Factsheet No.027

For all firms that hold/need PII

Buying professional indemnity insurance

This factsheet is for you if you are a regulated firm that requires professional indemnity insurance (PII) cover, including financial advisers, mortgage intermediaries, and general insurance brokers.

It explains:

- our rules for holding PII
- the PII market
- how to obtain PII, and
- how to present your business to the PII market

What is professional indemnity insurance?

Professional indemnity insurance is liability insurance that covers businesses when a third party claims to have suffered a loss, generally as a result of professional negligence.

Why does the FCA require firms to hold PII cover?

- It provides an additional financial resource from which firms can pay justified claims.
- And it can help to prevent insolvency and excessive claims on the Financial Services Compensation Scheme, which is funded by firms which are still trading.

How does the PII market work?

Different organisations, with different functions, operate within the PII market.

This table shows what some of them do.

	What do they do?	What do they represent?	Do they carry any PI risk?
Insurance broker (or other intermediary)	Advise and arrange insurance	Your firm	No (agent for your firm)
Underwriting agency	Provide PII underwriting expertise to insures	Insurers	No (agent for insurers)
Insurer (including Lloyd's of London)	Transfer risk	Shareholders/capital providers	Yes

Find out about the PII market and the critical issues for getting cover

Who to deal with?

Insurers rarely deal directly with the firms to whom they are providing cover. Often, they can only be accessed through specialist insurance brokers.

While there may be many insurance brokers willing to help, the number of actual insurers offering cover to firms is comparatively small. So it is important to check which insurers a broker usually places business with, as some do not deal with all insurers (and vice versa). If you are having difficulty getting cover, you need to make sure you are getting access to a wide range of insurers, and that might be through a number of brokers.

What about the Lloyd's market?

How is insurance placed in the Lloyd's market?
You can seek quotes from Lloyd's syndicates but you cannot deal directly with Lloyd's. You should contact an accredited Lloyd's broker or a broker with a sponsoring arrangement. If your current/preferred broker is not a Lloyd's broker or does not have an arrangement, they can contact these firms on your behalf but each part of the chain is likely to charge commission or fees.

Critical issues for getting cover:

- Know who you are dealing with and who they represent.
- Check if your broker deals directly with the PII market, or through another broker and how much it will cost you.
- Find out what service the broker is offering, for example will they provide advice?
- Find out which insurers can be accessed.
- Check if they are specialists/knowledgeable about your sector.

Applying for a PII policy – what do insurers look at?

Each insurer will assess risks differently and may look at different criteria. However, insurers often look at four main areas when calculating a premium:

- total income
- required limit of indemnity and level of excess
- risk profile of the business, and
- nature of the business

You may want to think about carrying out your own past-business review, so that you can assess how much confidence you have in defending any future claims, and also quantify your risk exposure (if there is any).

The insurer will also consider the following management and business factors when assessing the level of risk that a firm poses:

Risk profile

The most significant of these issues is the firm's 'risk profile'. Insurers are likely to consider types of advice, products sold and management and business issues.

Exposure to certain types of products may mean that insurers are likely to treat a proposal with greater care. Insurers will, for example, be concerned about areas of business showing significant loss in value where a complaint has not yet been made by the client.

But that does not mean advising on certain products will result in insurers declining to quote. The decision usually depends on individual circumstances and may be influenced by other information a firm can give insurers, such as adequate comfort that claims will not arise in the future – for example, confidence in record keeping.

- adviser/support staff ratio
- self-employed staff
- compliance
- control systems/monitoring
- research
- client/adviser ratio
- tail (volume of past business)
- qualifications/experience for staff
- specialist support
- business structure
- regulatory visits disciplinary record
- claims records/complaints log

What you need to do - critical issues:

- Seek guidance on which areas are of particular concern to the insurer.
- Consider where it is possible to provide comfort to insurers, for example about product types sold and record keeping.

Making a good application and highlighting strengths

- A good quality application to insurers is important.
- Make sure you provide clear and comprehensive information.
- Ensure you have fully disclosed all material facts – if you don't this could invalidate the policy in the event of a claim.
- If you need further help, consider firms who offer services such as risk management and risk assessment which will help you to present your proposal.
- Where appropriate, consider supplementing the proposal with other pertinent information on 'risk management' issues, such as:

Risk management areas	Examples
Compliance systems	You check files frequently
Management control	You can show how you supervise advisers
Training and competence	You can provide evidence of assessments of competence and qualifications
Client acquisition	You have client satisfaction surveys

Other points on PII remember:

- It is your responsibility to manage your relationship with your insurer.
- You remain responsible for ensuring that customer complaints are handled in line with our rules.
- You may want to negotiate a small claims handling clause into your PII policy. This allows you to settle or dismiss a claim, without informing your PI insurer, if it falls under a certain level (normally under the policy excess).
- Clarify what constitutes a 'notifiable event' with your PII broker before agreeing to the policy.
- Consider the additional record keeping obligations that may be imposed by your PI insurer. Please look at the FAQs on our website.
- Disputes with insurers do not discharge firms from their regulatory obligations (particularly dealing with complaints and the fair treatment of customers). You should maintain documentary evidence to substantiate the content of any dispute.
- We set the minimum limits of indemnity annually. So do not obtain cover with the required annual minimum limit of indemnity spread over a longer period (for example, 18 months).

For more information and the latest news, see the firms section of our website: www.fca.org.uk/firms