

The Growing Liability of Every Financial Services Provider

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The headline to this article is deliberately provocative. But, it is also a fact of life. The important question is what can an FSP do about it?

Since Sept 2004, we have seen ever-increasing pressure to regulate the financial services sector. The purpose of this article is not to reinforce the importance of compliance (that's something we all read about on a regular basis), but rather to highlight the increasing liability every FSP faces as it either grows or expands via acquisitions.

FSPs don't always fully appreciate the importance of Professional Indemnity Insurance in today's market. Some are of the opinion that, because PI cover is mandatory, they need only purchase the minimum statutory limit of R1million, irrespective of what their potential exposure could be.

A proper professional indemnity policy has become a most valuable asset in one's practice, as it is increasingly the difference between staying in business or going into liquidation should an order against the business's assets be granted by the courts.

As legislation and compliance requirements constantly evolve, the market has been marked by an increase in PI claims. This trend has been further accelerated by economic conditions and client education.

The market has also seen increasing excess structures for PI implemented by insurers. In recent years, excesses have grown significantly, R150 000 is now commonplace, and up to R500 000 is not uncommon. Not many FSPs carry that level of liquidity and this can lead to further complications.

The Excess Solution:

IBG Underwriting Managers have, on behalf of Renasa Insurance Company, developed an excess waiver for PI cover. This policy works on a trigger basis. This means that as long as the underlying PI policy responds to a claim, the underwriter will pay the excess as stated on the IBG schedule selected by the FSP at inception. **No further inner excess will apply.**

Should a claim fall within the excess of the underlying PI policy, IBG will consider the claim as long as there was a ruling from any statutory Ombud or any competent Civil Court within the Republic of South Africa. Currently, the limit of indemnity is based on an excess of R10 000, and the product provides cover for an excess up to a maximum of R350 000. Rates are calculated on a per representative practicing professional basis.