



## SCHEDULE OF AMENDMENTS TO THE INSTITUTES'

### MINIMUM APPROVED WORDING – 2018

CLAUSE	AMENDMENT
<b>SECTION A – Insuring clauses</b>	
Preamble	Minor drafting amendments for completeness.
A1	Minor drafting amendments to make the main insuring clause clearer / more concise.
A2	Minor drafting amendments to make the insuring clause for Ombudsmen's awards clearer and more concise.
A3	The clause now states only that Insurers agree to indemnify the Insured in respect of Defence costs (as defined in B5).  The deleted text is now reflected in a new clause C1.2 (below).
<b>SECTION B – Definitions</b>	
B3	Minor drafting amendment to definition of 'Claim' – stylistic change only.
B4	Minor drafting amendment to the definition of 'Claimant' – stylistic change only.
B7	Definition of 'Extended Policy Period' has been amended to require that the insurer notify the firm(s), as well as the relevant institute, of the commencement of the 30 day extended policy period.
B8	Definition of 'Firm' has been amended – minor / stylistic drafting change only.
B9	References in the minimum wording to 'insurance mediation work' have been replaced with 'insurance distribution work' in accordance with the Insurance Distribution Directive (IDD) which comes into force on 1 October 2018.
B10	Definite article deleted from the definition of 'Insured'; 'and' replaces 'or' at the end of the penultimate paragraph.

B17	<p>Definition of 'Professional Business' has been broadened to include '<i>other business activities</i>' provided for or on behalf of others at any time anywhere in the world.</p> <p>The definition has also been broadened to include advice / services / other business activities provided by or on behalf of the Insured, or by persons for whom the Insured is, or is alleged to be, liable.</p> <p>A new sub-clause (b) has been inserted to confirm expressly that the definition of 'Professional Business' extends to the provision, sale, licence, lease, amendment or adaptation by the insured of any computer software, hardware, solution, package or publication.</p>
<b>SECTION C – General conditions</b>	
C1 – Limit of indemnity	<p>Drafting amendments have been made to sub-clauses (a), (b) and (c) to remove repetition and align the wording.</p> <p>The final sentence of the clause has been deleted as it is not relevant for sub-clause (a) which relates to the indemnity available for claims in relation to authorised probate work, which is on a 'per claim' basis.</p>
C1.2	New clause which reflects the text previously set out in A3 in relation to defence costs.
C2.1 – Notification	<p>Clause amended so that the obligation on Insureds is to provide Insurers with written notice of any claim or suspected dishonesty or fraud <i>as soon as reasonably practicable</i> (i.e. the 7 day extended notification period has been removed).</p> <p>Sub-clause (b) has been deleted as notification of circumstances, and the effect of such notification, is covered under C2.2 and C2.3.</p>
C2.2	Minor drafting amendment only – the last sentence has been deleted as dealt with under clause C2.3.
C2.3	New clause clarifying that, provided the Insured complied with the requirements for notification and all other provisions of the policy, cover shall be extended for claims made against the Insured after the expiry of the policy period which arise from matters notified under clause C2.1(b) or C2.2 (circumstances and suspected fraud / dishonesty).
C3.1 and C3.2 – Excess	Clauses concerning excess have been amended for clarification purposes – minor drafting amendment only.
Former C4 – Dishonesty and Fraud	The general condition concerning fraud and dishonesty has been deleted. Matters are now dealt with by way of an exclusion under E8 (see below).

