



Law Society of Ireland

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# **PROFESSIONAL INDEMNITY INSURANCE**

## **GUIDE TO RENEWAL**

**NOVEMBER 2012**

**THIS GUIDE IS INTENDED AS GENERAL GUIDANCE AND DOES NOT CONSTITUTE A DEFINITIVE STATEMENT OF THE LAW.**



**Law Society of Ireland**

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## Tips for renewal

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1. Ultimately, you are responsible for obtaining professional indemnity insurance (“PII”) before the mandatory renewal date of **1<sup>st</sup> December 2012**. This date is not negotiable.
2. Firms should make the earliest possible application for renewal of cover. Making an application close to the deadline is not viewed favourably by insurers.
3. Make sure that you give yourself enough time to complete the form correctly and get the necessary documentation together.
4. It is essential that you complete the common proposal form comprehensively and accurately with all required documentation attached. Ensure your responses are legible, accurate and well presented. Try to avoid submitting hand written proposal forms. Include any extra information you feel may be helpful to clarify any points. Common proposal form guidelines can be found in Appendix 1 and the practice note “Professional indemnity insurance common proposal form” as published in the November 2012 issue of the Gazette can be found in Appendix 2.
5. Firms are not required to provide certificates of good standing with the common proposal form and insurers did not seek to have a requirement to provide this certificate included in the common proposal form. Please note that the fee for obtaining a certificate of good standing from the Society within ten working days is €100, to be paid in advance of the certificate issuing. Certificates of good standing issued later than ten working days are free of charge.
6. Do not assume that any one insurer is going to cover you. The common proposal form should assist you to shop around and try to obtain at least two quotations.
7. Check what insurers your broker will be sending your completed proposal forms to. Some brokers are tied to just one insurer.
8. Make sure that your completed proposal form goes to each insurer only once if using multiple brokers.
9. Use the covering letter with your proposal form as a method of “selling” your firm to the insurer.
10. Check and check again – Approximately two-thirds of forms received by insurers are incorrectly filled out. This delays the obtaining of a quote by the firm and does not reflect well on the firm. Ensure more than one person checks the form before it is sent out. Review spellings and figures. Ensure that all information requested is provided.
11. Respond promptly to any requests for further information or clarification from your broker or insurer.
12. Seek regular updates from your broker on the progress of your proposal if they fail to provide them. Insurers must confirm if they are willing to cover a firm and provide a quote within ten working days of receiving a properly completed proposal form.
13. Quotations from insurers must remain in effect for ten working days or until the expiry of the previous coverage period, whichever date is earlier. Make sure that you confirm your decision on the offer before the offer expires.
14. The Society’s helpline is available to provide information and guidance on the common proposal form and the renewal process. This helpline can be contacted by phoning 01 879 8790 or emailing [piihelpline@lawsociety.ie](mailto:piihelpline@lawsociety.ie)
15. Renewal resources for the 2012/2013 indemnity period are available to download from the Society’s website at <http://www.lawsociety.ie/Pages/PII/> and includes the common proposal form, list of brokers, list of insurers and the Qualified Insurers Agreement. This area will be updated frequently as more documentation becomes available.

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## Important points to note

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The practice note “Professional indemnity insurance renewal” as published in the November 2012 issue of the Gazette can be found in Appendix 3.

### Renewal date

- The mandatory PII renewal date is **1<sup>st</sup> December 2012**. This date is not negotiable.
- All cover under the current indemnity period will expire on **30<sup>th</sup> November 2012**.
- The PII regulations for the 2012/2013 renewal period have been amended to reduce the period for confirmation to the Society of PII cover from ten working days to three working days. Therefore confirmation of cover in the designated form must be provided to the Society on or before **6<sup>th</sup> December 2012**.

### Disclosure of financial rating by qualified insurers

- Financial ratings are obtained by insurers following assessment of their financial strength through an independent process by a rating agency.
- While a financial rating is an indication of the financial strength of an insurer, it does not guarantee an insurer’s financial solvency.
- Qualified insurers are required to disclose their financial rating, or absence thereof, to firms when issuing quotations. This requirement was introduced in the 2011/2012 indemnity period and remains in place for the 2012/2013 indemnity period in order to:
  - (a) allow firms to make a more fully informed decision on their choice of insurer;
  - (b) ensure full transparency for the profession in relation to qualified insurers meeting, or not meeting, generally accepted standards of financial strength; and
  - (c) do so in a way that will not restrict firms’ choice of insurer.
- It should be noted that all qualified insurers in the market are permitted to write insurance in this jurisdiction under the supervision of the Central Bank. The Society is not responsible for policing the financial stability of any insurer. The Society does not vet, approve or regulate insurers.
- The Insurance Compensation Fund was established under the Insurance Act 1964 for the purpose of providing a fund from which certain liabilities of insolvent insurers can be met. Should a qualified insurer become insolvent, Irish policyholders should be able to benefit from the Insurance Compensation Fund should the need arise, subject to certain limitations.
- There are various restrictions placed on the payments that can be made out of the Insurance Compensation Fund and it is important to bear these in mind when considering the protections that may be afforded to your firm and clients in the event of an insolvency of a qualified insurer. Such restrictions include a cap per claim on the amount of any payment which must not exceed 65% of the amount due under the policy or €825,000, whichever is the lesser and normally no compensation where a client is a body corporate.
- All firms are encouraged to fully consider such matters when choosing their insurer for the next indemnity period.

