PII Consultation Decision Matrix

Note- This is a short summary produced by ICAEW staff to assist the IRB given the volume of previous material that has been provided. This document is a work-in-progress and shows a snapshot of the PII Committee's views and consensus drawn at the last meeting. This draft has not yet been approved by the PII Committee.

	Proposal	**PIIC Decision**	**Detail**
1.	The minimum limit of indemnity should be increased, so that generally, firms will be required have **a £2million any one claim and in total limit of indemnity.**	Recommend	Consultation generally supportive of increase in limits and agreement that should be increased.
2.	If a firm's gross fee income is less than £800,000, the minimum limit of indemnity for any one claim and in total should be equal to **two and a half times its gross fee income**,	Recommend	Support for proposal that continue to be linked to fees and 75% of respondents agreed with the proposed approach. Comments welcomed need to recognise smaller firms.
3.	with a minimum of £250,000 (increased from £100k).	Recommend	Concern in consultation regarding increase in premium and particularly impact for micro firms. Practical difficulties of interplay between any one claim which firms generally take out and aggregate cover required by regulations, however, PIIC keen to ensure adequate cover in place so agreement that the limit should be increased to £250k. Hope that this would not equate to huge increase in premium particularly given good capacity and competition.
4.	Should micro firms be treated differently? Where would you draw that threshold?	Further reflection	Additional discussion required given concerns expressed by smaller firms within the consultation. May be less of an issue given that some proposals may now be withdrawn
5.	Should there be a way of permitting AOC at lower level but ensuring at least £250k (or £2m) aggregate cover?	For market to determine	Keen to avoid overcomplicating matters by dictating this within regulation. The limit has always been an aggregate limit and PIIC keen to ensure sufficient protection for members and consumers. PIIC approve regulations to stay at aggregate limit. Firms/brokers can negotiate their own policies subject to this.

6.	Defence costs will continue to be in addition to the limit of indemnity.	Recommend	Current arrangements and no issues raised in consultation.
7.	If a firm's gross **fee income is over £50m** it will be classified as a "large firm". (aka removes 50 principal rule)	Recommend	Consultation supportive of removal of 50 principal rule and move to fee income (over 70% of respondents agreed) and only 20% of respondents thought the threshold was not at the right level.
8.	Large firms will not be required to put in place qualifying insurance but they will continue to have the obligation to have in place reasonably appropriate arrangements for their exposure to risk.	Recommend	PIIC approve large firm threshold and that arrangements should be appropriate and qualitatively assessed.
9.	which is qualitatively assessed	Recommended with some further reflection	Specific parameters and form of assessment to be clarified at later date.
10.	How to treat firms who fluctuate around £50m? (application to PII Committee? Is this permitted within the rules)	Further reflection	This relates to mechanisms of general rule (which is recommended) and may be fleshed out in guidance. For further discussion as part of redrafting exercise, for example, taking 3-year average or dispensation on case by case basis.
11.	Guidance that firms are generally not permitted to put in place qualifying insurance with a captive insurer	Recommended	Consultation suggested not a large issue and respondents were generally confused about captive insurance.
12.	The self-insured amount should be structured to permit an excess rather than a deductible (so that the full extent of the limit of indemnity would be available above any excess).	Recommended	Feedback that market already operating this way therefore should have little impact.
13.	Generally, defence costs should not be applicable to the excess (except in the case of FCA authorised work, as is currently the case). However, if a firm's gross fee income is over **£800,000** then the excess may be applied to defence costs.	Withdrawn	Removal of this protection, even for larger firms is not justified given that other proposals which were seeking to increase protection not being taken forward. Market is functioning well with this protection in place and do not want to create an unintended unhealthy dynamic for the claims process and general public interest.
14.	Should the flexibility apply to all firms not only those over £800,000?	Withdrawn	Retain existing measures- defence costs not permitted to apply to the excess except in the case of FCA authorised work.
15.	For firms required to put in place qualifying insurance, the maximum permitted aggregate excess will **be the higher of £2,500** or 3% of a firm's fee income.	Recommend	PIIC considered feedback from consultation and concluded that proposals should be retained as strike good balance. The excess may impact premium in some cases but PIIC keen to avoid situations where firms are permitted to have large excesses given that

