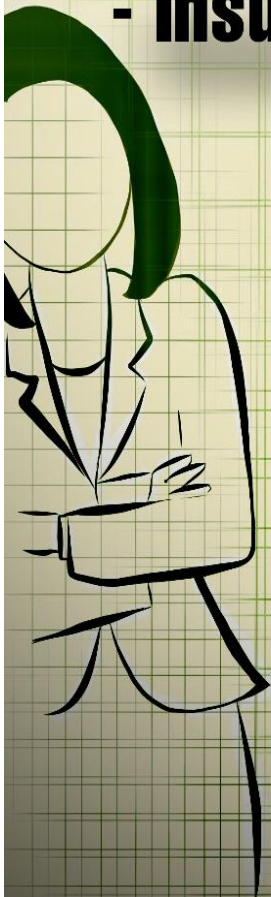




**Report of the
Committee for
Standardization
of Professional Indemnity
Insurance Policy
- Insurance Intermediaries**



*Cover page credits: Mr. Sagar Bangal, Assistant Manager, Non-life Department,
IRDAI*

LETTER OF TRANSMITTAL

19th October, 2020

Ms. T.L. Alamelu

Member (Non-life)

Insurance Regulatory and Development Authority of India

Hyderabad

Respected Madam,

In terms of the Order Ref. IRDA/INT/ORD/MISC/103/05/2020 dated 4th May, 2020 constituting the '**Committee for standardization of Professional Indemnity Insurance Policy—Insurance Intermediaries**', I, on behalf of the entire Committee, am pleased to submit the report containing our recommendations on the subject.

We thank you very much for the opportunity given to us to work on this important requirement of the Intermediaries. We would also like to thank you for the extension of time granted to submit our report and recommendations. The pandemic situation and developments associated with it threw quite a few things out of gear in terms of the plans and timelines we had set for ourselves to complete the task assigned to us.

Thanking you,

Yours faithfully,

(YEGNAPRIYA BHARATH)
CHIEF GENERAL MANAGER (NON-LIFE)

**REPORT OF THE COMMITTEE ON STANDARDIZATION OF PROFESSIONAL
INDEMNITY INSURANCE POLICY -- INSURANCE INTERMEDIARIES**

COMMITTEE MEMBERS

1. **MRS. YEGNAPRIYA BHARATH, CGM (NON-LIFE), IRDAI, CHAIR**
2. **MR. UMESH RATHOD, MANAGER, THE NEW INDIA ASSURANCE COMPANY LIMITED, MEMBER**
3. **MRS. KASTURI SENGUPTA, CHIEF MANAGER, NATIONAL INSURANCE COMPANY LIMITED, MEMBER**
4. **MRS. SURBHI GOEL, HEAD, REINSURANCE AND LIABILITY UNDERWRITING, HDFC ERGO GI CO. LTD, MEMBER**
5. **MR. NAJM B, HEAD, FINANCIAL LINES, TATA AIG GENERAL INSURANCE CO LTD**
6. **MR. SASIDHAR KATARI, ASSISTANT, IRDAI, CONVENER**

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ACKNOWLEDGEMENTS

I gratefully acknowledge the contribution of each and every member of the Committee for the inputs that have gone into the making of this report and the recommendations contained herein, by bringing in their professional expertise and experience.

I thank Chairman, IRDAI and Member (Non-life), IRDAI for giving me and the rest of the members of the Committee the opportunity to work on the important aspect of developing a standard professional indemnity cover for Intermediaries, which clearly is the need of the hour. I acknowledge the inputs provided by Mr. Randip Singh Jagpal, CGM (Intermediaries), IRDAI on the current issues relating to compliance of the regulatory requirements of the PI cover, which gave the Committee a perspective of what needs to be done, and I thank him for it.

I cannot thank Mr. Sashidhar Katari, PS to Member (Non-life) enough for his support with regard to conduct of the meetings and his assistance in giving the report its final shape. I must make a special mention of Mr. Sagar Bangal, AM, who is the creative mind of Non-life Department! Thank you Sagar for the cover page.

EXECUTIVE SUMMARY

1. The introductory chapter explains the concept of Professional Indemnity insurance and the coverage offered under such policies. The need for the cover, the regulatory requirements regarding it and most importantly the need for a standard professional indemnity policy for Brokers, Corporate Agents, Web Aggregators and Insurance Marketing Firms, covering the various contingencies and conditions spelt out in the regulations are briefly discussed under this chapter.
2. Chapter 2 sets the context to the whole exercise carried out by the Committee, by discussing the regulatory framework laid down by IRDAI for Brokers, Corporate Agents, Web Aggregators and Insurance Marketing Firms.
3. Chapter 3 covers the international scenario relating to the regulatory framework around the requirement of a professional indemnity insurance policy, of distributors of insurance. Singapore, Hong Kong, Mauritius, UAE, United Kingdom and Trinidad and Tobago are discussed here.
4. Chapter 4 makes out the case for a standard product and makes specific recommendations. Certain concerns that are currently existing are discussed here. These concerns relate to the risks that are expected to be covered as per the IRDAI regulatory requirements which are either not part of the coverage offered in the market today or are actually appearing in the list of exclusions. While some policies seek to cover some of these, the exact requirements are not covered; some others do not offer the required coverage in any manner—coverage for former employees, directors, coverage for dishonesty, fraudulent activities etc, to name a few. Further, the ratio of Any One Year: Any One Accident is not 1:1 as required. Also, the retroactive date does not cover the period commencing from the date of issuance of the Certificate of Registration for the first time. Again, different indemnity limits are given for different Retroactive dates. Policies are not renewed continuously giving rise to gaps in coverage. The excess imposed in the products is also not in line with the regulations. The chapter then goes on to discuss the solutions offered by the Committee, all of which are reflected in the Market Agreement being recommended. The Market Agreement is a detailed document covering the recommended General Rules and Regulations, suggested Rating, the Standard Proposal Form, the Standard Policy Form, the Prospectus, the claim form and recommended provisions relating to General Administration relating to Premium, Co-Insurance and Claims Processing. Apart from recommending coverage for risks that have not been covered hitherto, the standard product

recommended addresses the AOY: AOA limit. The recommendation also is that the Retroactive date would be the date of issuance of Certificate of Registration. The issue relating to different indemnity limit for different retroactive date will also not arise with this recommendation. The excess also has been revisited and the recommendation is to align it with the policy limit based on the territory of operation.