## **Variable renewal dates**

- In response to demand by the profession, variable renewal dates were permitted with effect from 1<sup>st</sup> December 2011 and continue to be permitted in the next indemnity period.
- It should be noted that, while the Society is permitting variable renewal dates, their availability on the market will be subject to such dates being offered by insurers and will be subject to agreement between firms and their insurer. The Society cannot oblige any insurer to provide variable renewal dates.

## **Terms of cover and notification of claims**

- Firms, rather than solicitors are covered.
- The PII Regulations prescribe only the minimum level of cover required, which is €1.5 million for each and every claim.
- PII is on a “claims made” basis.
- Claims are covered only if they are notified to the insurer in the correct indemnity period, which is the indemnity period in which the claim is first made against your firm or the indemnity period in which your firm first notifies the insurer of circumstances that may give rise to a claim.
- Your firm is exposed to liability for the full amount of a claim if your firm does not notify the claim in the correct indemnity period.
- All claims made against a solicitors’ firm and circumstances that may give rise to such a claim should be notified to the firm’s insurer as soon as possible. In particular, claims made between 1<sup>st</sup> December 2011 and 30<sup>th</sup> November 2012 (both dates inclusive) should be notified by the firm to their insurer by 30<sup>th</sup> November 2012.
- The minimum terms and conditions for PII were amended in the Solicitors Act 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011 (S.I. No. 409 of 2011) to permit firms to report claims or circumstances of which they are aware prior to expiry of cover to their insurer within three working days immediately following the end of the coverage period. Therefore, a three working day grace period from 30<sup>th</sup> November 2012 is in place with regard to notification of claims and circumstances to your insurer.
- Cover for legal defence costs for the insurer dealing with the claim is not limited.
- Insurers may not repudiate claims by non-financial institutions on any grounds, including fraudulent misrepresentation or non-disclosure. They must cover such claims but may pursue the firm subsequently.

## **Self-insured excess**

- Firms can agree any level of self-insured excess with their insurer.
- In the event of a claim where the firm does not pay out that amount of excess to the client, it is paid by the insurer and recovered from the firm.

## **Additional cover**

- Your firm should consider whether the value and nature of work carried out by your firm requires “top-up” cover and whether your firm should seek to limit by contract its liability to clients to the minimum amount permitted by law, which is €1.5 million for each and every claim.

- Firms providing legal services relating to the laws of any other jurisdiction should note that the minimum terms and conditions do not cover legal services relating to the law of other jurisdictions. Such firms should therefore arrange to put additional cover in place if they consider it appropriate.
- PII is provided on a “claims made” basis, which means that a transaction that your firm believes requires additional cover will need that additional cover renewed in subsequent indemnity periods, as a claim in respect of the transaction may arise after the end of the indemnity period in which the transaction is carried out.

### **Exemptions**

- Firms providing legal services from an office outside the jurisdiction are not obliged by Irish regulations to have PII cover in place in respect of the practice carried on from such an office.
- An exemption for in-house solicitors providing legal services only to their employer applies.

### **Defaulting firms**

- Any firm without confirmation of cover on 1<sup>st</sup> December 2012 will be a “defaulting firm” until such confirmation is obtained.
- All firms, for which confirmation of cover is not received by the Society within three working days of the renewal date of 1<sup>st</sup> December 2012 (that is by **6<sup>th</sup> December 2012**) will be classified as “defaulting firms”.
- It is in the interests of all firms to avoid becoming a defaulting firm. If your firm becomes a defaulting firm, you should use your best endeavours to regularise your position promptly and should seek to ensure that your cover, when renewed, is effective from the date of expiry of your previous cover with a view to mitigating the adverse consequences of defaulting firm status.
- The Assigned Risks Pool (“ARP”) will provide defaulting firms with very limited PII cover.
- If claims should arise while a firm is a defaulting firm, which are paid by the ARP, the ARP will have recourse against the firm and its principals for recovery of the full amount of the claim, including defence costs.
- It is the policy of the Society to seek a High Court order compelling any defaulting firm, which does not regularise its position promptly, to cease practice.

### **Agents of qualified insurers**

- Qualified insurers who use agents on their behalf to transact or facilitate business will be required to ensure that its agent makes a clear statement to the insured firms that it is acting as an agent of the qualified insurers and not the firm.

### **Quotations from insurers**

- No later than ten working days following the receipt of a fully correctly completed proposal form, an insurer must respond to the firm confirming:
  - (a) whether the insurer is willing to insure the firm; and
  - (b) confirming the amount of the premium being sought by the insurer for such coverage.

- Quotations from insurers must remain in effect for ten working days or until the expiry of the previous coverage period, whichever date is earlier. This is an increase from five working days as required in the 2011/2012 indemnity period.
- As introduced in the 2011/2012 indemnity period, a prohibition remains in place on insurers, or brokers on behalf of insurers, asking for the amount of premium paid by the firm in any previous indemnity period or any quote received by the firm in any indemnity period due to concerns that a requirement on firms to provide such information would tend to undermine the proper functioning of a fully competitive market.

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## Special Purpose Fund – Assigned Risks Pool and Run-off Fund

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### Special Purpose Fund

The Special Purpose Fund (“SPF”) was established in the 2011/2012 indemnity period and consists of two elements, namely the Assigned Risks Pool (“ARP”) and the Run-off Fund (“ROF”). The SPF is contributed to by the qualified insurers in proportion to their market share.

