on how these may apply to your specific claim or circumstance.

Defendant reimbursement
If requested in writing, you may be eligible to be reimbursed up to $500 a day (maximum of $25,000) during the policy year for actual lost earnings and reasonable expenses while attending mediations, hearings, and depositions to defend your claim.

Crisis event and reputation management coverage
If you are involved in a circumstance or claim that could potentially damage your firm's professional reputation, the policy provides a public relations firm (you will hire) to assist in responding to a crisis event and have those fees (up to $30,000) reimbursed with our approval.

Disciplinary or administrative expense reimbursement
Your policy provides reimbursement of up to $50,000 for reasonable legal fees and expenses incurred when responding to disciplinary, regulatory or administrative proceedings that may arise out of your professional services.

Deductible credits
In the event of a claim, we have instituted multiple methods to encourage A&E firms to utilize solid loss prevention. Design firms are eligible for deductible credits for use of mediation or implementation of risk management practices.

Mediation credit
You can earn up to a 75% credit on your deductible (up to $25,000) for settling a claim through mediation. When a claim is settled through formal mediation, we will apply a credit toward or reimburse the deductible per the terms of the policy. The credit applies to costs that qualify under the policy toward satisfaction of the deductible, such as mediation expenses, attorneys' fees and any settlement (indemnity) costs.

The credit may be larger if the claim settlement is completed within one year of reporting the claim.

Contractual risk management practices credit
If you employ good risk management contractual practices (defined in the policy form), such as using limitation of liability or having a dispute resolution provision, you can earn up to a 75% credit on your deductible (up to $35,000).



These benefits include payments, in addition to tools and reimbursements to your firm outside of your practice policy limits.

Our Claims Promise

When you buy an insurance policy, you're buying a promise. Our promise is to deliver an exceptional claims experience. With AXA XL's global footprint, culture of service and unparalleled expertise, we'll be there for you–wherever and whenever you need us.

Global reach, local empowerment
Our Claims professionals deliver uncompromisingly high levels of service and are positioned to manage covered claims in more than 200 countries and territories. We understand the nuances and unique challenges of local jurisdictions and are empowered to work with customers to address and resolve their claims.

Personalized service, proactive partner
We take a personalized approach to engaging with clients and agents - to get to know your business, proactively share insights and best collaborate with you. We hold ourselves accountable, and value hearing from you on whether we're getting it right and how we can make it better.

Specialized expertise, resolution-focused
We are committed to excellence in everything we do. Our experienced claims professionals are specialized by line of business and industry. We put our expertise to work for our clients and stay resolution-focused at all stages of the claims lifecycle.

Frequently Asked Questions (FAQs)

Q: If I call AXA XL Design Professional for advice and a loss prevention file is established, will my premium be increased?
A: No, we will not increase your premium for reporting a loss prevention matter unless the loss prevention issue later results in a formal claim being made against your policy.

AXA XL's claims consultants have a long track record of working to resolve or minimize a problem before it turns into a formal demand for money or services, or the filing of a lawsuit, which saves you time, money and stress.

TIP: Implement an "early warning" process in your firm. That means making sure principals and project managers are immediately alerted to potential problems so they can decide whether or not to ask for help.

Q: I haven't done anything wrong, why am I being sued?
A: There's no easy answer to this question. Unexpected things happen, particularly when you're representing a client. All too frequently, lawsuits target those who can pay for the problem, rather than those who did something wrong. That's why it's important to have adequate insurance limits and to make use of all the possible loss prevention resources available. Your best bet is to be fully prepared and covered.

Q: How does the deductible work?
A: The deductible generally applies to both defense costs and losses. You pay your deductible until either the claim has been resolved or your deductible has been satisfied in full. If, however, you've chosen a Shared Cost of Defense or Dollar One Defense additional coverage option, a portion of your defense costs will be paid by us. With the Shared Cost of Defense coverage option, you pay only a percentage of the defense cost up until the amount of the deductible has been met. Whereas with the Dollar One Defense option, we pay all costs of a defense against a claim up until the Limits of Liability have been exhausted — the deductible is owed only if the case is settled or a judgment is obtained against you. Please ask your agent about these and other additional coverage options that may be available.

Q: How will a claim affect my insurance premiums?
A: The AXA XL underwriting department uses several factors to evaluate your overall risk to set your insurance premium.

Premiums are impacted by losses from actual claims. Your loss run summarizes the reported claims and the amount set as reserves (the potential loss amount) or paid from an award, verdict or settlement and includes defense and expert costs. Circumstances reported for loss prevention assistance do not affect your premium.

In addition to the claim count or loss history, the underwriter will review many other important factors in setting the final premium. Examples of factors considered are type of discipline, types of projects, client type, business practices, risk management practices, etc.

Q: My client isn't paying me. Should I sue for fees?
A: Suing a client may destroy a relationship and can make other clients or potential clients a little nervous. Also, your client may file a counterclaim to try and reduce the fees you are attempting to collect. When that happens, a claim is made against your insurance policy, which can affect your deductible and premium. The need to defend against the counterclaim can also consume a lot of your time and attention.

When you'r e considering suing for fees, before making the decision, reach out to your agent or an AXA XL Design Professional claims consultant first. They can offer you an unbiased, objective view of the situation that can help you decide the right choice for your firm.





The Design Professional unit of AXA XL
505 Eagleview Blvd, Suite 100
Exton, PA 19341

axaxl.com/dp

The information contained herein is intended for informational purposes only. Insurance coverage in any particular case will depend upon the type of policy in effect, the terms, conditions and exclusions in any such policy, and the facts of each unique situation. No representation is made that any specific insurance coverage would apply in the circumstances outlined herein. Please refer to the individual policy forms for specific coverage details. AXA XL is a division of AXA Group providing products and services through three business groups: AXA XL Insurance, AXA XL Reinsurance and AXA XL Risk Consulting. In the US, the AXA XL insurance companies are: Catlin Insurance Company, Inc., Greenwich Insurance Company, Indian Harbor Insurance Company, XL Insurance America, Inc., XL Specialty Insurance Company and T.H.E. Insurance Company. Not all of the insurers do business in all jurisdictions nor is coverage available in all jurisdictions. Information accurate as of August 2024.
AXA, the AXA and XL logos are trademarks of AXA SA or its affiliates. © 2024

3095_08/2024