



## **Professional Indemnity Insurance ('PII') Run-off Confirmation Form**

### **Financial Services Act 2008 Licenceholders**

Completion of this form may be required by the Isle of Man Financial Services Authority ('the Authority') for Financial Services Act 2008 licenceholders by Rule 8.57(8) and Rule 9.24(4) of the [Financial Services Rule Book](#). Where completion of this form is required, Section 5 must be completed by the licenceholder's insurer or insurance broker and the form must be submitted to the Authority prior to the cessation of a regulated activity or surrender of its licence.

#### **Section 1 – Licenceholder details**

**Licenceholder Name** \_\_\_\_\_

**Date that the regulated activity will cease or licence will be surrendered** \_\_\_\_\_

#### **Section 2 – Policy details**

Please complete the following policy details:

<b>Insurer</b>	
<b>Policy Number</b>	
<b>Period of Cover</b>	
<b>Amount and type of cover</b> (e.g. £5 million any one claim and in the aggregate)	

## Section 2 – Policy details (CONTINUED)

<p><b>Excess</b> (e.g. £10,000 each and every claim increasing to £50,000 in respect of USA claims)</p>	
<p><b>Please provide brief details of any relevant non-standard exclusions relating to regulated activities, product types or jurisdictions</b> (N.B. Do not direct the reader to, or include a copy of, the schedule or policy document)</p>	
<p><b>Where the policy is a group policy, please detail the names of all licenceholders and their subsidiaries (relevant to the regulated activity) covered by the policy</b></p>	

## Section 3 – Calculation of regulatory Professional Indemnity Insurance requirement

PII calculations must be made in accordance with Rule 8.57 or 9.24 (see Appendix).

<p><b>Please provide brief figures to illustrate how the amount of cover was arrived at to demonstrate how it meets the requirements of Rule 8.57 or Rule 9.24</b></p>	
--	--

### Section 4 – Licenceholder’s Confirmation

**This form should be reviewed and signed by a director or responsible officer of the licenceholder.**

I confirm that —

- (1) the information contained in this form is correct to the best of my knowledge and belief;
- (2) I have reviewed the requirements of the Financial Services Rule Book and confirm that the level of PII cover meets the requirements set out therein (as a minimum);
- (3) I consider the cover is appropriate for the nature and scale of the business of the licenceholder\*; and
- (4) I have considered the exclusions of the policy and confirm that they are not inappropriate in respect of the activities undertaken by the licenceholder.

<b>Signed</b>	_____	<b>Date</b>	_____
<b>Print Name</b>	_____		
<b>Job Title</b>	_____		
<b>Telephone</b>	_____	<b>Email</b>	_____

**A licenceholder may commit an offence under section 40 of the Financial Services Act 2008 for failing to supply any information required by the Authority, or for supplying false or misleading information.**

\_\_\_\_\_  
\* See especially Rule 8.57(3)

## Section 5 – Insurer or Insurance Broker’s Confirmation

The insurer or insurance broker should sign the confirmation in either Part 1 or Part 2 as appropriate. If the insurer / insurance broker has an official stamp, this should be affixed to this confirmation.

### Part 1 – Confirmation relating to all Licenceholders except Professional Officers

I (insurer or insurance broker) confirm that the PII policy detailed at Section 2 covers the following:

- (1) breach of duty by reason of negligent act, error and omission;
- (2) libel or slander (to include former employees);
- (3) dishonest or fraudulent acts or omissions by current and former employees;
- (4) legal liability incurred by reason of loss of documents;
- (5) liabilities which the licenceholder might incur in any jurisdiction in which it carries on business as disclosed in the proposal form (*i.e. no fee income in relation to regulated activity (as disclosed in the proposal form) arises from a country which is outside of the policy’s Territorial Limits<sup>1</sup>*);
- (6) the activities of any subsidiaries as disclosed in the proposal form;
- (7) (for Class 2 and Class 3 licenceholders only) awards made by a statutory ombudsman scheme (which should include a minimum of the Isle of Man Financial Services Ombudsman Scheme); and
- (8) (for Class 4 and Class 5 licenceholders only) liabilities of the licenceholder’s staff who, in the course of their duties to the licenceholder, perform functions in their own names (e.g. holding directorships on client companies etc. (also known as outside directorships)),

and that the details in Section 2 are correct.

Signed

Date

\_\_\_\_\_

\_\_\_\_\_

Print Name

\_\_\_\_\_

Name of Insurer /

\_\_\_\_\_

<sup>1</sup> Countries from which fee income is derived must not be excluded in **Territorial Limits** (i.e. the countries from which fee income may be generated must be covered by the policy). This is different to **Jurisdictional Limits** that limit the countries in which actions may be brought. The Authority accepts that there may be **Jurisdictional Limits** stating for example that actions cannot be brought in the USA/Canada.

**Insurance Broker**

**Address**

**Telephone**

**Email**

**Part 2 – Confirmation relating to Professional Officers who are Trustees Only**

I (insurer or insurance broker) confirm that the PII policy detailed at Section 2 covers the following:

- (1) breach of duty by reason of negligent act, error and omission;
- (2) libel or slander; and
- (3) legal liability incurred by reason of loss of documents,

and that the details in Section 2 are correct.

