to all of these engagements. As a result some underwriters have focused their attention on recruiting outsourced risk managers or alternatively have invested heavily in training courses for the sales force within each brokerage. We believe there is a better alternative to these methods.

Whilst employing outsourced practitioners to assist clients seems attractive, this does not necessarily help the client or intermediary to understand the insurance products that have been purchased. In many respects this can lead to increased professional exposure for the broker.

One cannot argue with formal training sessions for the sales force however, the retention of valuable information is often problematic. A great theoretical session in the training room, doesn't necessarily translate into a comprehensive meeting with an actual client. Learning to sell specialist insurance is almost like learning a new language. If you don't speak it everyday or do deals every day, you'll forget it eventually. Unlike forgetting to speak a language, forgetting key coverage information such as the list of exclusions, can lead to an expensive PI lesson.

We believe that brokers need to have access to information in real time, almost as if they had the underwriter in the meeting with them. They should be able to contextualize the covers for each and every client, dealing with specific exposures by client business type rather than in the generic way training material is normally applied. Complex pieces of legislation should be explained to the broker in a way that can easily be relayed to the insured. The use of video rather than wordy paragraphs is also recommended to overcome varying literacy levels.

The only way this is actually possible is through the use of advanced, cloud-based technology. Such a system can also assist brokers in keeping track of the advice they've given to clients as well as providing direction on risk management within each business.

Tools that address the exposures of the client first rather than the insurers desire to sell more insurance policies are sure to do well in the new liability environment.

Simon Colman is an underwriting executive at SHA Specialist Underwriters heading up their Evolution and www.pocketunderwriter.co.za online initiatives.

A need for tailored products

South Africa traditionally has not been a very litigious nation but as our market becomes more aligned to international standards and more consumer protection legislation is enacted we are likely to see liability claims increasing because of consumer awareness and the right to pursue class actions.

CHRISTINE RODRIGUES,
Norton Rose Fulbright

In the last couple of years we have seen more products being created in our market to take into account the expanding regulatory framework. Liability policies now extend to business rescue practitioners, cyber liability, warranty and indemnity insurance etc.

Specific tailored products need to be developed to ensure that the correct risks relating to each liability policy are covered and that the insurer for solvency purposes has correctly underwritten the risks. We will see more bespoke type of products being developed and taken by insureds as opposed to everything being lumped under a general liability policy. Although general liability policies in some instances provide adequate cover, as markets develop and business risks change quickly in comparison with the risks that existed for businesses even five years ago, we are likely to see shareholders and boards insisting that specific risks are insured. The CPA and POPI will add risks to the list for instance.

As litigation in the liability area increases this is an area of insurance that will no longer be a grudge purchase. Insureds will opt to pay higher premiums for peace of mind and to avoid protracted and expensive litigation liability cover could easily prevent litigation as valid claims will be paid under an insurance policy. This means that cash flows are protected and that businesses can continue trading instead of having a potential claim from crippling the business.

Given that this is an area in insurance that requires good knowledge of the risks that must be insured this provides all intermediaries an opportunity to develop niche risk management and underwriting services. This means that complex products will require brokers to provide advice to clients because these types of products may not be adequately serviced via direct channels. This means that the insured will be happy to pay its intermediary an advice fee as required under the proposed Retail Distribution Review. We will see the emergence of more niche underwriting managers that develop and administer very specific liability policies. We will see more cell captive arrangements where complex and niche liability policies are offered.

What is also exciting is that this area of insurance creates opportunities for other professionals and experts to cross over into the insurance industry and assist in developing appropriate liability policies. For example an IT expert is better equipped to understand the cyber risks that companies face and to understand what risk management obstacles may be. An IT expert will be able to consult to insurers or underwriting managers on the basic risks that need to be covered under a cyber-liability policy and what risks are created when sub-contractors also have access to the business' IT system and data.

As regulation increases which will increases liability insurance will be an opportunity to mitigate potential regulatory oversights. Liability insurance does not protect against liability resulting from crimes or intentional acts committed by the insured but would cover most of the wrongful acts.

We will see more boards of directors insisting on companies taking out targeted liability insurance policies and not just general public liability and directors & officers' liability.

Enter at own risk…

NICK SHUTTE,
Regional Manager: Global Corporate (Cape Region) & Head of Financial Lines, Zurich South Africa

Currently, companies and organisations are keen to obtain any protection they can, particularly when it comes to professional and third-party negligence.

With a tightening regulatory environment, and the stringent stipulations of the Consumer Protection Act (CPA), some may argue that SA is steadily catching up with the likes of Australia and the US in terms of legal accountability.

Here are some developments we can expect to see in the liability insurance sector…

There is no doubt that third party-claims are on the rise, especially claims for injuries sustained on a business premises. The need for comprehensive liability cover within the SA mining space is also increasing, with regulatory bodies putting added pressure on companies to improve health and safety standards and procedures. In addition, employee rights are high on the agenda, with liability cases focusing on harassment and discrimination in the workplace becoming commonplace. Large manufacturers are also more exposed than ever before – if a product fails to operate according to specifications, all parties in the distribution or supply chain could now be held liable.

CRIME DOESN'T PAY

Commercial crime is rife in South Africa (compared to other global markets) as a result of the low levels of internal controls and security measures currently in place within organisations. Companies have suffered severe losses, adding up to 100s of millions of Rands as a result of employees colluding to steal money or commit fraud. Very often, these employees have gambling or drug addictions and are forced to turn to desperate measures and unscrupulous activities such as faking receipt orders or systematically pilfering from company bank accounts.

Cyber liability cover, something companies previously overlooked, is now in high demand. The onset of the Protection of Personal Information (PoPI) Act will also spur organisations to prioritise security as well as robust IT infrastructure or run the risk of facing hefty financial and reputational losses when a data breach occurs.

QUICK THINKING

A trend we have observed in the market is the quick decisions insurers need to make when underwriting these types of risks. Time frames are usually too short to consider all possible exposures and focus is placed solely on premium costs and not on ensuring that all potential claims down the line will be covered by the policy. This is where brokers with expert knowledge and skills are essential – insurers need to partner and share developments with their broker networks to ensure that they are well-equipped to advise clients on these specialised risks.

There are also numerous opportunities for cross-border cover in the African liability insurance sector. Very often, liability products in other markets on the continent are very general and tailored solutions are not available. Here, insurers can partner with operators on the ground in order to navigate local tax and regulatory frameworks and facilitate in-country product placements.

Going forward, we will still see customers concentrating on price rather than the structure of offerings. However, increased regulation and legislation as well as interconnected risks will certainly ensure that clients are more aware of liability exposures and the cover needed to mitigate substantial losses.