### SPF Manager

Following an extensive tender process in 2011, the position of SPF Manager was awarded to Capita Commercial Insurance Services for three years.

The SPF Manager is responsible for managing the ARP and the ROF. However, each fund is a separate entity.

The contact details of the SPF Manager are as follows:

<b>Address</b>	Special Purpose Fund Manager Capita Commercial Insurance Services 40 Dukes Place London EC3A 7NH
<b>Phone</b>	0044 – 207 – 397 – 4539
<b>Email</b>	<a href="mailto:spf@capita.co.uk">spf@capita.co.uk</a>

### SPF Management Committee

The SPF Management Committee oversees the management of the SPF and has equal responsibility for the ARP and the ROF. It has taken over certain functions from the PII Committee, such as powers regarding risk management audits, but is overseen by the PII Committee.

### ARP Conditions

The Society suspended the ARP for the 2009/2010 indemnity period to ensure the continued viability of the freedom of choice market. A modified ARP was reintroduced for the 2010/2011 indemnity period and a limited ARP remained in place for the 2011/2012 indemnity period.

The ARP cover for the 2012/2013 indemnity period will be subject to the following conditions and limitations:

1. An aggregate limit on claims of €1.5 million.
2. Exclusion of all claims by financial institutions.
3. Defaulting status for firms for non-payment of ARP premium.
4. Formal rating schedule for the pricing of firms in the ARP.
5. New entrants to the ARP may only remain in the ARP for a maximum of 12 months.
6. There is a prohibition on start-up firms entering the ARP.

7. Firms with ARP cover must notify any claim or circumstance to the SPF Manager as soon as it is reasonably practicable after the firm becomes aware of such claims or circumstances.
8. The coverage period in respect of ARP coverage will be amended to take account of variable renewal dates.

### **Run-off Fund**

The ROF provides run-off cover for firms ceasing practice:

1. who have renewed their PII for the current indemnity period; and
2. subject to meeting eligibility criteria, including that there is no succeeding practice in respect of the firm.

Any firm intending to cease practice after 30<sup>th</sup> November 2012 is required to renew cover for the 2012/2013 indemnity period.

Further information on run-off cover, succeeding practices and anti-abuse provisions relating to what are called “phoenix firms” can be found in the ROF guidelines on the Society’s website at <http://www.lawsociety.ie/Pages/PII/Run-off-Cover/>.

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## Guide to insurers

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### Insurers

Qualified insurers had until 1<sup>st</sup> November 2012 to sign the Qualified Insurers Agreement, thereby agreeing to participate in the market in the 2012/2013 indemnity period.

The following qualified insurers have signed the Qualified Insurers Agreement and will therefore be participating in the market in the next indemnity period. Two new insurers have entered the market, namely AmTrust Europe Ltd and Elite Insurance Company Limited.

Please note that no qualified insurer deals directly with solicitors and all must be contacted through brokers. Please contact the Society if you have any query relating to any insurer not noted on the following listing:

Insurer	Broker
<b>Allianz Global Corporate &amp; Specialty AG</b>	<b>JLT Insurance Brokers Ireland Limited</b>  <b>Miller Insurance Services LLP</b> (access to Miller is restricted to the Miller Facility Panel Brokers as detailed below)  Compass Insurance Brokers Limited  Crotty Insurance Brokers Limited  Glennon Insurances  Hooper Dolan Insurances Limited  Kelleher Insurance  Lennon Earley Crotty Insurances Limited
<b>Allianz-led Facility</b>	<b>JLT Insurance Brokers Ireland Limited</b>  <b>Miller Insurance Services LLP</b> (access to Miller is restricted to the Miller Facility Panel Brokers as detailed below)  Compass Insurance Brokers Limited  Crotty Insurance Brokers Limited  Glennon Insurances  Hooper Dolan Insurances Limited  Kelleher Insurance  Lennon Earley Crotty Insurances Limited
<b>AmTrust Europe Ltd</b>	JLT Insurance Brokers Ireland Limited

<b>Axis Speciality Europe plc</b>	Various Brokers
<b>Chartis Europe Limited<sup>1</sup></b>	Various brokers
<b>Elite Insurance Company Limited</b>	First Ireland Risk Management McGivern Flynn & Co Ltd
<b>Liberty</b>	Crotty Insurance Brokers Limited Lennon Earley Crotty Insurances Ltd Lockton Insurance Brokers Marsh O'Leary Prime
<b>QBE Insurance (Europe) Limited</b>	Arthur J Gallagher International Marsh Ireland Ltd O'Leary Prime Willis
<b>UK General Insurance (Ireland) Limited</b>	O'Leary Prime
<b>XL Insurance Company Ltd</b>	Aon

Please note:

- All qualified insurers in the market are permitted to write insurance in this jurisdiction under the supervision of the Central Bank.
- The Society is not responsible for policing the financial stability of any insurer.
- The Society does not vet, approve or regulate insurers.
- The Society is not responsible for any contractual arrangement you may enter into with a qualified insurer.

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<sup>1</sup> It should be noted that Chartis Europe Limited will change its name to AIG Europe Limited on 3<sup>rd</sup> December 2012. Chartis state that the legal entity changes will not affect any terms and conditions in their clients' insurance policies or their ability to claim, and will not impact on their operation management structure in Ireland.