**Signed**

**Date**

**Print Name**

**Name of Insurer /  
Insurance Broker**

**Address**

**Telephone**

**Email**

**Extracts from Rule 8.57 (Professional indemnity insurance)**

This rule applies to all Class 2, 3, 4, 5, 8(2)(a) or 8(4) licenceholders under the Financial Services Act 2008, except those that are also Class 1 licenceholders.

- (1) Despite the minimum or maximum requirements contained in paragraph (3), a licenceholder must maintain continuous professional indemnity insurance which is appropriate to the nature and scale of its business. For the avoidance of doubt, this may be higher than the regulatory maximum cover set out in paragraph (3).
- (2) Where a licenceholder is also licensed to carry on Class 7 regulated activity, the activity relating to the managed entity should be taken into consideration when calculating whether the level of professional indemnity insurance is appropriate to the nature and scale of its business. Where the managed entity has a different insurer to that of the licenceholder, both insurers should be made aware of the details of the cover in place.
- (3) A licenceholder must maintain the minimum level of cover specified in the Table below. Where a licenceholder carries on 2 or more regulated activities, in respect of which different minimum levels of cover are required, the higher minimum amount must be maintained. Subject to paragraph (1), a licenceholder is not required to maintain a level of cover higher than the regulatory maximum detailed in the tables, but the cover must always meet the level and scope specified for the class of regulated activity for which a licence is held.

**Table**

Professional Indemnity Insurance Levels		
Class of regulated activity	Minimum cover to be the greater of	Regulatory maximum cover
Class 2(3) and 2(7) only, where there is a licence restriction limiting advice to regulated products	£1 million in aggregate or 3 times the annual turnover (excluding dividends received) in the licenceholder's previous year ending on its annual reporting date	£5 million in aggregate
Other Class 2(3) and 2(7) only	£1.5 million in aggregate or 3 times the annual turnover (excluding dividends received) in the licenceholder's previous year ending on its annual reporting date	£5 million in aggregate
Class 3(8) only or Class 3(13)	£1.5 million in aggregate or	£5 million in

<b>Professional Indemnity Insurance Levels</b>		
<b>Class of regulated activity</b>	<b>Minimum cover to be the greater of</b>	<b>Regulatory maximum cover</b>
only	3 times the annual turnover (excluding dividends received) in the licenceholder's previous year ending on its annual reporting date	aggregate
Other Classes 2 or 3	£1.5 million in aggregate or 10% of assets under control, management, custody or similar arrangement as at the licenceholder's last annual reporting date	£10 million in aggregate
Class 4	£1.5 million in aggregate or 3 times the total fees/ commissions received from Class 4 activity in the licenceholder's previous year ending on its annual reporting date	£10 million in aggregate
Class 5	£2 million in aggregate or 3 times the total fees/ commissions received from Class 5 activity in the licenceholder's previous year ending on its annual reporting date	£10 million in aggregate
Class 8(2)(a) and 8(4) only	£2 million in aggregate or 3 times the total fees/ commissions received from Class 8 activity in the licenceholder's previous year ending on its annual reporting date	£10 million in aggregate
<b>Professional Indemnity Insurance Scope</b>		
<p>The policy must extend to —</p> <ul style="list-style-type: none"> <li>i. the activities of any subsidiaries;</li> <li>ii. breach of duty by reason of negligent act, error and omission;</li> <li>iii. libel or slander (to include former employees);</li> <li>iv. dishonest or fraudulent acts or omissions by current and former employees;</li> <li>v. legal liability incurred by reason of loss of documents;</li> <li>vi. liabilities which the licenceholder might incur in any jurisdiction in which it carries on business;</li> <li>vii. (for Class 2 and Class 3 licenceholders only) awards made by a statutory ombudsman scheme; and</li> <li>viii. (for Class 4 and Class 5 licenceholders only) liabilities of the licenceholder's staff who, in the course of their duties to the licenceholder, perform functions in their own names.</li> </ul>		

- (6) No account shall be taken of insurance provided by an insurer which has been notified by the Authority to the licenceholder as being unsatisfactory for the purpose of this rule.
- (8) The Authority may require a licenceholder that intends to cease carrying on any or all regulated activities, or sell or otherwise transfer the business or the company to a third party to hold “run-off” professional indemnity insurance cover in respect of claims arising from past acts or omissions.

### **Extracts from Rule 9.24 (Professional indemnity insurance)**

#### **Trustees**

- (1) A professional officer licensed to conduct Class 5(2) activity must ensure that professional indemnity insurance, or another type of insurance which provides the same effective protection, is maintained in respect of all of his regulated activities within Class 5, which must comply with the following level and scope —
  - (a) the level must be appropriate to the nature and scale of his business and at a minimum level of £1,000,000 in aggregate;
  - (b) the scope must include —
    - (i) breach of duty by reason of negligent act, error and omission;
    - (ii) libel or slander;
    - (iii) legal liability incurred by reason of loss of documents; and
    - (iv) liabilities which the professional officer might incur in any jurisdiction in which he carries on business.
- (4) The Authority may require a professional officer who intends to cease carrying on regulated activities to arrange for appropriate “run-off” professional indemnity insurance in respect of claims arising from past acts or omissions.