

**Survey addressed to IRSG to support
the review of the minimum amounts of
professional indemnity insurance (PII)
and financial capacity of the IDD**

Introduction to this survey

Holding the required level of PII is a key prudential and consumer protection safeguard. PII is a form of liability insurance that covers the cost of compensating customers for claims, legal fees or subsequent legal remedies, arising from loss or damage from negligent services provided by a business or an individual. One of the main sources of PII claims in court decisions relate to the obligations on insurance intermediaries in respect of providing information and giving advice.

IMD and IDD foresee minimum amounts of PII cover to be held by insurance and reinsurance intermediaries.¹ Since the IDD is aimed at minimum harmonisation and should not preclude Member States from introducing more stringent provisions in order to protect consumers, the limits stated in the IDD are a minimum standard which can be adjusted by individual Member States when the stated limits are insufficient in view of the amount of compensation for losses caused by the insurance intermediary that can be claimed in the respective Member State.

EIOPA is required under Article 10(7) of the IDD to regularly review the minimum amounts of PII cover and financial capacity to take account of changes in the European index of consumer prices as published by Eurostat. The next review is due to take place by 31 December 2022. The purpose of these survey questions is to support this review process.

EIOPA would ask the IRSG to revert the survey below reflecting the views of the IRSG as a whole **by 10 July 2022**. EIOPA is aware that some of the information requested in the survey may not be readily available. In this case, EIOPA would appreciate if IRSG could provide their input on a best effort basis or provide relevant estimations.

¹ Current minimum PII levels: €1.3m/per claim and in aggregate €1.9m/ per year all claims

Survey questions

Current market situation

1. What is your experience with the provision of professional indemnity insurance cover for insurance intermediaries to date? Are you aware of any current issues or problems related to a hardening of national markets/lack of capacity i.e. any challenges for insurance intermediaries to obtain professional indemnity insurance cover and the causes of it?

Based upon first anecdotal survey, it seems that most EU member countries are not experiencing problems regarding PII availability or its cost. More study is necessary. Having said this, out of those where we have obtained information, there are two, Ireland and Lithuania, particularly the former, where intermediaries are suffering material difficulties to obtain/maintain PII cover, due to reduced availability or associated costs. It is also important to note that this situation might also be taking place in other member countries where we lack information.

The causes of this situation are mostly due to claims (actual or expected) related to COVID-19 coverage. This effect has been compounded by hard market conditions strongly distressing several other insurance lines (D&O, GL, Property, etc.)

2. Are you aware of COVID-19 having any impact on the availability/cost of professional indemnity insurance for insurance intermediaries and, if so, what?

Yes, as stated above, intermediaries in some specific countries are experiencing problems due to reduced coverage availability and in general, it has been observed a reduction in capacity.

Also relevant to note that due to COVID-19, many/most PII policies at renewal began to include very wide exclusions concerning pandemic or transmissible viruses/diseases, etc., hence reducing intermediaries' protection. This could end up producing further material impact because most policies provide "Claims made" cover and (in some markets) new COVID-19 related cases continue to be filed at Courts.

Potential market impact of the estimated increase in the minimum amounts of PII cover

3. EIOPA has calculated that the relative change of the European index of consumers prices is 9.04% over the period between 1 January 2018 and 31 December 2021. Taking into account that inflation is set to average 5.1% in 2022, we may see an increase of the minimum amounts for PII and financial capacity of insurance intermediaries by around 14-15%. This would mean, in practice, the PII minimum levels would increase to €1.5m / per claim (+€0.2m compared to today) and in aggregate to €2.2m / per year (+€0.3m compared to today). The minimum financial capacity would increase to €22,270 (+€2,760 compared to today):

To what extent do you think that such a high increase of the PII minimum levels will result in an increase in premiums to be paid? What factors other than inflation might drive up premiums for PII cover? Assuming that the increase of the PII minimum levels would lead to a significant increase in premiums, do you expect this to have an adverse impact on small and medium-sized insurance intermediaries, in particular the potential for some smaller intermediaries exiting the market?

It seems that the potential increase in PII limits would not have a material effect in terms of cover availability/cost for intermediaries in most countries, however, there are other difficult to gauge market factors (such as loss ratios, general PI availability, insurance and reinsurance market conditions, etc.), which might also increase premiums or deductibles or reduce coverage availability.

Having said this, it is very important to bear in mind that some (probably few) countries are already experiencing problems and the projected increase would further aggravate the current situation, hence (possibly) producing the exit of smaller intermediaries.

Another matter to perhaps take in consideration is that PII limits seem to have adapted to each country specificity, to take in consideration the particularities and level of potential claims. Accordingly, in many cases this has (voluntarily) translated into limits higher than those currently imposed by the IDD.

4. Do you have any data on claims levels in your market in relation to PII policies that you could provide? To what extent do the current claims levels in your market reach the minimum PII amounts currently stipulated under the IDD?

The information that we have obtained regarding Austria, Belgium, France, Germany, Ireland, Italy, Lithuania, Netherlands and Spain indicates that most of the claims are well below the current PII limits and peak claims only happen seldom. Please see attached information.