### List of brokers

Insurance brokers provide advice on PII and arrange PII for firms. All qualified insurers currently in the market can be accessed through an insurance broker only.

The list of brokers for the 2012/2013, including contact details can be found in Appendix 4. This list will be continually updated by the Society. Please contact the Society if you have any query relating to any broker not noted on the appended listing.

### Choosing a broker

When choosing a broker, you may wish to obtain the following:

1. confirmation that the broker has experience dealing with the solicitors' PII market;
2. confirmation of what insurers the broker places business with;
3. confirmation of the services the broker provides;
4. confirmation as to whether the broker will provide a validation process for your proposal form before it is submitted;
5. confirmation that the broker will provide regular updates on the progress of your proposal;
6. confirmation that the broker is registered with either the Irish Brokers Association or the Insurance Intermediary Compliance Bureau; and
7. a copy of the broker's terms of business.

### Communications with brokers and insurers

All communications with brokers and insurers should be confirmed in writing, particularly instructions to place cover and to obtain confirmation in writing that the insurance is in place and is not subject to any preconditions.

### Obtaining multiple quotes

Some brokers are tied to only one insurer. Ensure that your proposal form goes to more than one insurer in order to receive at least two quotes.

You will need to use more than one broker in order to access all qualified insurers in the market. If you use multiple brokers, you should ensure that each insurer receives only one copy of your proposal form.

### Services provided by brokers

Your broker should be able to provide you with advice on the completion of the common proposal form, which insurers apply to and whether to accept any offers you receive. Brokers may also be able to provide you with information relating to the reputation, suitability and solvency of possible insurers.

## **Factors to consider when choosing which quote to accept**

If you receive multiple quotes, you should seek advice from your broker on which offer to accept. Factors, other than cost, to consider before choosing which quote to accept include:

1. the financial solvency of the insurer, including whether or not the insurer has a financial rating;
2. the level of excess to be paid in the event of a claim;
3. the claims service and support provided by the insurer;
4. the insurer's experience in dealing with the solicitors' PII market;
5. the experience of other colleagues with this insurer in the past; and
6. whether the insurer provides risk management support.

## **Prohibition on seeking information on previous premium**

It should be noted that, in the 2011/2012 indemnity period, a prohibition was placed on insurers asking firms for the amount of premium paid by the firm in any previous indemnity period or any quote received by the firm in any indemnity period due to concerns that a requirement on firms to provide such information would tend to undermine the proper functioning of a fully competitive market. This prohibition is also in place for the 2012/2013 indemnity period.

Please note that, while there is no legal prohibition on brokers requesting such information from firms, brokers are not permitted to seek such information on behalf of insurers and should not pass on such information to insurers.

## **Seeking additional information**

An insurer, or a broker on an insurer's behalf, cannot request a firm seeking a policy to provide it with supplemental information until such time as the insurer has received and reviewed a proposal form fully and correctly completed by that firm.

An insurer, or a broker on an insurer's behalf, can only request a firm to provide it with supplemental information where the insurer reasonably requires such information in order to decide whether to insure the firm. In this case, the insurer must make a statement to that effect and request that the firm provide such supplemental information within a reasonable timescale.



Law Society of Ireland

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# **PROFESSIONAL INDEMNITY INSURANCE**

## **Common Proposal Form Guidelines**

**SEPTEMBER 2012**

**THESE GUIDELINES ARE INTENDED AS GENERAL GUIDANCE AND DO NOT CONSTITUTE A DEFINITIVE STATEMENT OF THE LAW.**

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## Common Proposal Form Guidelines

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Following on the successful introduction of the common proposal form in the current indemnity period, the Society has released the common proposal form for the 2012/2013 indemnity period. This form is available to download from the Society's website at <http://www.lawsociety.ie/Pages/PII/> under the 2012/2013 renewal resources section. The form will also be circulated by insurers, directly or through brokers.

This common proposal form will ensure that each firm will have to complete only one proposal form at the next renewal, thereby simplifying the renewal process for the profession and making it easier for firms to obtain multiple quotes.

### Points to note

1. Ultimately, you are responsible for obtaining PII before the renewal date.
2. Your proposal form should be submitted early, be completed fully and correctly, have all required documentation attached and be clear, accurate, well-presented and comprehensive. Try to avoid submitting hand written proposal forms.
3. Firms are not required to provide certificates of good standing with the common proposal form and insurers did not seek to have a requirement to provide this certificate included in the common proposal form. Please note that the fee for obtaining a certificate of good standing from the Society within 10 working days is €100, to be paid in advance of the certificate issuing. Certificates of good standing issued later than 10 working days are free of charge.
4. Answer all questions – if you are unsure of any question, answer what you think the insurer was looking for and provide additional information to clarify. Check and recheck the form to ensure that all questions have been answered correctly.
5. Check that all additional documentation has been attached to the form and is correctly cross-referenced.
6. Make sure that the figures add up. For example, ensure that gross fee income figures add up to 100%.
7. The insurer must accept a fully completed proposal form as a duly completed application for a policy and must not require the firm to complete or submit any other proposal form or application for a policy.
8. An insurer cannot require a firm seeking a policy to provide it with supplemental information until such time as the insurer has received and reviewed a proposal form fully completed by that firm.
9. The insurer can only request a firm to provide it with supplemental information where the insurer reasonably requires such information in order to decide whether to insure the firm. In this case, the insurer must make a statement to that effect and request that the firm provide such supplemental information within a reasonable timescale.
10. It is proper practice for firms to notify insurers of claims or circumstances arising during the year as they arise, not at the end of the indemnity period. Notifying all claims and circumstances at the end of the indemnity period is referred to as “laundry listing” by insurers and is not looked on favourably.
11. Firms must notify their current insurer of all claims and circumstances before the end of the indemnity period.
12. The common proposal form is an application for normal PII, not for run-off cover. Firms should contact the Special Purpose Fund Manager, Capita Commercial Insurance Services with regard to obtaining run-off cover through the Run-off Fund. The Special Purpose Fund Manager can be contacted by phone on 0044-207-397-4539 or email [spf@capita.co.uk](mailto:spf@capita.co.uk) . More information on the Run-off Fund can be found on the Society's website at <http://www.lawsociety.ie/Pages/PII/Run-off-Cover/>.

