

## IPA PROFESSIONAL INDEMNITY INSURANCE REGULATIONS

*(Adopted by The Board on 8 December 2023 pursuant to Article 62.1 of the Association's Articles of Association)*

### 1 Definitions

1.1 In these definitions the following expressions shall have the following respective meanings:-

Firm	A sole practitioner, sole proprietorship, partnership, limited liability partnership or incorporated body (including unlimited companies) which carries on the business or practice of insolvency administration in the United Kingdom (excluding the Channel Islands and the Isle of Man) and where a partner or a director or the sole proprietor or a manager or an appointment taking IP is authorised by the IPA to act as an insolvency practitioner within the meaning provided by Section 388 of the Insolvency Act 1986
Gross Fee Income	the aggregate of all fees and income from insolvency or insolvency-related work (including formal and informal appointments and advisory work where insolvency considerations apply) attributable to the Member and/or their staff, agents or locums (whether working under a contract of service or for services) and fees received in respect of work subcontracted to others (unless it is clearly demonstrated to the Individual Member's satisfaction that the subcontractor is taking professional responsibility for their work and has appropriate PII cover) in each case net of VAT and disbursements and excluding interest, dividends and rents received by the Firm or Professional Practice, income and capital profits from investments made by the Firm or Professional Practice and bad debts written off.
Insolvency Appointment	any such office, appointment or position (whether or not referred as such) as may be held by an Insolvency Practitioner within the meaning of Part XIII of the Insolvency Act, an Approved Intermediary within the meaning of Part VIIA of the Insolvency Act, and any other similar office or position or appointment as a professional adviser concerning the realization, recovery, reorganization, reconstruction, settlement or distribution of the assets liabilities or affairs of any individual corporation or other person or body of persons;
PII	professional indemnity insurance which is underwritten in accordance with the minimum requirements of these regulations
Principal	a sole practitioner, partner, director or other person held out as a principal of a Firm or Professional Practice who is engaged in Insolvency Administration
Professional Practice	a Firm including (but not limited to) one whose business or practice is not confined to Insolvency Administration

1.2 The following words shall have the same meaning as defined in the Association's Articles of the Association from time to time:-

Association, Individual Member, Insolvency Act, Insolvency Administration, Insolvency Appointment, Insolvency Authorisation, Insolvency Practitioner.

### 2 Introduction

2.1 Professional Indemnity Insurance ("PII") is compulsory for each Individual Member

who holds one or more Insolvency Appointments. These regulations set out the requirements for the minimum level of PII cover which must be obtained.

- 2.2 An Individual Member's PII cover shall provide cover in respect of any claim for civil liability (including liability for the claimant's costs, expenses and disbursements) which may arise in connection with their insolvency work or insolvency related work (whether conducted by them or on their behalf) to the extent required by these regulations.
- 2.3 Individual Members, who hold or intend to hold one or more Insolvency Appointments, are required to provide to the Association, with each application for an Insolvency Authorisation and/or upon request, a certificate from their insurer setting out the principal terms of their PII cover.
- 2.4 Such PII cover may be provided by any reputable insurer(s) or underwriter(s) save that the Board may direct Individual Members not to use certain insurers or underwriters.

### 3. Minimum Terms of Cover

- 3.1 Subject to regulations 3.2 and 3.3, an Individual Member is required to have a minimum PII cover (in respect of any one claim) for whichever is the greater of:-
  - 3.1.1 £250,000; or
  - 3.1.2 2.5 times their Gross Fee Income, based on the most recently completed accounting year of their Firm which immediately preceded the start date of the PII policy.
- 3.2 Where an Individual Member is in partnership or association with other Insolvency Practitioners and they are covered by a single PII policy, the minimum PII cover required by regulation 3.1.2 shall be calculated by aggregating each Individual Member's Gross Fee Income.
- 3.3 The required minimum limit of indemnity required each year under these regulations (being the maximum amount an insurer is obliged to pay out in aggregate for any number of claims made) is £1,500,000 and Individual Members may choose to obtain cover above that limit.
- 3.4 An Individual member who holds one or more Insolvency Appointments must ensure that their PII policy includes cover for third party loss caused by the fraud or dishonesty of employees or other persons at their Firm who act for or on behalf of the Individual Member in relation to their insolvency work and/or insolvency related work.
- 3.5 The cover referred to in regulation 3.4 must be for at least the same minimum financial value of cover as required by regulations 3.1 and 3.3.

### 4. Excess

- 4.1 The minimum PII cover for each Individual Member can include an excess of not more than £20,000.
- 4.2 Where an Individual Member is in partnership or association with other Insolvency Practitioners and they are covered by the same PII policy, the excess may not exceed the figure specified in regulation 4.1 multiplied by the number of Principals who have personal liability in respect of the excess.

## 5. Single or Multiple Policies

- 5.1 The PII cover required by these regulations may be satisfied by a single policy or by more than one insurance policy.

