Revision of the IPA Professional Indemnity Insurance Regulations with effect from 1 January 2024

1 IPA Professional Indemnity Insurance (PII) Regulations

1.1 Following a review of the PII Regulations, the IPA Board has approved a revised edition of the Regulations reflecting changes in the insurance market and in the insolvency profession itself.

Summary of Revisions approved by the Board on 27 September and 8 December 2023

2 Fraud and Dishonesty Insurance

2.1 The requirement in the PII Regulations (2017) for insolvency practitioners to have "fidelity insurance covering the dishonest acts or omissions of principals and employees of the Individual Member" has been rephrased so that an insolvency practitioner's PII policy commenced or renewed after 1st January 2024 will be required to include "cover for third party loss caused by the fraud or dishonesty of employees or other persons at the Individual Member's Firm who act for or on behalf of the Individual Member" (Regulation 3.4). The former labels "fidelity insurance" and "Fidelity Guarantee Insurance" have been removed.

3 Changes to PII cover

3.1 The introductory paragraphs to the IPA PII Regulations, which set out general requirements for PII have been expanded.

3.2 The regulations identify the risks to be covered (R2.2) and require cover to meet claims arising from insolvency work done in the last six years (R6.1.3)

3.3 The 'Minimum terms of cover' (R3.1) clarify that 'Gross Fee Income' (GFI) relates to the most recently completed accounting year of the practice which immediately precedes the start of the PII policy.

3.4 The wording of the definition of Gross Fee Income (GFI) has been re-ordered to make it clearer, however, the meaning has not been changed.

3.5 The minimum limit of indemnity for any number of claims, in aggregate, is £1.5 million a year. (R3.3)

4 Retroactive cover and Run-off cover

4.1 The revised regulations require an IPA Licensed IP to maintain PII cover during any period in which they hold an Insolvency Appointment and for six years after they last held an insolvency appointment. (R6.1 et seq.)

4.2 Our enquires showed that the six-year run-off period of cover required in the existing (2017) IPA PII regulations is not readily available to purchase in advance although cover may be readily available on a renewable annual basis. Regulations (R5.1 & R 6.2) will therefore allow a sequence of single or multiple policies to meet the requirements.

4.3 It may also be difficult for former IPs to obtain continuing cover after they have retired so Regulations (R7 et seq.) change the requirement for former IPs to maintain adequate PII or Run-off cover from six years to a minimum of two years followed by and thereafter to use their best endeavours to obtain cover for a further four years (six years in total from the date they ceased hold an Insolvency Appointment (as defined in the regulations)).

4.4 The current PII Guidance requires insolvency practitioners to notify the IPA if they are unable to obtain the required minimum PII cover. From 1st January 2024 that requirement will also appear in the PIIR (Regulation 9.1).

5 Transfers between practices

5.1 Where an individual member leaves one practice and transfers to another, it will be that member's responsibility to ensure that adequate PII (or Run-off) cover continues in place to cover any claims made in respect of work done by them in the preceding period of six years (which may include work done at their previous practice(s)) (R8.1).

6 Retiring

6.1 If the IP retires from practice (or otherwise no longer holds any insolvency appointments) the period in which PII or Run-off cover is mandatory is two years followed by an obligation on that IP to use their best endeavours to obtain continuing cover for a further four years (six years from the date they retired / their former practice ceased trading) (R7.1) for the pragmatic reason that PII or Run-off cover for a longer period is not readily available in the market as a single policy.

7 IP's responsibility to maintain cover

7.1 When an IP transfers between practices or retires from practice, sufficient PII or Run-off cover may be provided under the PII policy of a continuing Professional Practice or by another policy. If an IP's (or former IP's) former Professional Practice has undertaken to obtain PII or run-off cover for the IP (or former IP), the IP (or former IP) shall be responsible for checking that it is adequate and continues to cover that IP (or former IP) in accordance with the Regulations (including where the former practice subsequently ceases to trade) or responsible for arranging their own cover. (R6.1.3)(R8.5.4)

8 Comparison with ICAEW PII regulations

8.1 As IPA licensed insolvency practitioners often work in firms which also have ICAEW licence holders it is of practical importance that the two sets of PII regulations are compatible with each other. We consider these new regulations are compatible.

8.2 We are, however, aware that ICAEW are currently consulting with their members on revising their PII Regulations and will re-visit the IPA Regulations if necessary.

9 Effective Date

9.1 The revised PII Regulations will come into force on 1 January 2024 and will apply to PII policies commenced or renewed after that date.

9.2 You may continue to rely on an existing PII policy which meets the requirements of the IPA's PII Regulations (issued January 2017) until expiry of that policy's current term after which your PII policy must comply with the new regulations.