13. Claims information must be provided by your current insurer and be attached to the common proposal form. If you have a poor claims history, provide the insurer with further information on how the claim arose and what procedures are now in place to ensure that henceforth, as far as possible, such claims will not arise. Failure to provide a claims history, or provision of an incomplete claims history may indicate to insurers that something is being hidden. Claims information is used by insurers to compare your previous loss experience against improvements to risk management you may have implemented or changes you may have made to your work type activities.
14. Firms should ensure to redact any information in any documentation provided to insurers which may breach legal privilege or client confidentiality.
15. The risk management section of the common proposal form has been greatly expanded, compared with forms previous to the introduction of the common proposal form. Insurers are focusing on risk management and it would be to the benefit of firms to demonstrate to insurers that they have robust risk management procedures in place.
16. Ensure that the form is signed and dated, otherwise the proposal form is invalid.
17. With regard to Yes/No questions in the form, where the answer is some variation of yes or no, expanded answers should be provided on such questions in the covering letter submitted with the form.

### Guidance for specific areas of common proposal form

The following table contains guidance regarding specific areas of the common proposal form. The Society accepts no legal responsibility for any information contained herein.

If you have further queries that have not been dealt with in these guidelines, the Society operates a helpline to assist firms in dealing with professional indemnity insurance queries. The helpline can be contacted by phoning (01) 879 8790 or emailing [piihelpline@lawsociety.ie](mailto:piihelpline@lawsociety.ie). The helpline is open from 10am to 4pm Monday to Friday.

Section	Notes
<b>Additional information checklist</b>	This is a list of additional information which may be required to be attached to the proposal form. Following completion of the form, you should go through the checklist and ensure that all relevant documentation is attached.
<b>Q3(d) – References</b>	<p>Insurers are looking for confirmation that the necessary recruitment checks were made for any partners, principals or employees in the firm, including any disciplinary record with, not only the Law Society of Ireland, but any other relevant bodies.</p> <p>These include the Solicitors Disciplinary Tribunal, and, where applicable, solicitors’ regulatory bodies in other jurisdictions such as in England and Wales, Scotland and Northern Ireland.</p> <p>These could also include the relevant regulatory bodies for any partners, principals or employees that are, or were previously, in another profession.</p>
<b>Q4(i)(a) &amp; (b)</b>	These questions deal with whether your firm has been the subject of an investigation that has resulted in any adverse findings, by the Law Society, the Solicitors Disciplinary Tribunal or any other recognised body and if your firm has received any inspection visits from the Law Society Regulation Department. If the answer to either of these questions is yes,

	<p>you are required to provide details and reports where applicable. These questions are not subject to any time limit.</p> <p>Recognised bodies include solicitors' regulatory bodies in other jurisdictions such as in England and Wales, Scotland and Northern Ireland.</p> <p>If you are unable to obtain some reports, an explanation as to why these reports cannot be obtained should be provided (such as the existence of a document retention policy where documents are destroyed after a certain length of time).</p> <p>If your reports are not favourable, you should provide confirmation of the procedures now in place to ensure that henceforth such findings will not reoccur.</p> <p>You must redact/obscure or delete any information in any reports provided which may breach legal privilege and client confidentiality.</p>
<b>Q4(f)</b>	<p>This question deals with whether there has been a material change in the firm in the last 3 years including, but not limited to, legal entity, nature of work or location.</p> <p>Change of legal entity includes a partnership being dissolved or a new partnership being created.</p>
<b>Q4(g)</b>	<p>This question deals with whether you expect there to be any significant changes to or in your firm in the coming year. This would include a situation where a firm is changing their work type and/or branching out into a new area of legal service.</p>
<b>Q7 – Nature of work</b>	<p>This question deals with “no foal, no fee” arrangements. It should be noted that these arrangements are not prohibited. This question is included as these types of arrangements have been in some cases a source of claims in the past. Solicitors should ensure that they comply fully with Section 68 of the Solicitors (Amendment) Act 1994 in these cases.</p>
<b>Q10(b)(x)</b>	<p>This question deals with whether your firm has received any requests for conveyancing files or information from conveyancing files over the last 24 months from a lender or a lender's representative, other than in accordance with normal business. If the answer is yes, you should confirm how many requests your firm has received, whether you reported such requests to your insurer and whether any potential notifications made by you have been declined by your insurer.</p>
<b>Q10(g)</b>	<p>This question refers to the Law Society Guidelines for issuing of undertakings. These guidelines can be found in Section 6.5 (pages 34-36) of the Society's “Guide to professional conduct of solicitors in Ireland” (2<sup>nd</sup> edition), the practice note “Notice to all practising solicitors – undertakings” published on page 48 of the March 2011 edition of the Law Society Gazette and the Commercial Mortgage Lending, Law Society Approved Forms (2010 edition).</p>
<b>Q11(i)</b>	<p>This question deals with whether the practice has complied with all its obligations under the Solicitors Accounts Regulations. The relevant regulations can be found on the Society's website at <a href="http://www.lawsociety.ie/Pages/About-Us/The-Organisation/">http://www.lawsociety.ie/Pages/About-Us/The-Organisation/</a>.</p>