5. Chapter 5 spells out certain specific risks which are to be covered and which form part of the standard product recommended by the Working Group. The risks include coverage for defamation, fraud/dishonesty, court attendance, the need to have Extended Reporting period as an extension, coverage for lost documents etc. The chapter also suggests that certain terms need to be specifically defined —‘Breach of Duty’, ‘Claim’, ‘Damages’, ‘Documents’, ‘Employees’ and so on. The recommendations relating to coverage and definitions mentioned in this chapter are all reflected in the standard product recommended (part of the Market Agreement attached as **Appendix 1**).

6. Chapter 6 deals with other perspectives—reinsurance and the need for market cooperation which concept discusses policy issuance, premium collections and declaration and claims processing apart from standard proposal form, standard policy wordings and general administration.

ABBREVIATIONS

AED	Arab Emirates Dirham
AOA	Any One Accident
AON	AON Insurance Broker
AOY	Any One Year
CA	Corporate Agents
ETASS	Electronic Transaction Administration and Settlement System
FDI	Foreign Direct Investment
FRB	Foreign Reinsurance Branches
FSE	Financial Service Executive
GST	Goods and Services Tax
IBAI	Insurance Brokers Association of India
IMF	Insurance Marketing Firms
IRDA	Insurance Regulatory and Development Authority
ISP	Insurance Sales Person
LOI	Limits of Indemnity
MCA	Market Cooperation Agreement
PI	Professional Indemnity
RI	Reinsurance
ROW	Rest of World
UAE	United Arab Emirates
USA	United States of America
WA	Web Aggregators

CHAPTER I: INTRODUCTION

1. Professionals and professional entities may be sued by their clients for errors or negligence during the course of their professional duties. To cover such risks, one may opt for a professional indemnity policy.
2. A professional indemnity policy is a liability insurance product that protects individuals giving professional advice as well as professional entities who are service providers, against negligence claims by their clients for the errors and omissions that the professionals might make and for damages awarded in a civil lawsuit. It is a legal liability policy that covers financial loss suffered by the client/s resulting from breach of professional duty.
3. Thus, professional indemnity policies provide indemnity against losses arising due to errors or omissions on the part of professionals and professional entities including the employees and directors. Professional indemnity insurance can cover a broad range of risks. Apart from professional negligence, it can also cover unintentional breaches of confidentiality, loss of documents, loss of database etc. It also covers legal expenses incurred in defence of the civil suits filed on these aspects.
4. Professional indemnity covers, however, do not offer cover for certain instances such as claims arising out of contractual liability, liabilities arising out of terrorism, liabilities arising out of criminal acts etc.
5. Insurance Intermediaries have a professional duty to perform, in a time bound manner. They are expected to exercise reasonable skill and care in the performance of their duties. However, to err is human. Errors and omissions are bound to happen. Professional Indemnity insurance offers the right solution for all professionals including insurance intermediaries.
6. With a view to ensuring that insurance intermediaries are protected in respect of claims made against them for errors and omissions, IRDAI requires them to take professional indemnity cover. The relevant regulations stipulate the indemnity limit, coverage, excess, the retroactive date etc.
7. Vide order dated 4th May, 2020, the Authority constituted this Committee to devise a standard professional indemnity policy which would cover all the contingencies and conditions spelt out in the regulations, even while including in the Terms of Reference, any other matter relating to Professional Indemnity policy for intermediaries.
8. The Committee had 8 meetings on 6th May 2020, 12th May 2020, 29th May 2020, 22nd June 2020, 23rd July 2020, 22nd August 2020, 23rd September, 2020, 30th September 2020 and the Sub Committee had 3 meetings on 9th July 2020, 27th August 2020, and 28th September 2020. On firming up its views, the Committee met with representatives of the IBAI and representatives of Reinsurers, GIC Re and FRBs and had discussions on the proposals. The views are attached to this report.
9. The recommendations of the Committee for the standard product as well as the ***modus operandi*** for underwriting are contained in the various chapters that follow as well as the appendices to this report.

CHAPTER II: REGULATIONS IN INDIA ON PROFESSIONAL INDEMNITY POLICY FOR INTERMEDIARIES

1. Regulatory provisions

1.1 IRDAI has enunciated specific regulatory framework for each of the following types of Insurance intermediaries:

- a. Brokers
- b. Corporate Agents
- c. Web Aggregators
- d. Insurance Marketing Firms

1.2 The regulations that require a PI policy for various intermediaries are as follows:

Sr no	Type of Intermediary	Name of the Regulation	Regulation No	Specific Schedule & Form no
1	Broker (Direct, RI and Composite)	INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (Insurance Brokers) Regulations, 2018	24	Schedule II Form S
2	Corporate Agent	INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (Corporate Agents) Regulations, 2015	19	Schedule II
3	Web Aggregator	INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (Web Aggregator) Regulations, 2016	18	Schedule III Form K
4	Insurance Marketing Firm	INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (Insurance Marketing Firm) Regulations, 2015	9	Schedule X

