



## SCHEDULE OF AMENDMENTS TO ICAEW'S PII REGULATIONS

(FROM 1 SEPTEMBER 2024)

REGULATION	AMENDMENT	REASON FOR CHANGE
Introduction	Various changes have been made to the guidance wording to make clear who members should contact if they have queries, the responsibility of members, including non-practising members. We have also moved the section relating to qualifying insurance.	These are non-substantive drafting changes to ensure that the opening section of the regulations makes clear how members can obtain further information. The changes have been made to remove unnecessary terminology, be clearer and easier to follow with a view to simplifying the regulations for the user.
1.1 – 1.2	The authority and commencement provisions have been updated. Guidance inserted to clarify why and how the transitional period will operate.	To reflect when the amendments come into force and to provide for a transitional period so that firms are not required to arrange a mid-term adjustment to their insurance
1.3-1.4	New regulations have been introduced to provide for a transitional period.	To prevent firms having to arrange mid-term adjustment to their existing policies of insurance or policies with pre-existing dispensation. This permits firms to comply with the regulations relating to limits/excess at their next renewal rather than when the new regulations go live.
1.8	The notice provisions have been updated to clarify who notice should be sent to and the date of deemed service for methods of service. The methods of service have not been changed.	To match the notice provisions within other ICAEW regulations so that they are standard across the regulatory arrangements and to maintain the principle of consistency and to avoid confusion for members/firms.
1.10	Definitions have been introduced for aggregate excess, aggregate policy limit, FCA, Heads of Committee and Tribunals, and Regulatory Review and Appeal regulations.	To assist members in understanding technical insurance language so that it is clearer what is required and where new terms have been introduced in the regulations or to define new terms which have been introduced during the re-drafting process. For example, notice and requests for review should be made to

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	<p>The definition of bye-law has been updated.</p> <p>The definition of qualifying insurance has been updated to reflect more accurately the position under the minimum wording and that there is an exception for claims “either first made or arising out of circumstances notified to an earlier policy year” rather than “potential claims known about at the time the insurance was first taken out”.</p>	<p>the Heads of Committee and Tribunals however, this role was not defined or used in the current version of the regulations.</p> <p>Definitions have also been updated to ensure consistency across other ICAEW regulations.</p> <p>The minimum wording permits firms to notify to their insurers claims that they had “known about” at the time the insurance was taken (which is how qualifying insurance is current defined), so we have updated the definition to reflect how the minimum wording operates. We do not consider this will have any impact for insurer or firms but has been amended so that the definition is more accurate.</p>
2.1	<p>The regulations relating to the scope of the PII Regulations have been updated to remove reference to the Republic of Ireland at 2.1 (a) and (b).</p> <p>The guidance has been updated to take account of the amendments and to set out the circumstances that members should meet the requirements of the PII regulations and who they should speak to if they are unsure.</p>	<p>These amendments are now aligned with the wording to ICAEW’s Statement on Engaging in Public Practice which was updated to remove references to the Republic of Ireland following Brexit. The amendments clarify the scope and application of the regulations and ensure consistency with ICAEW’s practising certificate requirements.</p>
2.2	<p>The regulation has been updated to make clear that the regulations apply to a member after they cease to engage in public practice and/or hold a practising certificate.</p>	<p>ICAEW members sometimes retain their practising certificate but do not engage in public practice and are referred to “non-practising members” so we have updated regulation 2.2 to account for this scenario.</p>
2.5	<p>This regulation has been updated to reflect the PII Committee’s existing power to monitor firm’s compliance with the regulations (at regulation 5.2 (b)) and to make clear that they have the power to require a firm to submit to an investigation by the committee or</p>	<p>The PII Committee already has the power to monitor compliance with these regulations. It also has the power to require firms to submit to investigation at their own expense at regulation 4.5 in relation to the Assigned Risk Pool.</p>