			recommendation that insurers should pay in event of non-payment has been withdrawn.
16.	If a firm fails to pay a claimant any amount which is within the excess due to its insolvency, the insurer will become liable to remedy the default on the insured firm's behalf.	Withdrawn with request for further evidence	PIIC conscious of unintended consequences and disruption of the market which is currently operating well. Concern changes regarding non-payment (of excess and run-off) could lead to large increase in premiums and cause insurers to exit the market. Concern that insufficient data available to ascertain if this is an issue and the scale of this issue. Not justified to recommend changes without further supporting evidence when the potential for negative impact across the market and firms is unknown and that consultation feedback suggests large impact on price and availability. Agreement to not take proposal forward at this stage, but with a commitment to: - Ask insurers for further data on non-payment of excess or non-payment of run-off - Explore possibilities for understanding whether claimants are unable to make claims due to lack of run-off cover - Consider whether guidance regarding disciplinary action should be updated - Potential for compensation fund/levy (with possible distinction between business and consumers)
17.	If firm fails to pay excess and insurer not required to take over liability, does guidance or other regulations need to be updated to reflect seriousness or consequence of failure to pay	Further reflection	General consensus that guidance may need to be updated. Suggestion that this should be considered once a first draft of updated regulations is available and further discussions taken place with PCD.
18.	What is insured doesn't pay within 3 months, any differences?	Withdrawn/not recommended	
19.	A new definition of a compound firm is introduced	Recommended	PIIC acknowledge that no significant concerns aired in consultation regarding suggestion that firms should demonstrate they comply with at least 3 of the suggested criteria (and less firms desired to answer). Accept probably some discretion should be retained.

			Additional discussions may be required once amendments are drafted and can be fully considered but at this stage the proposal is agreed and should be put forward.
20.	Compound firms would also be permitted to combine each individual firms' fees to calculate their total fee income, which would determine the required limit of indemnity and permitted excess for the compound firm.	Recommended	
21.	Guidance regarding groups taking advantage of a single policy must ensure there is adequate cover for each entity in the group, and to consider the appropriateness of aggregating the excess.	Recommended	As above, specific contents of guidance to be re-considered once initial draft produced.
22.	Qualifying insurance should provide automatic **run-off cover** for six years, which is non-cancellable by insurers for non-payment of premium.	Withdrawn with request for further evidence	There was strong opposition to the introduction of this proposal from members and insurers. Suggestion that this could cause a large increase in premiums, potential to lead to personal guarantees and insurers exiting the market. Over half respondents thought the change should not be introduced if it would impact premiums and 40% disagreed that the right balance between consumer protection and a firm's ability to pay had been reached. See above re excess for PIIC's concerns for the potential for unintended consequences, including impact on premium and withdrawal of capacity by changes which would increase insurer's exposure without receiving premium. Agreed that insurers should be reminded of obligation to notify ICAEW if firm does not take out run-off cover PIIC agreed that current framework should be retained except that "best endeavours" should be replaced with "all reasonable steps".
23.	If run-off is **cancellable for non-payment**, does this impact the amount required (or is this aggregate limit cross the six years, should it be higher for first four years?)	Further reflection	PIIC agreed to largely retain current requirements which specifies that this must be in line with current minimum Guidance regarding specific amount of cover required will be considered upon re-drafting but likely no change to current arrangements.

24.	Participating insurers should be required to outline at inception of a policy how the premium for run-off cover will be calculated.	Withdrawn with request for further monitoring	Respondents to the consultation were supportive of using a formula for specifying the upfront calculation. However, insurers were unsupportive and felt that any calculation would be caveated for claims and that the preference would be to assess on a yearly basis. PIIC could see the benefits in this approach particularly given high cost of ARP cover but did not feel there was sufficient data to introduce the changes in light of the objections from insurers and potential practical difficulties of implementing. Also, not clear that this is currently causing problems for firms as appears majority of firms are able to purchase 6 years of cover without issue. Wary of unintended consequences of implementing.
25.	Removal of "best endeavours" in relation to members ceasing practice	Recommended	65% of respondents were in favour of this proposal. Agreed to take forward as should clarify a member's responsibility when retiring.
26.	Consequences for failure to take out run off- is further guidance or amendment required to reflect seriousness	Further reflection	As above- further discussions with PCD and additional discussion upon review of first draft of amended regulations regarding what changes are required
27.	The guidance regarding applications for dispensation should be updated to ensure the process is clearer and more transparent.	Recommended	Agree that guidance should be updated and considered by PIIC when amended draft regulations are reviewed.
28.	A fee for processing dispensation applications will also be introduced.	Further reflection	Mixed response in consultation responses. PIIC agreed that generally not opposed for fees to be charged but expressed desire that access to the dispensation process should be available to all and were concerned that a fee would be detrimental for smaller firms already struggling financially to then be required to fund the fee for dispensation.