1.3 Limits of Indemnity (LOI) for various intermediaries

Sr no	Intermediary type	Limit of Indemnity prescribed by regulation Twice the remuneration received at the end of every financial year subject to
1	Broker (Direct, RI and Composite)	<p>Direct - Minimum Rs. 1 Crore and at least Rs. 50 Crores if twice the remuneration is \geq Rs. 50 Crores</p> <p>Reinsurance - Minimum Rs. 4 Crores and at least Rs. 75 Crores if twice the remuneration is \geq Rs 75 Crores</p> <p>Composite - Minimum Rs. 5 Crores and at least Rs. 100 Crores if twice the remuneration is \geq Rs. 100 Crores</p>
2	Corporate Agent	Between Rs. 15 lacs and Rs. 100 Crores
3	Web Aggregator	Between Rs. 25 lacs and Rs 100 Crores
4	Insurance Marketing Firm	Minimum Rs 10 lacs

1.4 Regulatory provisions relating to compliance

1.4.1 Brokers

Type of Intermediary	IRDA Regulation details	Type of Regulation	Provision
Insurance/ Reinsurance Broker	Annexure – I-C INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (Insurance Brokers) Regulations, 2018 (reference Regulation 39 on Filing of Returns section 1 (c))	Certificate to be issued by Auditors of the Insurance Broker on maintenance of Professional Indemnity Insurance required under regulation 24 to be submitted half-yearly	<p>Verification and certification of the Professional Indemnity policy held by the Insurance broker</p> <p>Brokers details</p> <p>Name of the Insurance Broker:</p> <p>Certificate of Registration No.</p> <p>Category of registration:</p> <p>Validity of registration:</p> <p>Insurance co details</p>

			<p>1) Name and address of the Insurance Company;</p> <p>2) Policy No. & Date of commencement of the policy;</p> <p>3) Date of expiry of the policy;</p> <p>4) Limit of Indemnity and the total remuneration received during the year;</p> <p>5) Un-insured excess;</p> <p>6) Ratio of AOA : AOY</p> <p>7) A confirmation that the insurance broker has/has not received any intimation of claim under the policy and the same has/has not been informed to the insurance company which has issued the PI Policy in writing.</p>
Insurance/ Reinsurance broker	Regulation 24	Professional indemnity insurance	<p>(1) Every insurance broker shall take out and maintain at all times a professional indemnity insurance cover throughout the validity of the period of the Certificate of Registration issued to them by the Authority, as specified in Schedule II – Form S of these regulations: Provided that the Authority shall in appropriate cases allow a newly registered insurance broker to produce such a policy within twelve months from the date of issue of certificate of registration.</p>

1.4.1.1 SCHEDULE II – Form S [ref regulation 24 (1) as above]

Maintenance of Professional Indemnity Insurance

- (1) *The insurance cover must indemnify an insurance broker against*
- a. *any error or omission or negligence on their part or on the part of their employees and directors;*

- b. any loss of money or other property for which the insurance broker is legally liable in consequence of any financial or fraudulent act or omission;
- c. any loss of documents and costs and expenses incurred in replacing or restoring such documents;
- d. dishonest or fraudulent acts or omissions by insurance brokers' employees or former employees.

(2) *The indemnity cover —*

- a. shall be on a yearly basis for the entire period of registration;
- b. shall not contain any terms to the effect that payments of claims depend upon the insurance broker having first met the liability;
- c. shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred.

Provided that an indemnity insurance cover not fully conforming to the above requirements may be permitted by the Authority in special cases for reasons to be recorded by it in writing.

(3) *Limit of indemnity for any one claim and in the aggregate for the year in the case of insurance brokers shall be as follows:*

<i>Category of insurance broker</i>	<i>Limit of indemnity</i>
<i>(a) Direct broker</i>	<i>Two times remuneration received at the end of every financial year subject to a minimum limit of rupees one crore and atleast Rs 50 crores, if twice the remuneration limit is equal to or more than Rs 50 crores</i>
<i>(b) Reinsurance broker</i>	<i>Two times remuneration received at the end of every financial year subject to a minimum limit of rupees four crore and atleast Rs 75 crores, if twice the remuneration limit is equal to or more than Rs 75 crores.</i>
<i>(c) Composite broker</i>	<i>Two times remuneration received at the end of every financial year subject to a minimum limit of rupees five crore and atleast Rs 100 crores, if twice the remuneration limit is equal to or more than Rs 100 crores</i>

(4) *The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the insurance broker in the business.*

(5) *The AOA: AOY limit shall be 1:1*

(6) *The retroactive date shall begin from the date of grant of license/ certificate of registration.*

(7) *The insurance policy shall be obtained from any registered insurer in India who has agreed to —*

- a. *provide the insurance broker with an annual certificate containing the name and address, including the registration number of the insurance broker, the policy number,*

the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Authority;

- b. Send a duplicate certificate to the Authority at the time the certificate is issued to the insurance broker; and*
- c. Inform the broker immediately of any case of voidance, non-renewal or cancellation of cover mid-term.*

(8) Every insurance broker shall—

- a. Inform immediately the Authority should any cover be cancelled or voided or if any policy is not renewed;*
- b. Inform immediately the insurer in writing of any claim made by or against it;*
- c. Advise immediately the insurer of all circumstances or occurrences that may give rise to a claim under the policy; and*
- d. Advise the Authority as soon as an insurer has notified that it intends to decline indemnity in respect of a claim under the policy.*