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	<p>its agent and a deposit for the costs of the investigation would be payable.</p> <p>The guidance has been updated to make clear that the monitoring provision also includes firms and members involved in group arrangements or large firms set out in regulations 3.8 and 3.9.</p>	<p>Following the introduction of regulations 3.8 and 3.9 we wanted to make clear how the requirements of those regulations would be monitored. Regulation 2.5 makes clear this is via the annual return and if the Committee decides then via an investigation by the Committee. This makes the process more transparent and clearer to firms that monitoring can occur via an investigation. We considered it was sensible to include this under the “monitoring” section of the regulations (ie 2.5 and 2.6) as well as its existing place in Regulation 5.</p>
2.7	<p>The reference to cessation of practice in the Republic of Ireland has been removed.</p> <p>“best endeavours” has been replaced by “must take all reasonable steps”.</p> <p>The guidance to regulations 2.7- and 2.8 has been updated to reflect these changes and provide further information.</p>	<p>As with Regulation 2.1, the refence to Republic of Ireland has been removed to reflect the updated ICAEW Statement on Engaging in Public Practice.</p> <p>We have updated the regulation to refer to “all reasonable steps” following the feedback we received during the consultation that the reference to “best endeavours” was confusing and open to interpretation. The change underlines the importance of run-off and the expectation that firms are expected to have run-off for 6 years after they cease to practice.</p> <p>The updates to the guidance were made to underline the importance of run-off cover, provide answers to common queries in relation to run off (for example the lack of claims does not negate the need for run-off) as well as to highlight that terms of run-off will be dictated by a firm’s circumstances and that we recommend that a firm considers whether additional cover is required.</p>
2.8	<p>The regulation has been updated to make clear it applies when a firm ceases to be engaged in public practice.</p>	<p>The regulation has been updated to clarify that the key date for the purposes of run-off is when a firm ceases to be engaged in public practice. This date should be easy to calculate and ensure</p>

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	<p>The reference to best endeavours has been replaced with “take all reasonable steps”.</p> <p>“two years” has replaced “24 months” for consistency with other regulations.</p> <p>The guidance to regulations 2.7- and 2.8 has been updated to reflect these changes and provide further information.</p>	<p>the regulation is easier to understand and apply so that firms can understand from which date the 6-year period should run. This is reflective of how the current regulation operates in practice so should aid the user’s understanding.</p> <p>We have updated the regulation to refer to “all reasonable steps” following the feedback we received during the consultation that the reference to “best endeavours” was confusing and open to interpretation. The change underlines the importance of run-off and the expectation that firms are expected to have run-off for 6 years after they cease to practice.</p> <p>The updates to the guidance were made to underline the importance of run-off cover, provide answers to common queries in relation to run off (for example the lack of claims does not negate the need for run-off) as well as to highlight that terms of run-off will be dictated by a firm’s circumstances and that we recommend that a firm considers whether additional cover is required.</p>
Regulation 3	The introductory narrative has had some minor amendment.	<p>We have re-phrased how a “claims made” policy is described so that it accurately covers claims either first made during the term of the current policy or arising out of circumstances first notified to insurers during the policy. It is intended to more accurately describe how the policy operates rather than a change to how it operates. We have also underlined the importance of ensuring that insurance is continuously in force.</p> <p>The bullet points have been updated to highlight other aspects an insured firm may want to consider when checking the policy wording. This change is to aid the interpretation of an insurance policy by the reader of the regulations.</p>

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3.1	<p>“all” has been inserted into regulation 3.1a</p> <p>3.1 (b) has been amended and “unless regulation 3.8 applies” has been inserted.</p> <p>General changes to the guidance to this regulation.</p>	<p>We wanted to ensure consistency with regulations 2.7 and 2.8 and did want to give the impression that there was a lower threshold/expectation in relation to “reasonable steps” in regulation 3 so for consistency these regulations all refer to “all reasonable steps”.</p> <p>This has been changed to reflect the introduction of regulation 3.8 (relating to large firms) and the fact that they do not need to arrange qualifying insurance.</p> <p>The guidance has been updated to reflect changes to the regulations and to ensure it is clear and easy to understand</p>
3.2	<p>The regulation has been amended to reflect that firms should have at least a £2million limit of indemnity.</p> <p>The regulation has been amended to reflect that this can be on an any single claim basis or an aggregate basis.</p> <p>The guidance has been updated to provide information about the changes.</p> <p>The guidance also refers to Licensed Practices and highlights the liability cap set out in the Licensed Practice Handbook.</p>	<p>We have increased the minimum limit of indemnity required to minimise the likelihood of under insurance.</p> <p>The basis of cover has been updated to reflect insurance terminology as the market does not usually refer to a limit being “in total” (as regulation 3.2 previously stated) which could lead to confusion. The practical effect is the same. The update to guidance sets this out in more detail to help simplify the position for the user and aid understanding of technical insurance language.</p> <p>This was included so that the requirements for Licensed Practices were specifically referenced in the regulations as a reminder to these firms to check the other regulatory requirements in relation to this type of work.</p>
3.3	<p>The wording has been amended to reflect a different threshold where this regulation applies (a change to firms with less than</p>	<p>The sliding scale to determine the minimum limit has been retained but due to the change to regulation 3.2 the threshold has been updated.</p>

