SRA BOARD
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CLASSIFICATION – PUBLIC

Solicitors Regulation Authority

A brief summary of the changing PII market

The hardening PII insurance market

1 Our discussions with insurers and brokers indicate that the market has hardened and contracted significantly since 2016, and particularly over the last 18-months. We highlighted this development in our PII reform post-consultation decision document published in December 2019[1].

2 The hardening and contracting of the market precedes the Covid-19 outbreak. Insurers and brokers have told us that there are a number of drivers for the hardening market. These include:

a. A changing claims profile including a rise in claims and a rise in higher value claims
b. Increased claims in other areas of the insurer's business impacting on their capacity to offer PII
c. Poor investment returns from money received from premiums
d. Some features of our insurance requirements being unattractive to insurers, in particular the requirement that insurers must cover closing firms for six years run off even when they do not pay their premium

3 It should be noted that although some of the features above are unique to the legal sector, the hardening and contracting of the professional indemnity insurance market is cross-sector.

4 We have seen some insurers pulling out of the PII market completely. This includes two in the last year, leaving 180 firms looking for a new insurer.

5 Insurers and brokers that remain in the market have reported a trend of having less capacity and a reduced risk appetite. This means that they are playing safer about who they choose to insure and on what terms. Insurers are generally demanding a higher level of due diligence about the risks that a firm presents and how they are managing those risks, including in relation to cyber-security, before renewing existing policies or offering new business.

6 Premiums have generally increased in the October 2019 and April 2020 renewal rounds. There are no definitive figures available yet, but some insurers and brokers are reporting average increases of around 15 – 20% for the minimum level of cover required by our minimum terms and conditions. And higher rate rises for any additional cover beyond that required by our Minimum Terms and Conditions (MTCs)[2].

7 This is not a uniform position and may depend to some degree on the perception and actuarial modelling of risk, as well as on the quality of application submitted. Some

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[1] https://www.sra.org.uk/globalassets/documents/sra/consultations/pii-post-consultation-position.pdf?version=4b0e0d
[2] See for example the broker Lockton's renewal report: https://www.legalfutures.co.uk/blog/reflecting-on-the-spring-pii-renewal-season

firms managed to maintain cover at a similar cost in the October and April renewal rounds.

8 We have received reports that some firms are struggling to find insurance at all. This may include higher risk firms and firms whose previous insurer has left the market. With reduced capacity, some insurers are concentrating on existing clients. And it can be more difficult for them to get complete risk information when the previous insurer is no longer in the market, which provides a further disincentive.

9 However, whilst difficult for some, only around 20 firms have informed us that they were unable to secure insurance in the April 2020 renewal round, the second biggest renewal point in the year.

10 The SRA and the Law Society have both put out guidance to assist firms to prepare for renewal with a view to them getting the best possible deal. This includes, for example, starting early, using multiple brokers and providing full information including around their risk management processes.

The impact of Covid-19

11 As set out above, the market was hardening and contracting before the Covid-19 pandemic. However, insurers and brokers are reporting that the pandemic is impacting the PII market.

12 Insurers are expecting that they will receive increased claims across their business resulting from Covid-19, such as for business interruption. This may further reduce capacity within the insurers' books, including for PII.

13 The historical pattern is an increase in professional liability claims after every economic downturn. This is beginning to feed into insurers' risk appetite and pricing. Insurers are also concerned about new risks arising, for example from increased remote working on IT security and the supervision of work. Some insurers are beginning to include additional questions on applications about how firms are managing Covid-19 related risks

14 Insurers have reported that they are concerned too about the financial viability of firms in the current economic environment. This includes the ability of firms to pay their premiums, and also, any excess on their policies. Under their agreement with us, insurers remain liable even when the firm is unable to meet its financial obligation to the insurer.

15 There have been specific practical issues from Covid-19 preventing some firms from renewing their insurance in good time e.g. delay in processing a government loan or a partner is ill and unable to access the necessary information to make an application. We have taken steps to help in the short-term by introducing greater flexibility for insurers and firms to agree a temporary extension, than has traditionally been allowed by our rules.