1.4.2 Corporate Agents, Web Aggregators and Insurance Marketing Firms

Type of Intermediary	IRDA Regulation details	Type of Regulation	Provision
Corporate Agents	INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (REGISTRATION OF CORPORATE AGENTS) REGULATIONS, 2015 Regulation 19	Requirement of Professional Indemnity Insurance Policy	<p>(1) Every corporate agent, where the revenues from their insurance intermediation activities is more than fifty per cent of their total revenue from all the activities, shall take out and maintain at all times a professional indemnity insurance cover throughout the validity of the period of the registration granted to it by the Authority. Provided that the Authority shall in suitable cases allow a newly registered corporate agent to produce such a policy within twelve months from the date of issue of original registration.</p> <p>(2) The limit of indemnity shall be two times the total annual remuneration of the corporate agent derived from their insurance intermediation activities in a year subject to a minimum of Rupees fifteen lakhs and a maximum of Rupees one hundred crores.</p> <p>(3) The scope of cover and other terms and conditions of the Professional Indemnity Policy is specified in Schedule II of these regulations.</p>

<p>Web aggregator</p>	<p>INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (Insurance Web Aggregators) Regulations, 2017 SCHEDULE III FORM K</p> <p>[Regulation 18]</p>	<p>Professional Indemnity Insurance- Maintenance of Professional Indemnity Insurance</p>	<p>(1) The insurance cover must indemnify an Insurance Web Aggregator against</p> <ul style="list-style-type: none"> a. any error or omission or negligence on their part or on the part of their employees and directors; b. any loss of money or other property for which the insurance Web Aggregator is legally liable in consequence of any financial or fraudulent act or omission; c. any loss of documents and costs and expenses incurred in replacing or restoring such documents; d. dishonest or fraudulent acts or omissions by Insurance Web Aggregator employees or former employees. <p>(2) The indemnity cover —</p> <ul style="list-style-type: none"> a. shall be on a yearly basis for the entire period of certificate of registration; b. shall not contain any terms to the effect that payments of claims depend upon the Insurance Web Aggregator having first met the liability; c. shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred. Provided that an indemnity insurance cover not fully conforming to the above requirements shall be permitted by the Authority in special cases for reasons to be recorded by it in writing. <p>(3) Limit of indemnity for any one claim and in the aggregate for the year in the case of Insurance Web Aggregators shall be two times remuneration received at the end of every financial year subject to a minimum limit of rupees twenty-five lakhs and a maximum of rupees one hundred crores.</p> <p>(4) The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the</p>
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			<p>Insurance Web Aggregator in the business.</p> <p>(5) The insurance policy shall be obtained from any registered insurer in India who has agreed to — provide the Insurance Web Aggregator with an annual certificate containing the name and address, including the certificate of registration number of the Insurance Web Aggregator, the policy number, the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Authority.</p>
Insurance Marketing Firms	INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (REGISTRATION OF INSURANCE MARKETING FIRMS) REGULATIONS, 2015 Regulation 9 – Schedule X	Professional Indemnity Policy	<p>9.1. Every insurance marketing firm shall take out and maintain at all times a professional indemnity insurance cover throughout the validity of the period of the registration granted to it by the Authority. Provided that the Authority shall in suitable cases allow a newly registered insurance marketing firm to produce such a policy within twelve months from the date of issue of original registration and with minimum sum insured of Rs. 10 lakhs.</p> <p>9.2. The limit of indemnity shall be two times the total remuneration of the insurance marketing firm subject to a minimum of Rupees ten lakh. For the purpose of this sub regulation, the total remuneration includes remuneration from their insurance solicitation/procuring activities, insurance servicing activities and marketing of other financial products activities as specified in these regulations.</p> <p>9.3 The scope of cover and other terms and conditions of the Professional Indemnity Policy is specified at Schedule X of these regulations.</p> <p>The insurance cover must indemnify an insurance marketing firm against:</p> <p>a. any error or omission or negligence on their part or</p>

			<p>on the part of their employees and directors;</p> <ol style="list-style-type: none"> b. any loss of money or other property for which the Insurance Marketing Firm is legally liable in consequence of any financial or fraudulent act or omission; c. any loss of documents and costs and expenses incurred in replacing or restoring such documents; d. dishonest or fraudulent acts or omissions by Insurance Marketing Firms' employees or former employees. <p>2. The indemnity cover:</p> <ol style="list-style-type: none"> a. shall be on a yearly basis for the entire period of registration; b. shall not contain any terms to the effect that payments of claims depend upon the insurance marketing firm having first met the liability; c. shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred. Provided that an indemnity insurance cover not fully conforming to the above requirements shall be permitted by the Authority in special cases for reasons to be recorded by it in writing. <p>3. The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the insurance marketing firm in the business.</p> <p>4. The insurance policy shall be obtained from any registered insurer in India who has agreed to:</p> <ol style="list-style-type: none"> a. provide the Insurance Marketing Firm with an annual certificate containing the name and address, including the registration number of the Insurance Marketing Firm,
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			<p>the policy number, the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Authority;</p> <ul style="list-style-type: none"> b. send a duplicate certificate to the Authority at the time the certificate is issued to the Insurance Marketing Firm; and c. inform the Insurance Marketing Firm immediately of any case of avoidance, non-renewal or cancellation of cover mid-term. <p>5. Every insurance marketing firm shall—</p> <ul style="list-style-type: none"> a. inform immediately the Authority should any cover be cancelled or voided or if any policy is not renewed; b. inform immediately the insurer in writing of any claim made by or against it; c. advise immediately the insurer of all circumstances or occurrences that may give rise to a claim under the policy; and d. advise the Authority as soon as an insurer has notified that it intends to decline indemnity in respect of a claim under the policy
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CHAPTER III: INTERNATIONAL REGULATIONS ON PROFESSIONAL INDEMNITY POLICY FOR INTERMEDIARIES

1. Internationally also the brokers are governed by rules, regulations and legislations and have the mandate of having a compulsory PI policy.
2. The requirements and regulations for insurance broking licences across the continents for their PI policy are given below:

Sr no	Country	Minimum Paid up Capital for the Broker	Salient features of the Brokers' PI policy	Excess
1	Singapore	an amount of not less than \$1 million	A registered insurance broker or any broker intending for registration shall have in force at all times a professional indemnity insurance policy with limit of indemnity not less than min paid up capital	deductible allowed shall be — (a) where the applicant is in its first financial year of operation, not more than 20% of the paid-up capital (b) in any other case, not more than 20% of the applicant's net asset value as at the end of its preceding financial year.
2	Hongkong	must at all times maintain a paid-up capital of not less than \$ 500,000	the limit of indemnity must not be less than the greater of the following— (a) 2 times the aggregate amount of insurance brokerage income in the 12 consecutive months immediately before the commencement date of the policy period under its PI insurance policy, up to a maximum of \$75,000,000; or (b) \$3,000,000 In relation to a licensed insurance broker company which is in its first 12 months of operation as a licensed insurance broker company, the limit of indemnity must not be less than \$3,000,000.	must not be more than 50% of the company's net assets as at the end of its financial year immediately before the commencement date of the policy period under the policy OR not be more than 50% of the company's paid-up share capital as at the commencement date of the policy period under the policy

			The professional indemnity insurance policy must include a provision for at least one automatic reinstatement of the limit of indemnity	
3	Mauritius		At least Rs. 5 million for any act, error or omission in the conduct of his business	
4	UAE (Dubai)	The paid capital may not be less than (AED 3,000,000) three million Dirhams for a company incorporated in the UAE and (AED 10,000,000) ten million Dirhams for the branch of a company incorporated in a financial free zone or the branch of a foreign company	<p>The insured shall be the Insurance Broker and the beneficiary shall be the Chairman of the IA Board of Directors in his capacity.</p> <p>The insured sum under the policy may not be less than (AED 2,000,000) two million Dirhams for companies incorporated in the UAE. As for the branch of a foreign company or companies incorporated in any financial free zone, the insured sum under the policy may not be less than (AED 3,000,000) three million Dirhams,</p> <p>6. Any amendment or alternation to the insurance policy may only be made under the written approval of the IA</p> <p>Professional indemnity insurance policy Insurance Consultant whose application was accepted must submit to the Authority a professional indemnity</p>	<p>deductible amount may not exceed (AED 30,000) thirty thousand Dirhams for each accident, companies incorporated in the UAE,</p> <p>deductible amount may not exceed (AED 50,000) fifty thousand Dirhams for each accident, foreign company or companies incorporated in any financial free zone,</p> <p>deductible does not exceed (30,000) dirhams and the insurance policy shall be in the name of the Insurance Consultant</p>

			<p>insurance policy with a sum insured of (1.5) million dirhams;</p> <p>The (Corporate Person) Insurance Consultant must submit to the Authority a professional indemnity insurance policy with a sum insured of (3) million dirhams;</p>	<p>the amount of the deductible does not exceed (30,000) dirhams and the insurance policy shall be in the name of the Corporate Person Insurance Consultant.</p>
5	United Kingdom(London)	<p>the <i>firm</i> is a member of a <i>group</i> in which there is an <i>authorised person</i> with net tangible assets of more than £10 million, the comparable guarantee must be from that <i>person</i>;</p> <p>A 'comparable guarantee' means a written agreement on terms at least equal to those in a contract of professional indemnity insurance to finance the claims that might arise as a result of a breach by the <i>firm</i> of its</p>	<p>(1) for a single claim, €1,250,000; and</p> <p>(2) in aggregate, the higher of: (a) €1,850,000; and (b) an amount equivalent to 10% of annual income (this amount being subject to a maximum of £30 million).</p>	<p>For a <i>firm</i> which does not hold <i>client money</i> or other <i>client</i> assets, the excess must not be more than the higher of: (1) £2,500; and (2) 1.5% of <i>annual income</i>.</p> <p>For a <i>firm</i> which holds <i>client money</i> or other <i>client</i> assets, the excess must not be more than the higher of: (1) £5,000; and (2) 3% of annual income.</p>

		duties under the <i>regulatory system</i> or civil law		
6	Trinidad and Tobago	Where the applicant is a body corporate, or partnership evidence that the paid up capital in cash is not less than one hundred thousand dollars;	Central Bank of Trinidad and Tobago, requires that there is in force Professional indemnity insurance of not less than five million dollars placed with an insurer approved by the Central Bank of Trinidad and Tobago.	The deductible to be applied in respect of any claim should not exceed fifteen thousand dollars.

CHAPTER IV: RECOMMENDATIONS REGARDING HAVING A STANDARD PRODUCT

1. In the insurance industry an intermediary (which can be a broker or corporate agent/agent, Web aggregator or Insurance Marketing firm) is a licensed independent entity which represents buyers (proposer/insured) for insurance and which deals with either insurance companies for obtaining the insurance coverage which the insurance buyer wants. He gives the insurance buyer “customer service” regarding insurance coverage requirements, modifications of coverage, renewals, premium negotiations etc.
2. The Intermediary arranges insurance coverage for the customer, and usually receives a brokerage/commission from the insurer. Acting as independent advisers, some brokers receive consulting fees from customers who seek the broker’s advice and services.
3. Intermediaries are providing a professional service and thus arose the need for an insurance cover for covering the financial losses that a client taking the service of an intermediary may incur due to professional service lapses on his part
4. IRDA Regulations stipulate that every intermediary has to take Professional Indemnity policy throughout the validity of the period of the Certificate of Registration issued to them by the Authority
5. The following were observed by the Committee:
 - a. The coverage available for Brokers varies from insurer to insurer
 - b. Private insurers have no appetite for issuing such policies mainly to avoid the complications that may arise primarily due to Conflict of Interest between the Insurer and the broker when a claim is lodged.
 - c. There is no standard product for Corporate Agents, Web aggregators and Insurance Marketing firms
6. Further the need for the standardisation of products was also felt by IRDAI during onsite inspections and at the time of offsite monitoring, when it was quite frequently observed that the Professional Indemnity policies taken by the brokers were not in compliance with the IRDA prescribed schedule.
7. The following are the common irregularities observed in the PI policies taken by the broker
 1. The risks that were to be covered as per IRDA regulations are either not covered in the policy or mentioned under exclusions.
 2. Some policies cover the risks but the wordings mentioned are altered (such as not covering former employees, directors, dishonesty, fraudulent activities etc.)
 3. AOY: AOA is not 1:1.
 4. Retroactive date does not be given from date of issuance of Certificate of Registration for the first time.
 5. The indemnity limit is not sufficient, as per the requirements mentioned in point no. 3 above
 6. Different Indemnity limits are given for different Retro Active dates.
 7. The policies are not renewed continuously but with some gaps in between
 8. Un-insured excess is not in line with regulation

