HKSA PII MASTER POLICY BULLETIN

This Bulletin is prepared by Aon Hong Kong Limited and Windsor Professional Indemnity Insurance Limited, the appointed brokers of the HKSA Professional Indemnity Insurance (PII) Master Policy ("The Brokers").

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This Bulletin provides an update to Members on the 2003-2004 renewal of the HKSA PII Master Policy.

INTRODUCTION

The significant changes that have occurred in the insurance market in recent years have been well publicised. The collapse of various international insurance companies such as HIH, Independent, as well as the withdrawal from the market of several others such as the Gerling; the World Trade Center disaster; an increase in claims and in particular, cases such as Enron, Worldcom etc, have all contributed to the tightening of the insurance market.

These events have affected the availability of insurance, the cover offered and premiums charged for all types of policy from Household to Commercial Insurance, Public Liability and, of course, Professional Indemnity.

Over this period many other professions in HK and the accountancy profession elsewhere in the World have seen the rates for their professional indemnity policies increased by double or triple whilst their scope of protection has decreased.

THE HKSA PII MASTER POLICY SCHEME

Since the launch of the HKSA PII Master Policy Scheme in 1996, Members have remained immune from this volatility with basic premium rates for standard practices with no claims remaining the same at the 1996 rates. In addition the scope of the protection provided remains one of the broadest available to any accountant across the World - unlimited reinstatements to the Limit of Indemnity, civil liability wordings and with legal costs in addition to the claims etc. In addition, the Policy is written 100% by Underwriters at Lloyd's with its Security and Guarantee Fund. For those Members who have been unfortunate to suffer a claim, the claims handling has remained sympathetic, discreet and efficient.

The Scheme has not remained unaffected by the market changes and has seen a significant increase in the amount of funds being committed to notifications made by Members. We would also stress that although the number of claims may be relatively small when compared to other countries such as Australia, UK, USA , each Member is offered the best possible legal representation which has come at an increasing cost to Underwriters. This is true even when the matter is subsequently proven to be spurious. Over the last two years in particular, Underwriters have defended or had to make provision to defend Members which has resulted in substantial sums being recorded - upwards of $30m for the 2000-2002 period alone. This equates to Underwriters paying out $2 for each $1 they received in premium over the same period.

RENEWAL TERMS

Following a comprehensive marketing exercise, conducted in London and Asia by the Brokers, continuity with the existing Underwriters who have supported Members so well since 1996, was maintained.

The selected Underwriters and, indeed, all underwriters approached to compete for the Scheme had to take into account the factors already mentioned above - market conditions, the overall claims ratio of premium income against claims costs and very importantly the Underwriters' own costs that have increased noticeably since 1996. Although Members with claims are assessed individually on the merits of the case, for the first time since 1996 Underwriters were forced to review the terms for all Members to protect the long term viability of the Scheme which is so vital in protecting the profession and the public.

As in the past there remains two main categories covering both Corporate and Non-Corporate Practices - "Standard" and "Non-Standard". The latter group are assessed individually and would contain on he or more of the following features which may see Underwriters increase the "standard" terms:

- Claims or notification history
- Subject of disciplinary action
- Larger amounts of more exposed activities (audit of listed companies, insolvency, financial product advice)
- Overall fee income exceeding $15m (a size discount would be applied to the standard rates)

The areas reviewed and the changes made to the Scheme were:

- **Legal costs**

  Of the $30m+ claims costs mentioned above, approximately 85% relates to defence legal costs. Should you have a claim notification, the self-insured policy excess now also applies to all defence costs. This will not be a change for many of the non-standard practices or for those Members with the minimum $10,000 excess but for others, this will be a change as the contribution to costs was previously limited to $10,000 per claim.

  Examples:
  For a smaller standard Practice with the minimum excess of $10,000 - no change.
  For a Practice with a higher excess, for example, $30,000 - where a notification results in no claims payment but a legal bill of $60,000, the Practice now pays $30,000 (previously it would pay $10,000) and Underwriters pay $30,000.

  As an option for Non-Corporate Practices, the Limit of Indemnity can also be turned "inclusive of defence costs" which means that the Limit must be sufficient to meet both the claim award and the defence costs combined. This option will produce a reasonable reduction in the premium increase. Standard cover offered has the benefit of the Limit meeting the claim award and underwriters paying all defence costs in addition to the amount they pay for the claim settlement.

- **Premium**

  Standard rates increased by just over 30%. However, for those Practices able and willing to select the costs inclusive Limit, the increase was only 15%. These are the first increases in rate since 1996. As a general comment, even after the increases, it is fair to say that a Member still pay a significantly lower rate than an equivalent practice in most other professions, for example, solicitors.

There was also a change for Practices newly joining the Scheme and which have not purchased professional indemnity insurance at all in the past. In this case, the cost of providing prior liability cover was increased by 12.5%.

Finally, for those Members retiring or leaving the profession who have not passed on their past liability, the cost of providing the "one-off" long period run-off policy has increased.

- **Others**

As those who renewed in December 2002 are aware, the 2 year Policy Period is not available in the PI market and so all policies under the Scheme are now on an annual basis. In addition, following the September 11 event and subsequent attacks, as with most other types of insurance, PI policies now include a War/Terrorism Exclusion.

To conclude, as we are sure you will appreciate from the information given above, the first significant changes introduced to the Scheme since 1996 are necessary in order for it to continue to provide the most competitive and comprehensive protection available to Members. Without such steps, with the continued adverse development of the claims history, the Scheme would be destined to fail in the long term. Underwriters do remain highly committed to the HKSA, hence the Civil Liability Wording, Unlimited reinstatements and competitive rates. They also remain open to dialogue via the Brokers should any Member be experiencing difficulties. **Therefore, please do not hesitate to call the Scheme Brokers with any queries or concerns you may have.**

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The contents of this Bulletin are for general guidance only. Any Members who feel that any of the points raised may be relevant to them should contact the PII Hotline for specific advice. Comments regarding coverage in this Bulletin refer to the HKSA PII Master Policy only.

Please call Aon Hong Kong (HKSA) PII Hotline if you have any questions.

TEL : 2862 4242 / 2862 4243

If you are insuring PI elsewhere, it is recommended that you review your existing policy to ensure that it provides sufficient coverage for your needs. Should you need any professional advice, the Professional Risks team at Aon Hong Kong Limited would be able to provide any assistance required.

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I would like to know more about :-

☐ the topics in this issue

☐ the HKSA PII Master Policy

Signed ....

Name ....

Position..

Practice..

Tel No. ....

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