

Client Advisory

Regulation of Financial Advice

From 15 March 2021 a new regulatory regime for financial advice will come into force. The legislation which is enacted at this date is the Financial Services Legislation Amendment Act (FSLAA) where all requirements of the new regime will apply.

This new legislation is a significant shift from the current environment where individual financial advisers are licensed to provide regulated financial advice to an environment where Financial Advice Providers (FAPs) are issued a licence by the Financial Markets Authority (FMA).

From the start of the new regime anyone who provides advice to retail clients must hold a Financial Advice Provider licence or provide regulated financial advice under another Financial Advice Provider licence.

FAPs will be held responsible for their own conduct as well as the conduct of their engaged financial advisers, nominated representatives and authorised bodies under their licence.

It is our recommendation that both FAP and individual advisers carry Professional Indemnity insurance providing



cover against a breach of their own professional duties, and also breaches of those engaged under their licence.

Currently the consultation on the proposed full licencing conditions for FAPs contains a condition whereby they must:

“have and maintain a level and scope of professional indemnity insurance that is adequate and appropriate for the provision of your financial advice service to retail clients in New Zealand”

How Marsh can help you get ready

Subsequent to the renewal of the Financial Advice New Zealand Adviser Liability Programme we have worked with the insurer to provide coverage for FAPs.

We are excited to launch an offering to FAPs to join the Financial Advice New Zealand Programme and have negotiated for FAPs to have access to the Financial Advice New Zealand programme with specific amendments to the policy wordings of the programme to ensure that the professional duties undertaken by FAPs are covered.

Professional Indemnity is a hardening market and we are pleased to offer you a programme which is comprehensive and meets the needs of both FAPs and Financial Advisers.

The inclusion of coverage for FAPs under the Programme has led us to reconsider the appropriateness of the aggregate level of capacity and we have negotiated an immediate increase to an aggregate of all claims under the Professional Indemnity policy of the Programme from \$30,000,000 to \$40,000,000.

What cover will the FAP have?

The insurance programme will follow the same structure as what is offered to the members, with the FAP professional indemnity limit being selected by the FAP, with additional liability covers to provide the same comprehensive programme in line with that of the Adviser offering.

The features of the programme are:

- Individual advisers with their own FAPs will share their selected limit of indemnity with the FAP at no additional premium. If you are a sole operator the Policy for you as a Financial Adviser is automatically extended to cover your own FAP.
- FAPs with two or more advisers can purchase a FAP insurance programme that extends cover to the financial advisers licensed to provide financial advice under the FAP.
- Terms available for FAPs with greater than 12 advisers are available on application (FAPs with more than 12 advisers are referred to NZI for individual underwriting).

Changes to your policy?

If you are already obtaining Liability Insurance from the current scheme you will note that the aggregate Limit of Liability under the programme has now increased. The inclusion of coverage for FAPs has led us to reconsider the aggregate level of capacity and we have negotiated an immediate increase to \$40,000,000.

FAP BASE PACKAGE		
Policy	Limit of Indemnity (per FAP unless otherwise stated)	Excess
Professional Indemnity	Option 1: \$1,000,000 (\$2m in agg) Option 2: \$3,000,000 (\$6m in agg) Option 3: \$5,000,000 (\$10m in agg) Option 4: \$10,000,000 (\$20m in agg)	\$2,500 unless otherwise stated (costs inclusive)
Public Liability	\$5,000,000 any one occurrence	\$Nil
Statutory Liability	\$1,000,000 in aggregate	\$Nil/\$5,000 for Financial Advisers Endorsement
Employers Liability	\$1,000,000 in aggregate	\$Nil
Directors & Officers Liability	\$1,000,000 any one claim (\$12,500,000 for all Insured entities combined with Trustees Liability)	\$1,000
Legal Prosecution Defence	\$100,000 any one claim (\$1,000,000 all Insureds)	\$1,000

Below is an example of the premium for a FAP with five advisors:

FAP BASE PACKAGE				
No. of Advisors	Option 1: \$1,000,000	Option 2: \$3,000,000	Option 3: \$5,000,000	Option 4: \$10,000,000
5	\$386.40	\$706.10	\$817.65	\$1,117.80

Note: The above are monthly premiums and include the Financial Advice New Zealand administration fee of \$10 plus GST.

Additional options to increase the limits of indemnity of the Statutory Liability policy and the Anti-Money Laundering & Counter Financing of Terrorism (AML/CFT) extension limit are available to FAPs. Below is an example of the additional premium payable to increase the limits:

\$2,000,000 Statutory Liability		\$1,000,000 AML/CFT Sublimit	
No. of Advisors	Monthly Premium	No. of Advisors	Monthly Premium
5	\$100.05	5	\$37.95

To discuss how you as an adviser and how your Financial Advice Provider can put appropriate cover in place with the Financial Adviser New Zealand Programme please call our team at Marsh to discuss.

MARIJKE VON MOLENDORFF
Client Executive & Wellington
Corporate Leader – FINPRO
DDI: +64 4 819 2442
Mob: +64 21 689 843
marijke.vonmolendorff@marsh.com

AISSA SIGNAL
Client Advisor
FINPRO Speciality
DDI: +64 4 819 2414
Mob: +64 21 580 831
aissa.signal@marsh.com

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