8. As a feedback from the brokers fraternity revealed that the policies do not comply in terms of point no. 1 & 2 above due to the reasons that the standard wordings of the policies offered by some of the insurers do not provide the required coverages and hence, the policies taken by them do not comply with the regulations.
9. To resolve the discrepancies that arise due to non- availability of a comprehensive product, the idea of a standard product has been mooted.
10. To begin with, the Committee carried out a detailed comparison of the PI policies issued by leading private and public sector insurers in India, on the basis of base coverage, definitions and exclusions.

Insurer	Insurer A	Insurer B	Insurer C	Insurer D
Type of form	Claims Made Policy	Claims Made Policy	Claims Made Policy	Claims Made Policy
Insuring Clause				
Professional Liability	Covered	Covered as per form	Covered, however terms are not defined.	Covered, however terms are not defined.
Intellectual Property	Covered	Offered as an extension	Excluded .	Excluded.
Defamation	Covered	Offered as an extension	Libel and Slander is excluded.	Defamation is excluded.
Fraud/Dishonesty	Covered	Offered as an extension	Covered	Excluded.
Defence	Covered	Covered as per form	Covered	Covered
Extensions				
Court Attendance	Provided	Not provided	Not provided	Excluded.
Extended Reporting Period	Provided	Provided	Extension provided, however no duration mentioned.	Extension provided, however no duration mentioned.
Lost Documents	Provided	Provided	Covered as per form.	Excluded.

Definitions				
Breach of Duty	means any actual or alleged negligent breach of duty, act, error, misstatements, misleading statements, breach of confidentiality or omission in the performance of or failure to perform Professional Services.	Not defined, however mentioned in Wrongful Act definition.	No definition s section provided in the policy.	No definition s section provided in the policy.
Claim	means any: (i) written demand or (ii) civil or administrative proceeding, that seeks Damages from Wrongful Acts.	Defined, covers any error, misstatement, misleading statement, act, omission, neglect or breach of duty committed, attempted, or allegedly committed or attempted before or during the Policy Period.	No definition s section provided in the policy.	No definition s section provided in the policy.
Damages	means any amount that an Insured shall be legally liable to pay to a Third Party in respect of judgments rendered against an Insured, or for	Not defined, however mentioned in Claim definition.	No definition s section provided in the policy.	No definition s section provided in the policy.

	settlements negotiated by the Insurer with the consent of either the Insured or the Policyholder			
Defence Costs	means reasonable fees, costs and expenses incurred by or on behalf of the Insured in the investigation, defence, adjustment, settlement or appeal of any Claim. "Defence Costs" shall not mean any internal or overhead expenses of any Insured or the cost of any Insured's time.	Covered and defined.	No definitions section provided in the policy.	No definitions section provided in the policy.
Documents	means all documents of any nature whatsoever including computer records and electronic or digitized data; but does not include any currency, negotiable instruments or records thereof.	Covered and defined.	No definitions section provided in the policy.	No definitions section provided in the policy.

Employee	any natural person who is or has been expressly engaged as an employee under a contract of employment with the Policyholder or any Subsidiary. "Employee" shall not mean any: (i) principal, partner or director; or (ii) temporary contract labour, self-employed person or labour-only sub-contractor.	Covered and defined.	No definitions section provided in the policy.	No definitions section provided in the policy.
Fraud/Dishonesty	means fraudulent or dishonest conduct of an Employee: (i) not condoned, expressly or implicitly; and (ii) that results in liability to; the Policyholder or any Subsidiary.	Not defined, however covered via extension as mentioned above.	No definitions section provided in the policy.	No definitions section provided in the policy.
Insured	means: (1) the Policyholder or any Subsidiary; (2) any natural person, who is or has been a principal, partner or director of the Policyholder or any Subsidiary; (3) any	Insured and Insured Person are both defined.	No definitions section provided in the policy.	No definitions section provided in the policy.

	<p>Employee; (4) any temporary contract labour, self-employed persons, labour-only sub-contractors, solely under contract with, and under the direction and direct supervision of the Policyholder or any Subsidiary; and (5) any estates or legal representatives of any Insured described in (2) and (3) of this definition; but only when providing Professional Services in the foregoing capacities.</p>			
Loss	<p>means Damages and Defence Costs. "Loss" shall not mean and this policy shall not cover any (1) taxes; (2) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages; (3) fines or penalties; (4) the costs and</p>	Covered and defined.	No definition provided in the policy.	No definition provided in the policy.