**Law Society of Ireland**

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## Appendix 2

Practice note: Professional indemnity insurance  
common proposal form

### Practice notes: Professional indemnity insurance common proposal form

Following on the successful introduction of the common proposal form in the current indemnity period, the Society has released the common proposal form for the 2012/2013 indemnity period. This form is available to download from the Society's website at <http://www.lawsociety.ie/Pages/PII/> under the 2012/2013 renewal resources section. The form will also be circulated by insurers, directly or through brokers.

This common proposal form will ensure that each firm will have to complete only one proposal form at the next renewal, thereby simplifying the renewal process for the profession and making it easier for firms to obtain multiple quotes.

Guidelines for the common proposal form, including guidance for specific areas of the form, can be found on the Society's website.

#### Points to note

1. Ultimately, you are responsible for obtaining PII before the renewal date.
2. Your proposal form should be submitted early, be completed fully and correctly, have all required documentation attached and be clear, accurate, well-presented and comprehensive. Try to avoid submitting hand written proposal forms.
3. Firms are not required to provide certificates of good standing with the common proposal form and insurers did not seek to have a requirement to provide this certificate included in the common proposal form. Please note that the fee for obtaining a certificate of good standing from the Society within 10 working days is €100, to be paid in advance of the certificate issuing. Certificates of good standing issued later than 10 working days are free of charge.
4. Answer all questions – if you are unsure of any question, answer what you think the insurer is looking for and provide additional information to clarify. Check and recheck the form to ensure that all questions have been answered correctly.
5. Check that all additional documentation has been attached to the form and is correctly cross-referenced.
6. Make sure that the figures add up. For example, ensure that gross fee income figures add up to 100%.
7. The insurer must accept a fully completed proposal form as a duly completed application for a policy and must not require the firm to complete or submit any other proposal form or application for a policy.
8. An insurer cannot require a firm seeking a policy to provide it with supplemental information until such time as the insurer has received and reviewed a proposal form fully completed by that firm.
9. The insurer can only request a firm to provide it with supplemental information where the insurer reasonably requires such information in order to decide whether to insure the firm. In this case, the insurer must make a statement to that effect and request that the firm provide such supplemental information within a reasonable timescale.
10. It is proper practice for firms to notify insurers of claims or circumstances arising during the year as they arise, not at the end of the indemnity period. Notifying all claims and circumstances at the end of the indemnity period is referred to as “laundry listing” by insurers and is not looked on favourably.
11. Firms must notify their current insurer of all claims and circumstances before the end of the indemnity period.
12. The common proposal form is an application for normal PII, not for run-off cover. Firms should contact the Special Purpose Fund Manager, Capita Commercial Insurance Services with regard to

obtaining run-off cover through the Run-off Fund. The Special Purpose Fund Manager can be contacted by phone on 0044-207-397-4539 or email [spf@capita.co.uk](mailto:spf@capita.co.uk) . More information on the Run-off Fund can be found on the Society's website at <http://www.lawsociety.ie/Pages/PII/Run-off-Cover/>.

13. Claims information must be provided by your current insurer and be attached to the common proposal form. If you have a poor claims history, provide the insurer with further information on how the claim arose and what procedures are now in place to ensure that henceforth, as far as possible, such claims will not arise. Failure to provide a claims history, or provision of an incomplete claims history may indicate to insurers that something is being hidden. Claims information is used by insurers to compare your previous loss experience against improvements to risk management you may have implemented or changes you may have made to your work type activities.
14. Firms should ensure to redact any information in any documentation provided to insurers which may breach legal privilege or client confidentiality.
15. The risk management section of the common proposal form has been greatly expanded, compared with forms previous to the introduction of the common proposal form. Insurers are focusing on risk management and it would be to the benefit of firms to demonstrate to insurers that they have robust risk management procedures in place.
16. Ensure that the form is signed and dated, otherwise the proposal form is invalid.
17. With regard to Yes/No questions in the form, where the answer is some variation of yes or no, expanded answers should be provided on such questions in the covering letter submitted with the form.



**Law Society of Ireland**

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## Appendix 3

Practice note:  
Professional indemnity insurance renewal

## Practice note: Professional indemnity insurance renewal

### Renewal date

The mandatory professional indemnity insurance (“PII”) renewal date is **1<sup>st</sup> December 2012**. This date is not negotiable. All cover under the current indemnity period will expire on 30<sup>th</sup> November 2012.

### Confirmation of cover

The PII regulations for the 2012/2013 renewal period have been amended to reduce the period for confirmation to the Society of PII cover from 10 working days to 3 working days. Therefore, confirmation of cover in the designated form must be provided to the Society on or before **6<sup>th</sup> December 2012**.

