INSTITUTE OF PUBLIC ACCOUNTANTS®

Practice Administration

Professional Indemnity (PI) Insurance requirements

Professional Indemnity Insurance

Professional Indemnity (**"PI"**) insurance provides an IPA Professional Practice Certificate (**"PPC"**) holder with cover against claims for liabilities owed to a third party, usually a client, for a loss suffered by a third party as a result of the insured person providing the third party with professional services.

Some examples of professional services that may lead to a PI claim are:

- The PPC holder did not verify the authenticity of a source document in a SMSF audit,
- The PPC holder made an error calculating a client's CGT small business concessions,
- The PPC holder incorrectly valued a client's business or freehold property.

Errors in judgement such as these can lead to a PI claim against you and your business, therefore it is vital you protect yourself and your business from this type of litigation.

Costs involved with defending a PI claim are often underestimated and can drain the cash resources of you and your business, regardless if the final settlement is favorable or unfavorable. Court cases can extend out for years which can have a detrimental effect on all parties.

PI insurance can protect you and your business from the full cost of this type of litigation. Having PI insurance may enable your business to continue trading without disruptions, thereby allowing you to still earn income.

The type of PI Insurance required

The PI insurance requirements for IPA Professional Practice Certificate (**"PPC"**) holders are contained in the IPA By-laws.

IPA By-law 9.1.9 requires that all IPA members that hold a PPC to have PI insurance. By-law 9.1.9 further states that PI insurance policies must comply with the requirements contained in By-law 9.1.11.

By-law 9.1.11 states PI insurance cover must provide:

(a) cover for an amount as specified by the Board of Directors for each and every claim, currently until 31 December 2018, not being less than $1,000,000 for each reinstatement (any one claim) being the cap of the current Professional Standards Scheme;

(b) The insured amount rising to not less than $2,000,000 for each reinstatement (any one claim) from 1 January 2019 being the cap for the new Professional Standards Scheme;

(c) for a policy excess or deductible of no more than an amount determined by the Board of Directors from time to time, currently being no more than 2% of the policy limit of indemnity or $200,000, whichever is the lower amount;

(d) The policy to be obtained from an Australian Prudential Regulation Authority (APRA) regulated insurer, which can be verified at: https://www.apra.gov.au/register-general-insurance;

(e) The policy to include a minimum of one reinstatement, preferably unlimited reinstatements;

(f) Be defence cost exclusive, however if the policy is defence cost inclusive, the policy sets an additional 25% above the policy limit of indemnity amount to fund defence costs;

(g) unlimited retroactive cover;

(h) cover for libel and slander;

(i) that claims arising out of the dishonesty of an employee are not excluded;

(j) cover for the cost of replacing or repairing documents lost, damaged or destroyed;

(k) cover for any civil legal liability or any act, error or omission, subject to reasonably common exceptions; and

(h) provides run-off cover for claims against the Member after ceasing to offer professional practice services or ceased to hold a Professional Practice Certificate for a period of at least seven years.

PI Insurance and the IPA Professional Standards Scheme

PI Insurance provides an IPA PPC holder with cover against claims for liabilities owed to a third party.

A Professional Standards Scheme (**"Scheme"**) caps the damages a court can award a third party as part of a claim.

The IPA Scheme cap is $2,000,000 and commenced on the 1 January 2019.

The IPA Scheme works in conjunction with each PPC holders PI policy to ensure each PPC holder is adequately covered in the event that claim is awarded against the PPC holder. Member PI insurance will need to cover up to the $2,000,000 Scheme cap and the Scheme cap legislatively stops a claim exceeding the $2,000,000 cap.

The IPA Scheme Instrument provides detail about the IPA Scheme. It states that if an IPA PPC holder is to be protected by the Scheme, the PPC holder must comply with the IPA By-laws in relation to the IPA PI insurance requirements. The PI insurance requirements are contained in IPA By-laws 9.1.9, 9.1.10 and 9.1.11.

Failure to comply with these By-laws is likely to result in the IPA PPC holder not being protected under the Scheme. Each IPA PPC holder must manage their own compliance with these By-laws.

Sourcing PI Insurance

The IPA have an in-house insurance broker ***IPA Insure*** who offer competitive rates for PI insurance and their policies comply with the IPA By-laws. IPA Insurer's contact number is 03-8665-3139 and email address is enquiries@ipainsure.com.au.

There are other brokers and underwriters available for PPC holders to obtain PI insurance. If you choose to use a broker other than IPA Insure, please ensure that the PI policy offered to you complies with the IPA By-laws.