	<p>expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief;</p> <p>(5) compensation, benefits or overhead of, or charges or expenses by any Insured; or</p> <p>(6) any matters which may be deemed uninsurable under the law governing this policy or the jurisdiction in which a Claim is brought.</p>			
Professional Services	<p>means the professional services of the Policyholder and any Subsidiary as specified in the Schedule</p>	Covered and defined.	No definition section provided in the policy.	No definition section provided in the policy.
Third Party	<p>means any entity or natural person; provided, however, Third Party does not mean: (i) any Insured; or (ii) any other entity or natural person having a financial interest or executive role in the operation of the</p>	Not defined.	No definition section provided in the policy.	No definition section provided in the policy.

	Policyholder or any Subsidiary.			
Wrongful Act	means any Breach of Duty, Infringement, libel, slander, or Fraud/Dishonesty	Defined.	No definitions section provided in the policy.	No definitions section provided in the policy.
Exclusions Applicable to all insuring clauses				
Antitrust	Excluded as per form.	"Anti-competitive Practices" have been excluded, which is similar in meaning	No such exclusion.	No such exclusion.
Bodily Injury & Property Damage	Excluded as per form.	Excluded as per form.	Excluded as per form.	Excluded as per form.
Contractual Liability/Performance Guarantees	Excluded as per form.	"Assumed Liability" has been excluded, which is similar in meaning.	Not excluded.	Not excluded.
War & Terrorism	Excluded as per form.	Excluded as per form.	Excluded as per form.	Excluded as per form.
Cost Assessment	Excluded as per form.	Not excluded.	Not excluded.	Not excluded.
Insolvency	Excluded as per form.	Excluded via "Bankruptcy" exclusion.	Excluded as per form.	Not excluded.
Infrastructure	Excluded as per form.	Not excluded.	Not excluded.	Not excluded.

Prior Exclusion	Acts	Excluded.	Excluded.	Excluded	Excluded.
Prior Pending Litigation	and	Excluded.	Excluded.	Excluded	Excluded.

11. The Committee also analysed the difficulties faced by the brokers/intermediaries in the placement of their PI policy and the solutions that can be provided are enumerated alongside:

Serial No.	Difficulties faced by Intermediary/Insurer	Possible Solutions that can be offered
1	Insurers do not want to get in a situation where non-coverage of a claim scenario notified in the policy of an intermediary leads to loss of business from that intermediary. This is especially the case for the large brokers, where a conflict of interest situation exists and any friction created between the insurer and the broker due to a claim scenario can cost the insurer on the business front	To address this conflict of Interest the Committee is suggesting to devise a Market Agreement Plan
2	Non-availability of professional indemnity wordings in the market which are compatible with the existing regulations. Several aspects, such as retroactive date from date when licence was granted, coverage for ISPs and FSEs etc. are not part of the standard market wordings available, creating a problem for the intermediaries to get the wordings modified to comply with regulatory requirements.	After comparing the wordings available, we have devised a standard wording for all intermediaries addressing the issues which is given in Section IV of the Market Agreement Plan
3	A challenge faced by insurers is that major reinsurance treaties exclude PI policies for top brokers (Marsh, Willis and AON).	This challenge can be resolved by providing facultative reinsurance capacity for this coverage either by General Insurance Corporation of India or with discussion with other Foreign Reinsurance Branches (FRB) operating in India, since they can create a spread on a global level and have more experience in underwriting these risks.

4	On the retroactive date issue, IRDA regulations require coverage to exist from the date of grant of license by the regulator – this kind of retroactive exposure isn't something which every insurer would be comfortable offering, especially since there have been several cases of fraud, miss-selling and others by insurance intermediaries across the globe.	Retroactive date ought to be from the date of payment of premium, provided there is a continuous renewal If there is a break in insurance , then the revised retroactive date will be from the <u>policy start date from which there is a continuous renewal</u>
5	Pricing problem as previous claims history is not available always	It may be made mandatory for all intermediaries to publish records of such professional indemnity related issues which they may have faced from customers in the past 5 years. A repository holding such data will be extremely valuable for underwriters across insurers to assess this risk better
6	The capping on un-insured excess in respect of each claim, which is linked to capital employed by the intermediary is another cause of issue. Some insurers may perceive this excess amount to be quite low for the risk exposure.	It has been decided that the policy deductible will be 0.5% of Limit of Liability

12. And as a corollary, the Committee also studied some of the actual claims case studies and claim scenarios

12.1 The number of claims against the intermediaries seems to be rising. The inadequacy in the policy coverage and non - standardisation of the policy wording has led to many of claims being repudiated

12.2 Further the reasons for rise in the number of claims can be attributed to following

- The increasing spectrum and the complexity of the insurance products
- Business environment which is extremely competitive and provokes the intermediary to sometimes commit the impossible
- The digital dependency is on the rise and the increasing sophistication of business transactions sometimes outgrow the knowledge base of the people involved in them
- Statutory and regulatory changes

12.3 The detailed study made by the Committee with regard to the coverage, wordings, case studies relating to claims etc establishes the need for the standardised product in the market for the PI policy for Intermediaries.

- 12.4 The Committee also felt the need to have a Market Co-operation Agreement to underwrite the standard policy.
- 12.5 A common pricing approach would be required to have a Market Co-operation Agreement in place.
- 12.6 A mechanism also needs to be put in place to ensure that the Market Co-operation Agreement is administered.

CHAPTER V: RECOMMENDATIONS REGARDING STANDARD POLICY WORDINGS FOR PROFESSIONAL INDEMNITY POLICY FOR THE INTERMEDIARIES

1. Background

1.1. The necessity for a standard product in order to conform to the Regulatory provisions prescribed by IRDAI for each of the categories of Intermediaries has already been discussed.