### Guide to Renewal

The Guide to Renewal for the 2012/2013 indemnity period is being published on the Society’s website to assist the profession with renewal. The guide includes information such as tips for renewal, important points to note and a guide to insurers and brokers. This guide will be updated frequently with new information received by the Society, in particular with regard to what insurers will be in the market in the next indemnity period.

### 2012/2013 Renewal Resources

Renewal resources for the 2012/2013 indemnity period are available to download from the Society website at <http://www.lawsociety.ie/Pages/PII/> and currently includes:

1. common proposal form;
2. list of brokers;
3. list of insurers; and
4. Qualified Insurers Agreement.

This area will be updated frequently as more documentation becomes available.

### Disclosure of financial rating by qualified insurers

Financial ratings are obtained by insurers following assessment of their financial strength through an independent process by a rating agency. While a financial rating is an indication of the financial strength of an insurer, it does not guarantee an insurer’s financial solvency.

Qualified insurers are required to disclose their financial rating, or absence thereof, to firms when issuing quotations. This requirement was introduced in the 2011/2012 indemnity period, and remains in place for the 2012/2013 indemnity period in order to:

1. allow firms to make a more fully informed decision on their choice of insurer;
2. ensure full transparency for the profession in relation to qualified insurers meeting, or not meeting, generally accepted standards of financial strength; and
3. do so in a way that will not restrict firms’ choice of insurer.

It should be noted that all qualified insurers in the market are permitted to write insurance in this jurisdiction under the supervision of the Central Bank. The Society is not responsible for policing the financial stability of any insurer. The Society does not vet, approve or regulate insurers.

### Notification of claims by 30<sup>th</sup> November 2012

All claims made against solicitors’ firms and circumstances that may give rise to such a claim should be notified to the firm’s insurer as soon as possible. In particular, claims made between 1<sup>st</sup> December 2011 and 30<sup>th</sup> November 2012 (both dates inclusive) should be notified by the firm to their insurer by 30<sup>th</sup> November 2012.

The minimum terms and conditions for PII were amended in the Solicitors Acts 1954 to 2008 (Professional Indemnity Insurance) Regulations 2011 (S.I. No.409 of 2011) to permit firms to report claims or circumstances of which they are aware prior to expiry of cover to their insurer within 3 working days immediately following the end of the coverage period. Therefore, a 3 working day grace period from 30<sup>th</sup> November 2012 is in place with regard to notification of claims and circumstances to your insurer.

### **Improvements to the renewal process**

For the 2012/2013 indemnity period, insurers are required to leave quotes to firms open for a period of not less than 10 working days, an increase from 5 working days for the 2011/2012 indemnity period.

### **Run-off Fund**

The Run-off Fund provides run-off cover for firms ceasing practice:

1. who have renewed their PII for the current indemnity period; and
2. subject to meeting eligibility criteria, including that there is no succeeding practice in respect of the firm.

Any firm intending to cease practice after 30<sup>th</sup> November 2012 is required to renew cover for the 2012/2013 indemnity period. Further information on run-off cover can be found on the Society's website at <http://www.lawsociety.ie/Pages/PII/Run-off-Cover/>.

### **PII helpline**

The Society continues to operate the PII Helpline to assist firms in dealing with PII queries. The PII Helpline is open Monday to Friday from 10am to 4pm and can be contacted by phoning 01 879 8790 or emailing [piihelpline@lawsociety.ie](mailto:piihelpline@lawsociety.ie)



**Law Society of Ireland**

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## Appendix 4

### List of brokers

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**List of brokers for 2012/2013 indemnity period**


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The following brokers have expressed their willingness to arrange professional indemnity insurance cover from the listing of qualified insurers. Cover may also be arranged by any other broker of your choice.

Certain insurers may have exclusive arrangements with certain brokers.

The Society advises you to ensure that the broker providing cover is registered with either the Irish Brokers Association, 87 Merrion Square, Dublin 2 or the Insurance Intermediary Compliance Bureau, 39 Molesworth Street, Dublin 2.

The Society accepts no legal responsibility for any information contained herein or for any transaction which you may have with a broker, when obtaining professional indemnity insurance.

<b>Broker</b>	<b>Address</b>	<b>Contact information</b>
Aitken & Company (Insurances) Limited	T/As Aiken Underwriting Agencies, AUA Unit 7B The Anchorage Charlotte Quay Dublin 4	Tel:(01) 667 2644  Fax: (01) 667 2699  Email: <a href="mailto:william.irwin@aikenco.ie">william.irwin@aikenco.ie</a> <a href="mailto:patrick.aiken@aikenco.ie">patrick.aiken@aikenco.ie</a> <a href="mailto:james.mccreanor@aikenco.ie">james.mccreanor@aikenco.ie</a>
Aon	Metropolitan Building James Joyce Street Dublin 1	Tel: (01) 266 6000  Fax: (01) 266 6620  Website: <a href="http://www.aon.ie">www.aon.ie</a>
Arachas	The Courtyard Carmanhall Road Sandyford Business Estate Dublin 18	Tel: (01) 213 5000  Fax: (01) 213 5001  Email: <a href="mailto:bruce.low@arachas.ie">bruce.low@arachas.ie</a>  Web: <a href="http://www.arachas.ie">www.arachas.ie</a>
Arthur J Gallagher International	38-39 Pembroke Hall Fitzwilliam Square West Dublin 2	Tel: (01) 234 3100  Website: <a href="http://www.ajginternational.com/irelandpi">www.ajginternational.com/irelandpi</a>
CFM Group	47 Haddington Road Dublin 4	Tel: (01) 660 6900  Fax: (01) 660 6930  Mobile: (086) 816 9390  Email: <a href="mailto:tbrown@cfmgroup.ie">tbrown@cfmgroup.ie</a>

