



Amendments to the PII Regulations

STATUS

1. This report and the appendices are confidential as it relates to developing policy considerations.

EXECUTIVE SUMMARY

2. This paper relates to the amended PII Regulations which incorporate the changes recommended by the PII Committee and approved by the IRB in January 2024. The IRB is asked to note the amended PII Regulations.
3. The new arrangements are planned to go live on 1 September 2024 and firms are expected to comply with the new requirements at their next insurance renewal after that date.

RECOMMENDATIONS

4. The IRB is asked to:
 - a) Note the amendments to the PII Regulations.
 - b) Confirm the initial classification of this paper as 'confidential'.

SUMMARY OF CHANGES

5. At its last meeting the IRB approved the PII Committee's recommended changes to the PII Regulations following the public consultation, which included withdrawal of some of the proposals.
6. Since then, the PII Committee and ICAEW staff have produced an amended version of the PII regulations to reflect the changes. The IRB will note that certain proposals have been clarified during the re-drafting process. These develop the existing proposals set out in the previous paper rather than introducing any additional changes.
7. Firstly, the maximum permitted excess figure for smaller firms (point (d) below) has increased from £2,500 as set out in the consultation document, to £3,000. Feedback from the consultation was that the original figure was too low and the updated threshold means that it will apply to firms with fee income below £100,000 (rather than £84,000 as originally suggested).
8. Secondly, the PII Committee has finalised the specific requirements for group arrangements. The reference to a 'compound firm' has been removed and the criteria relating to permitted group arrangements is now set out at regulation 3.9. The PII Committee considers it is important that firms grouping together to be insured under a single policy of insurance should satisfy certain mandatory criteria (demonstrating common ownership, control or management, and within a structure aimed at co-operation) and at least one other criterion from the list at regulation 3.9 (c)). The PII Committee was keen to ensure that the guidance to this regulation

made clear that such firms should also ensure that there is adequate insurance cover for each entity within the structure.

9. Thirdly, the PII Committee has agreed the basis of the limit of indemnity should change from “any one claim and in total” to “any single claim and in the aggregate”. There is no practical difference between these two phrases, however, based on the feedback we have received the latter should be more easily understood by firms, brokers and insurers.
10. The table below provides a summary of the main changes which have been incorporated in the amended PII Regulations. A complete schedule of changes is available at Appendix B. A tracked change version of the regulations is also available in the reading room.

Summary of Main Changes	Regulation
Generally, firms will be required have a £2million for any single claim and in the aggregate . However, 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, with a minimum of £250,000.	3.2
For firms with less than £800k in fees, the minimum limit will be equal to two and a half times its gross fee income , with a minimum of £250,000 (an increase from £100k).	3.3
If a firm’s gross fee income is over £50m they will not be required to put in place qualifying insurance but will need to have in place appropriate arrangements to ensure they are able to meet claims arising from being in public practice. These arrangements will be reviewed by ICAEW or its agent. This replaces the current 50 principal rule.	3.8 and 2.5
For firms required to put in place qualifying insurance, the maximum permitted aggregate excess will be the higher of £3,000 or 3% of a firm’s fee income.	3.7
Firms insuring in a group arrangement can be treated as a single entity for the purposes of the PII regulations providing that the firms meet certain criteria.	3.9
Members and firms should use “ all reasonable steps ” to put in place run-off cover rather than “best endeavours”. Note firms are still required to have cover for the first two years, they then must take all reasonable steps to ensure cover is in place for a further 4 years.	2.7 and 2.8
The guidance related to dispensations has moved so it is all contained in Appendix B and provides information regarding the exercise of dispensation powers. Provision has also been made for introducing a charge for making the application.	5.3 and Appendix B
General updates and changes. All the regulations and guidance have been reviewed and updated where necessary to be as clear as and up to date as possible.	All

11. A copy of the amended PII regulations is available at **Appendix A**.

NEXT STEPS

12. CAI and ICAS, who share the PII arrangements with ICAEW, have been kept up to date and have also received a copy of the updated regulations and are currently updating their respective regulatory boards to obtain the necessary approvals over the next few weeks. The IRB should note that the amalgamation between CAI and CPA Ireland may impact the ability for CAI to implement the changes by September. However, we understand that this should not impact ICAEW's ability to bring in the changes then.
13. We are due to publish the summary of responses to consultation along with an update regarding the changes on our website shortly. An update has also been sent to all participating insurers. We have also written to the respondents to the consultation thanking them for their contribution and providing an update.
14. We will then prepare the relevant applications to oversight regulators with a view to the PII Regulations coming into force on 1 September 2024 in line with the renewal of our contractual arrangements with the participating insurers. There will be transitional arrangements in place and firms will be expected to comply with the new arrangements for any renewals of their insurance from 1 September 2024, with all firms expected to have compliant policies by 1 September 2025.
15. The IRB is asked to note the amended PII Regulations and the project timetable. ICAEW staff will attend the IRB's meeting should you have any questions regarding the regulations or next steps.

PROJECT TIMETABLE

16. The outline timetable for the project is as follows:

Time	Action
April- June 2023	ICAEW conducts Call for Evidence
16 October – 14 December 2023	Public consultation on changes
18 December 2023	PII Committee considered consultation responses and agreed updated recommendations
December 2023 / January 2024	Consultation response reviewed
January 2024	External lawyers instructed to provide input on redraft of the PII regulations and guidance
25 January 2024	IRB approved recommendations following consultation
February 2024	Finalise amendments to PII regulations
20 February 2024	Provide update to ICAEW Board
23 February 2024	ICAS Regulatory Board consider proposals
26 February 2024	PII Committee approve amended regulations
Early March	Publish summary of consultation responses and updated proposals. Write to respondents to the consultation.
6 March 2024	CAI Regulatory Board consider proposals

21 March 2024	Final proposals and updated Regulations shared with the IRB
Early April 2024	PII Committee review any feedback from Institutes' regulatory boards and make any required final amendments
April-May 2024	Apply to relevant oversight regulators for approval of amended regulations.
June 2024	Insurance arrangements renewal packs issued to insurers.
1 September 2024	Revised PII Regulations come into force.
1 January 2025	Firms comply with new requirements

APPENDICES

	Appendix Name	For consideration or for reference	No of pages
Appendix A	Amended PII Regulations- Clean	Consideration	33
	Tracked Change copy of the regulations available in the reading room		33

Author	Sarah – Jane Owen, PII & Regulatory Manager Elaine Griffiths, Director of Regulatory Practice and Policy
Date of report	13 March 2024