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	<p>£800,000 in fee income) and that the minimum has increased from £100,000 to £250,000.</p> <p>Minor amendments to the guidance have been made.</p> <p>The guidance also refers to Licensed Practices and highlights the liability cap set out in the Licensed Practice Handbook.</p>	<p>The minimum limit required by smaller firms has also been increased in order to reduce the likelihood of underinsurance and to ensure there is sufficient protection for consumers.</p> <p>To aid interpretation of the updates and to make clear firms should consider whether the limit is sufficient.</p> <p>As explained in regulation 3.2 above.</p>
3.4	<p>The regulation has been updated as FCA is now a defined term and the numerical references have been replaced with “in accordance with whatever limits are prescribed by the FCA” so that this regulation remains up to date.</p> <p>Minor amendments to the guidance to this regulation have been made.</p>	<p>This change has been made because relevant minimum limits have been changed by the FCA. The amended regulation also means that any future changes by the FCA will not require amendment to the PII regulations to ensure they remain accurate and up to date.</p>
3.6	<p>The words “where possible” and “completed” have been inserted into the regulation.</p> <p>The guidance has been updated.</p>	<p>This is to reflect that in some instances completed accounts will not be available. ‘Completed’ has been used to be consistent with the definitions at regulation 1.10.</p> <p>The guidance has been updated to reflect the above changes and to outline circumstances where an estimate for fee income may be used and how this should be treated and additional considerations regarding sufficiency. These changes arise from frequent queries regarding the fee income calculation with a view to improving the usability of the regulations and to make them easier to understand and follow.</p>

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3.7	<p>The regulation has been amended to reflect changes to the maximum permitted aggregate excess which is now “the higher of either £3,000 or 3% of a firm’s gross fee income.</p> <p>The guidance has been updated to reflect this change to regulation 3.7.</p>	<p>This change makes clear that the self-insured amount should be an excess rather than a deductible so that the full amount of the limit is available to make claims payments. The ‘50 principal rule’ has been replaced and the excess is now linked to fee income which should be easier to interpret and reduce the potential for small firms with a sole principal to have an excess that they may not be able to pay. This change should increase consumer protection.</p> <p>The guidance reflects that the ‘50 principal rule’ has been replaced and provides information to firms about how the excess should be calculated and that it should generally not be applied to defence costs. This will make the position clearer to firms and aid the interpretation of the regulations.</p>
3.8	<p>This is a new regulation. It relates to firms with fee income in excess of £50million and specifies that they do not need to arrange qualifying insurance.</p> <p>New guidance has been inserted.</p>	<p>Previously, due to the way the permitted deductible operated, firms with over 50 principals did not need to arrange qualifying insurance (although this was not expressly stated in the PII Regulations). Regulation 3.8 now specifically addresses large firms (rather than this being indirectly dealt with by the excess provision) and links that threshold to fee income. This increases transparency, is easier to identify which firms would meet this arrangement and so is simpler to understand.</p> <p>The guidance sets out the circumstances where this is permitted and recommends that firms should monitor their compliance and make records of what provisions are in place to comply with regulation 3.1a. This sets clear expectations to the firm on the importance of ensuring adequate insurance is in place so supports the public interest and increases protection for consumers.</p>