Compass Insurance Brokers Ltd	14 Pembroke Street Lower Dublin 2	Contact name: Mr John Mollohan Tel: (01) 901 7222 Mobile: (087) 145 6666 Email: <a href="mailto:john@compassinsurance.ie">john@compassinsurance.ie</a>
Crotty Insurance Brokers Limited	Getcover House 6 Leopardstown Office Park Burtonhall Sandyford Dublin 18	Tel: (01) 290 8800 Fax: (01) 290 8835 Email: <a href="mailto:solicitors@crottygroup.ie">solicitors@crottygroup.ie</a>
First Ireland Risk Management	First Ireland House 15 Parkgate Street Dublin 8	Tel: (01) 410 4903 Fax: (01) 881 6999 Email: <a href="mailto:solicitors@firstireland.ie">solicitors@firstireland.ie</a>
Glennon Insurance Brokers and Consultants	Charlemont House Charlemont Place Dublin 2	Tel: (01) 707 5800 Fax: (01) 707 5900 Email: <a href="mailto:mbrennan@glenbons.ie">mbrennan@glenbons.ie</a> Website: <a href="http://www.glenbons.ie">www.glenbons.ie</a>
Hooper Dolan Insurances Limited	31 The Mall Waterford <i>and branch offices throughout Ireland</i>	Tel: (051) 860 600
JLT Insurance Brokers Ireland Limited	Warrington House Mount Street Crescent Dublin 2	Tel: (01) 660 9703
Kelleher Insurance	12 Trinity Street Drogheda Co Louth	Tel: (041) 987 3785 Email: <a href="mailto:solicitors@kellehers.ie">solicitors@kellehers.ie</a>
Lennon Earley Crotty Insurances Ltd	8/9 Marino Mart Fairview Dublin 3	Tel: (01) 833 0056 Fax: (01) 526 1059 Email: <a href="mailto:solicitors@lecinsurance.ie">solicitors@lecinsurance.ie</a> Website: <a href="http://www.lecinsurance.ie">www.lecinsurance.ie</a>
Lockton Companies LLP	Millennium House 55 Great Strand Street Dublin 1	Tel: (01) 858 5200 Fax: (01) 858 5226 Email: <a href="mailto:solicitors@ie.lockton.com">solicitors@ie.lockton.com</a>

Marsh Ireland Ltd	25-28 Adelaide Road Dublin 2	Tel: (01) 604 8100 Fax: (01) 661 1620
McGivern Flynn & Co Ltd	36 Lad Lane Dublin 2	Tel: (01) 632 1321 Contacts: Stephen Patterson (01) 632 1313 <a href="mailto:stephen@mcgivernflynn.com">stephen@mcgivernflynn.com</a> Eimear Lane (01) 632 1314 <a href="mailto:eimear@mcgivernflynn.com">eimear@mcgivernflynn.com</a> Mark Duggan (01) 632 1319 <a href="mailto:mark@mcgivernflynn.com">mark@mcgivernflynn.com</a> Declan Andrews (01) 632 1312 <a href="mailto:declan@mcgivernflynn.com">declan@mcgivernflynn.com</a>
Murphy & Sheehy Insurances Limited	Beechgrove House Strand Street Tralee Co Kerry	Tel: (066) 712 3099 Fax: (066) 712 3304 Website: <a href="http://www.premiercs.ie">www.premiercs.ie</a>
Murray & Spelman Ltd	G.F.S.C. Tuam Road Galway  Hawthorn Cottage Celbridge Co Kildare	Tel: (091) 75 9500 Fax: (091) 75 9555  Tel: (01) 628 8666 Fax: (01) 628 8108 Email: <a href="mailto:insurances@murrayspelman.ie">insurances@murrayspelman.ie</a>
O'Leary Prime	Lough Mahon House Blackrock Cork  155 Fenchurch Street London EC3M 6AL	Tel: (021) 453 6800 Fax: (021) 453 6801 Email: <a href="mailto:solicitors@oli.ie">solicitors@oli.ie</a> Website: <a href="http://www.olearyinsurances.ie">www.olearyinsurances.ie</a>  Tel: (0044) 207 173 2100 Fax: (0044) 207 173 2101 Email: <a href="mailto:solicitors@primeprofessions.co.uk">solicitors@primeprofessions.co.uk</a> Website: <a href="http://www.primprofessions.co.uk">www.primprofessions.co.uk</a>
Robertson Low Insurances Ltd	10/11 The Courtyard Kilcarbery Park Nangor Road Dublin 22	Tel: (01) 461 1500 Website: <a href="http://www.robertsonlow.ie">www.robertsonlow.ie</a> Email: <a href="mailto:postmaster@robertsonlow.ie">postmaster@robertsonlow.ie</a>

Willis	Grand Mill Quay Barrow Street Dublin 4	Tel: (01) 661 6211 Fax: (01) 661 4369 Website: <a href="http://www.willis.com/ireland">www.willis.com/ireland</a>
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The text of the “confirmation of cover” for brokers to the Society is available on the Society’s website.