Renumbered C4 – Advancement of defence costs	<p>Clause states that Insurers will indemnify the Insured in respect of defence costs as and when they are incurred. This is subject to clauses C1.2(b) (proportionality clauses) and C3.2 which provides that the excess shall be payable on defence costs where the claim relates to FCA-authorized activity.</p> <p>Insurers' liability to pay defence costs and to recover such costs in cases of fraud and dishonesty is dealt with in the exclusion at E8.</p>
Renumbered C5.3 – Conduct of claims	<p>Clause has been broadened to state that, where evidenced by the Insured, compliance by the Insured with any rules, requirements, directions or guidance of any regulator, law enforcement agency or other official body having authority in respect of the Insured, or generally any rule or requirement of law, will not constitute a breach of the policy.</p> <p>Previously the clause was restricted to compliance with any requirements etc of Ombudsmen only.</p>
Renumbered C7 – General subrogation rights	<p>Clause has been amended as a consequence of the deletion of clause C4.3(c) and the incorporation of E8. Drafting amendments only.</p>
Re-numbered C9.2 Dispute Resolution	<p>Cross-reference to clause C4 (advancement of defence costs) has been updated.</p>
New C9.3	<p>The text previously formed part of clause C11.</p> <p>The clause has been amended to provide for the final resolution of disputes by the courts of the country identified in clause C10 (Choice of law).</p>
Renumbered C10 – Choice of law	<p>The clause now specifies that the policy shall be governed by and construed in accordance with the laws of the country in which the firm has its headquarters.</p>
Renumbered C11 – cancellation	<p>Cross-reference to clause C8 (fraudulent claims) has been updated.</p> <p>'And' has been inserted at the end of C11.2(a) to link sub-clauses (a) and (b).</p>
Renumbered C12 – No set-off	<p>Cross-reference to clause C4.4 has been removed as the clause (concerning dishonesty and fraud) has been deleted in its entirety.</p> <p>The sentence concerning the limit of indemnity and excess under the policy has been deleted as not relevant for the purpose of the clause.</p> <p>It is now specified that the clause shall not apply if the Insured provides evidence to Insurers of payment in full of any civil liability to the Claimant.</p>

<b>SECTION D – Special conditions</b>	
D1.1(c) – Non Avoidance and Prejudice	Cross-reference has been updated only.
D2(b) – Non-compliance	Cross-references have been updated.  The reference to “ <i>Insurers’ reasonable opinion</i> ” has been removed. Insurers will now need to establish on the balance of probabilities the amount which they would not have had to pay had the Insured complied in full with the conditions of the policy.
D4 – Run-off cover	Minor drafting amendment for clarification purposes only.
<b>SECTION E - Exclusions</b>	
E1	E1 now excludes cover for claims arising from Professional Business carried out from any office of the Insured in the US or Canada only.  The jurisdictional exclusion is now dealt with under clause E2.
New E2	New exclusion for claims brought in the US or Canadian courts which relate to work carried out by the Insured from any office outside the US or Canada.  The exclusion has been restricted so as not to apply in cases where there was no reasonable basis for the Insured to believe or suspect that proceedings in the US or Canadian courts could arise from the work that they have carried on outside those jurisdictions. However, Insurers may restrict the scope of cover in such circumstances.
Re-numbered E3	The exclusion now relates solely to employment claims by employees (or former employees or applicants for employment).  Personal injury claims which previously fell within sub-clause (a) of the exclusion are dealt with under re-numbered clause E4.

Re-numbered E4	<p>The exclusion has be expanded to include personal injury claims in relation to any person (including Insured Persons).</p> <p>A carve out to the exclusion has been maintained to preserve cover for claims for psychological injury or distress which arise from any actual or alleged breach of duty in the performance (or failure to perform) Professional Business.</p>
Re-numbered E5	Minor drafting / stylistic amendments only
New E8	New clause dealing with claims concerning alleged dishonesty or fraud by the Insured. Previously fraud / dishonesty was dealt with in C4 and elsewhere in the wording.
Re-numbered E9	Minor drafting amendment only.
Re-numbered E12	Clause amended as a consequence of the deletion of C4 (dishonesty and fraud).
Re-numbered E13	Drafting of the clause has been amended for clarity.
Re-numbered E14	The final sentence has been deleted for simplicity.
Re-numbered E16	<p>Clause has been amended to exclude claims for defects in, lack of fitness of, or failure to conform with, the description of, goods sold or supplied by the Insured or any person acting on their behalf.</p> <p>Cover for the supply of and/or adaptations to computer software and hardware etc is now dealt with under the definition of 'Professional Business' in clause B17.</p>

Re-numbered E19	Drafting of the clause has been simplified for clarity.
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28 September 2018