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3.9	This is a new regulation (that replaces the previous “compound firm” regulation 3.8) and sets out the circumstances where multiple firms can be treated as a single entity for the purposes of the PII Regulations.	<p>This regulation has been introduced to set out in clearer terms the circumstances where firms can insure in a group arrangement and cover multiple entities under a single policy. The guidance also sets out additional detail about how the regulation operates as well as the consideration firms should have relating to the adequacy of its cover for the group. This change has been made to make the arrangements clearer and more transparent and should increase consistency between firms who are insure in groups.</p> <p>The feedback we received from the consultation is that the existing regulation did not reflect the reality of how firms insured or were treated and therefore, this change also ensures that the regulation is fit for purpose and workable in today’s insurance market.</p>
Section 4	New guidance inserted into the introduction section of regulation 4.	This change has been made so that the regulations set out more information about how firms can act if they are unable to find a compliant insurance policy, including highlighting the availability of the extended policy period and dispensation provisions. We wanted to ensure the regulations were helpful to the user and so this change now sets out clearly some of the firm’s options.
4.1	<p>The numbering style of sub-section 4.1b has been changed.</p> <p>Some minor amendment to the guidance has been made.</p>	<p>This is a minor drafting change to maintain consistency with other sub-sections within the regulations and ICAEW’s regulations generally.</p> <p>This minor change to the guidance more accurately describes how the ARP operates as firms can apply to the ARP for a myriad of reasons, and not only if there is not cover from “any</p>



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		participating insurer”. The change ensures the guidance is up to date, accurate and does not lead to confusion for firms.
4.4	<p>No change to the regulation.</p> <p>Minor changes to the guidance.</p>	This change to the guidance ensures that the information accurately reflects how a claims notification operates as the key consideration is whether a circumstance is notified rather than known. This is a minor change to ensure the regulations are as accurate as possible and to aid the user’s understanding and to avoid confusion. The regulation itself is unchanged.
4.5	<p>Some minor drafting changes have been made to this regulation.</p> <p>At Regulation 4.5 the words “if the Committee so decides” and “initial” has been inserted, as well as other minor changes and 4.5 c has been inserted “any other reasonable reason as determined by the Committee”.</p> <p>Minor amendments to the guidance have been made.</p>	<p>This regulation relates to the Assigned Risk Pool (ARP) and has only minor amendments. The change at regulation 4.5 makes clear that the investigation is not mandatory, as sometimes firms enter the ARP for a short amount of time, and it is not economic or practical to insist on an investigation in these circumstances (for example, whilst insurers issue terms). The reference to ‘initial’ also makes clear that follow up investigations may be necessary in some circumstances, particularly if information is identified in the initial investigation. These changes should help firms to understand the scope of any investigations that may happen while it is in the ARP.</p> <p>4.5 (c) also now acknowledges that there may be other reasons that the Committee may decide an investigation is necessary beyond those set out in a) and b). This change means that firms will now be aware that there may be alternative reasons and provides the PII Committee with greater flexibility to respond to the range of reasons why a firm may have entered the ARP.</p> <p>The guidance refers to the availability of run-off cover in the ARP as the feedback we received when conducting the call for evidence is that it could be useful to refer to run-off in this section.</p>

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		It is an important protection, so we wanted to ensure the regulations make members aware of this option.
4.6	<p>No changes to the regulation.</p> <p>Minor amendments to the guidance have been made.</p>	<p>See also commentary for regulation 4.5. The guidance has been changed to show that the review is not mandatory and that the Committee has a discretion to request investigation and take alternative steps if required.</p> <p>The guidance refers to the availability of run-off cover in the ARP as the feedback we received when conducting the call for evidence is that it could be useful to refer to run-off in this section.</p>
5.3	<p>The regulation has been updated to make clear that the PII Committee can impose conditions.</p> <p>5.3 (h)- the refence to Republic of Ireland has been removed.</p> <p>5.3 (i) has been inserted so that a fee for applying for dispensation can be introduced.</p> <p>The majority of the guidance to the regulation has been moved to Appendix B.</p>	<p>The PII Committee have an absolute discretion when granting an exemption or waiver and this can include the imposition of conditions. This change makes the regulations more transparent and demonstrates to firms that conditions may also be imposed.</p> <p>For the same reason as regulation 2.1, the Republic of Ireland is outside the scope of the PII Regulations.</p> <p>This has been changed to be consistent with other regulatory areas within ICAEW that require a fee to be paid for processing a dispensation application (to cover the significant time and resource that is involved in preparing applications and the increased time given by PII Committee members for monthly meetings to consider dispensations).</p> <p>We wanted to make the regulations easy to follow and understand so we have streamlined and moved the majority of guidance to</p>