## 6. Period of Cover and Retroactive Cover

- 6.1 An Individual Member who holds one or more Insolvency Appointments must ensure that their (or their Firm's) PII cover:
  - 6.1.1 provides cover for the risks identified in regulation 2.2 for the period during which the Individual Member holds one or more Insolvency Appointments, and
  - 6.1.2 provides cover for the risks identified in regulation 2.2 arising in the preceding six years (also known as "Retroactive cover") or, if shorter, the period since the Individual Member first held an Insolvency Appointment. Any "retroactive date" in the policy (which limits the period of cover for past acts or omissions) should be not more recent than six years before commencement of the policy (or, if more recent, the date when the Insolvency Practitioner held their first Insolvency Appointment).
  - 6.1.3 If the Individual Member has operated from more than one Firm (or Professional Practice) in the preceding six years, then the Individual Member must ensure that their PII cover is sufficient to cover relevant past acts or omissions in that period at each of their current and former Firms.
- 6.2 The period of cover required by these regulations may be satisfied by a single policy or by more than one insurance policy. If it is not possible or practicable to obtain a policy for the whole of the period required by these regulations, the Individual Member (or their Firm or Professional Practice) may obtain a series of policies which together provide cover for the whole period. For example, a minimum period of six years may be satisfied by obtaining six annual policies in succession, provided that there is no gap in cover at any time in the period.

## 7. Retiring and Run-Off Insurance

- 7.1 An Individual Member who retires or otherwise ceases to hold all of their Insolvency Appointments must:
  - 7.1.1 satisfy the Association that the Individual Member has adequate PII and/or run-off cover (being insurance for claims made after an Individual Member has stopped practicing) for at least 2 years after ceasing to hold any Insolvency Appointments (and at an indemnity level not less than that required by these regulations for PII immediately before ceasing to hold their Insolvency Appointments), and
  - 7.1.2 thereafter must use their best endeavours to obtain PII and/or run-off cover for a further period of at least four years (six years after ceasing to hold any Insolvency Appointments).
- 7.2 Sufficient PII and/or run-off cover may be provided under the insurance policy of a Firm (or Professional Practice) which continues to trade, alternatively the Individual Member may need to take out a separate policy (or policies).
- 7.3 If an Individual Member's former Firm (or Professional Practice) has obtained (or undertaken to obtain) PII and/or run-off cover for the Individual Member which would satisfy regulation 7.1:

- 7.3.1 the Individual Member must check (at least annually) that the insurance cover is adequate and that it continues to provide cover for the Individual Member in accordance with these regulations,
- 7.3.2 at the end of the period of cover, the Individual Member should consider whether they need to obtain continued cover, and
- 7.3.3 If the Individual Member's former Firm (or Professional Practice) ceases to trade within the six-year period after ceasing to hold any Insolvency Appointments (referred to in regulation 7.1.2), the Individual Member must ensure that PII and/or run-off cover required by regulations 7.1.1 and 7.1.2 is in place, if necessary by taking out a separate policy (or policies).

## 8. Transfers Between Practices

- 8.1 An Individual Member who transfers from one Firm (or Professional Practice) to another is required to satisfy the Association on demand that PII cover is in place in accordance with regulation 6 of these regulations whether or not the Individual Member currently holds one or more Insolvency Appointments. The insurance cover must cover any civil liability in connection with insolvency work or insolvent related work of that Individual Member (whether conducted by them or on their behalf) in the preceding six years whether that work was at their previous or current Firm(s) (or Professional Practice(s)).
- 8.2 Sufficient retroactive PII cover (as described in regulation 8.1) may be provided by the insurance policy of the Individual Member's current or former Firm (or Professional Practice), alternatively the Individual Member may have to take out a separate insurance policy (or policies).
- 8.3 The Individual Member must ensure they obtain (and understand which) insurance policy (or policies) provides cover for all their appointments (and former appointments) held at their current and former Firms (or Professional Practices) in the last six years.
- 8.4 It is the Individual Member's responsibility to ensure that adequate PII cover (current and retroactive) is in place as required by these regulations.
- 8.5 If the retroactive cover for the preceding period (as described in regulation 8.1) is to be provided by the insurance policy of the Individual Member's former Firm (or Professional Practice), then:
  - 8.5.1 the provision of such insurance, and confirmation of its continued existence, should be recorded in writing and may form part of any 'leaving' agreement and
  - 8.5.2 the Individual Member must check (at least annually) that the insurance cover is adequate and that it continues to cover them in accordance with these regulations.
  - 8.5.3 at the end of the period of cover, the Individual Member should consider whether they need continued cover, and
  - 8.5.4 if the Individual Member's former Firm (or Professional Practice) ceases to trade within the six-year period after ceasing to hold any Insolvency Appointments, the Individual Member must ensure that retroactive PII cover

which complies with these regulations is in place for a minimum period of six years after ceasing to hold any Insolvency Appointments.

## 9. General

- 9.1 An Individual Member (or former Individual Member) who for any reason is unable to obtain the cover required by these regulations should immediately inform the Association.
- 9.2 Individual Members should consider whether, in addition to the cover for third party loss required by Regulation 3.4, their Firm should obtain additional first party insurance for loss caused by the fraud or dishonesty of employees or other persons at their Firm.

*Effective Date: 1 January 2024*