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		this regulation to Appendix B so that it is sitting in one place making it easier to understand and interpret, and improving the experience for the user.
5.4	This is a new regulation and relates to the Committee considering guidance in Appendix B to the regulations.	We felt it was important that there was a specific regulation that set out the fact that the PII Committee considers the guidance set out in Appendix B when considering applications for dispensation. The guidance sets out the factors the Committee is likely to consider, which are also important for the firm to be aware of. This supports the principle of transparency, consistency and directs the user to the guidance set out in Appendix B.
5.6 – 5.9	<p>The regulations in relation to a review have been amended to reflect ICAEW's updated processes.</p> <p>Regulation 5.7 sets out that an application should be made to the Head of Committees and Tribunals and that the application should be made in accordance with ICAEW's Regulatory Review and Appeal Regulations.</p> <p>Regulation 5.8 has been updated to make clear the Review Committee will consider the matter afresh and consider any new information or evidence supplied by the affected party or by ICAEW.</p> <p>Minor amendments to the guidance have been made to reflect the new procedure arising from the regulations.</p>	<p>These changes ensure consistency with other ICAEW regulations and have been changed to reflect the updated procedure regarding the review of a decision.</p> <p>In order to make the review process easier to understand the changes specifically state matters will be considered afresh and evidence can be presented by both parties. There is also signposting to the Regulatory Review and Appeal Regulations so that the applicant is aware that those regulations should also be considered.</p>
Section 6 Additional Guidance	<p>This section provides additional guidance only and has been updated and modernised throughout.</p> <p>Here is a snapshot of some of the changes (but the reader is referred to the tracked change version of the regulations which highlights all of the changes)</p>	The narrative under Section 6 is guidance only and has not had a complete overhaul for several years so we utilised the re-drafting exercise to conduct a detailed review of all the guidance and to simplify, streamline and include additional information where necessary.

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	<p>For example, paragraph 6.12 now contains reference to the benefits of other types of insurance.</p> <p>Paragraph 6.14 has been updated to reflect the updated minimum limits.</p> <p>Paragraphs 6.15-6.15 have been inserted to address large firms and group arrangements.</p> <p>The sections relating to risk assessment and retroactive cover have been moved and additional details inserted.</p> <p>Paragraphs 6.27 – 6.29 now provide additional information regarding practice changes for example when moving between firms or leaving a partnership.</p> <p>Paragraphs 6.30 – 6.33 have been updated to reflect the new run off requirements at regulation 2.</p>	<p>Changes have been made to simplify the language, make the guidance clearer, easier to follow and address common queries we have received regarding the old regulations or insurance arrangements more generally.</p> <p>Changes have also been made which are necessitated as a result of the new requirements within the PII Regulations, for example new limits of indemnity and the change to “all reasonable steps” in respect of arranging run-off cover.</p>
Terms used	Minor changes have been made and “aggregate excess” has been introduced.	This is often a term that can cause confusion, so we included a definition in this section.
Appendix A	Minor amendments to the language used.	To make the information easier to understand.
Appendix B	<p>The guidance for the PII Committee in determining applications for dispensation in accordance with PII Regulation 5.3 has been amended.</p> <p>The guidance has been split into categories- information about each sub-section of regulation 5.3 and the guidance relating to the Committee’s power to waive or relax the requirement to hold qualifying insurance under PII Regulation 5.3.</p>	<p>We have sought to contain the key information regarding dispensation applications in one section of the regulations. We have separated out information about the circumstances when the Committee may grant dispensation which was previously contained under regulation 5.3 and ensured it is easier to follow.</p> <p>We have also updated the guidance on the exercise of dispensation powers. We have made clear that the factors are relevant to all applications and then separated out factors which</p>

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		<p>are likely to be relevant when there is an exclusion. Additional information is also included regarding the potential for a Quality Assurance Department visit.</p> <p>The changes mean that there is a clear process for dispensation and that a firm can more easily understand the likely factors considered by the committee and the circumstances when a dispensation may be permitted. Having all of the information in one section should also improve the user experience.</p>
Guidance throughout the regulations	There have been general changes to the guidance throughout the regulations, as marked in the tracked change version of the PII Regulations.	A wholesale review of the PII Regulations was performed as part of this project and we collected a range of evidence and information. We have sought to incorporate improvements and changes to the guidance as a result of this feedback and from our own experience. Therefore, in addition to the changes to the Regulations, the guidance has undergone a re-drafting exercise with a variety of changes made to streamline, simplify and improve the information that accompanies the regulations.