1.2. Based on the coverage, exclusions and the insuring clause provisions we give below our observations which formed our baseline and the yardstick on which the Standard policy wording has been drafted

Coverage	Comments
Type of form	Claims made
Insuring Clause	
Professional Liability	Standard policy must define the Professional Services to avoid ambiguity and difference in coverage.
Intellectual Property	This needs to be covered in the standard policy, typically trade secrets are excluded.
Defamation	This needs to be covered in the standard policy.
Fraud/Dishonesty	This needs to be covered up to final adjudication.
Defence	This is covered under all policies, and should be the case for the standardized wordings as well.
Extensions	
Court Attendance	This needs to be covered in the standard policy.
Extended Reporting Period	This needs to be covered in the standard policy.
Lost Documents	This needs to be covered in the standard policy. Recovery and Restoration is also mandatory as per regulations, this should be incorporated in the wordings as well.
Definitions	
Breach of Duty	Defining 'Breach of Duty' is recommended, this will help avoid interpretation issues at the time of claims.
Claim	Defining 'Claim' is recommended, this will help avoid interpretation issues at the time of claims.
Damages	Defining 'Damages' is recommended, this will help avoid interpretation issues at the time of claims.
Defence Costs	This is standard, no comments offered.
Documents	This should also be defined.
Employee	This is one critical definition which needs to be worked upon - since the IRDA regulations require Insurance

	Marketing Firms (IMF) to cover ISPs and FSEs in their policy.
Fraud/Dishonesty	This needs to be covered, whether defined separately or not can be dealt with.
Insured	This needs to be defined - either as a single Insured or as Insured and Insured Person separately.
Loss	As per regulations, loss of money or property for which broker is legally liable needs to be covered by the policy. Hence, this should be included in this definition for the standardized policy wording.
Professional Services	Standard policy must define the Professional Services to avoid ambiguity and difference in coverage.
Third Party	This should be defined to avoid issues at the time of a claim.
Wrongful Act	This should be defined exhaustively.
Exclusions (Applicable to all insuring clauses)	
Antitrust	This exclusion is not a big area of concern for Insurance Broker's per se, can be avoided if minimum retentions and premium are standardized to pick this exposure.
Bodily Injury & Property Damage	This exclusion should remain, not an exposure typically picked up by a PI policy.
Contractual Liability/Performance Guarantees	This should remain excluded.
War & Terrorism	This should remain excluded.
Cost Assessment	This exclusion may be avoided.
Insolvency	This should remain excluded.
Infrastructure	This exclusion may be avoided.
Prior Acts Exclusion	This should remain excluded.
Prior and Pending Litigation	This should remain excluded.

CHAPTER VI: THE REINSURANCE PERSPECTIVE AND RECOMMENDATIONS REGARDING MARKET COOPERATION FOR PROFESSIONAL INDEMNITY POLICY FOR INTERMEDIARIES

1. Reinsurance arrangements available

1.2. The majority of PI policies for Intermediaries have been underwritten by Public Sector Companies through their treaty capacities.

1.3. PSU's can deploy upto INR 150 crores per risk which serves the capacity requirements of the market.

1.4. In comparison, Private companies have lower appetite to write PI policies for intermediaries and they shy away from offering PI policies due to Conflict of Interest issue, as detailed in section 2 of this Chapter

1.5. Most reinsurance arrangements **exclude** P.I policies for large brokers. Insurance Brokers like AON, Marsh, Willis, Howden and erstwhile JLT are excluded from the scope of the treaty (of PSUs)

2. Proposal for a market co-operation arrangement on professional indemnity policy for the intermediaries

2.1. Risk pooling in insurance means that there are many contributors to help spread the financial risks from expensive claims more evenly. Risk pooling is essential to the concept of insurance. The earliest known insurance policies were written some 5,000 years ago, to protect shippers against the loss of their cargo and crews at sea.

2.2. Conflict of interest is one the major deterrents for insurers to write PI policy because of the active working relationship between Insurers & the intermediaries.

2.3. Insurers & Intermediaries work extensively together both on the direct side as well as reinsurance placements. Insurers & Reinsurers are reluctant in writing PI policies for Intermediaries due to potential conflict of interest, particularly when they are trading actively with that particular intermediary.

2.4. Conflict of Interest can arise in the following situations -

Insurer A issues the PI policy for the **Broker B**. Broker B has business transactions with Insurer A.

Example 1

Broker B commits an error / fraud on a policy placed with Insurer A, thus causing financial loss to the Insured who in turn takes legal action against both broker as well as the Insurer.

Broker B claims under the PI policy which has been issued by Insurer A itself. In essence for the purpose of PI, insurer A and the broker B are related parties and in the event of a loss, Insurer A would end of bearing expenses for both themselves and the broker.

Example 2

Insured sued broker B for claim repudiation/ deficient service for a Policy issued by Insurer A. PI Policy to the broker as well as the Policy to the Insured was issued by Insurer A, thus complicating the situation.

Example 3

Error or fraud committed on a reinsurance placement done by Broker B for Insurer A causing financial loss to the Insurer. Insurer A has no way of making good his loss if the PI policy is also issued by them.

2.5.A possible solution to the resolution of the above conflicts of interest can be a Market Cooperation Agreement (MCA). A Pool/MCA could be formed for the purpose of writing PI policy for intermediaries, where insurers come together and deploy capacity for underwriting the risk, on an annual basis.

This Market pool can ensure

- A diversified portfolio to Insurers,
- Centralized issuance of policy,
- Greater transparency in information,
- Fair & unbiased management of claims.
- It will address the conflict of interest issue that exists between Insurers & intermediaries.

2.6. Modalities for creation and operation of market cooperation arrangement

2.6.1 Policy Issuance

- ✓ Insurers could nominate one Insurer who would be the Lead Insurer on all policies issued to the intermediaries. Rest of the Insurers, who put in capacity participate as co insurers on the policy.
- ✓ Lead & coinsurance shares in each policy could be determined in the same proportion of the capacity deployed by them.
- ✓ Rating engines could be pre-designed for agents, web aggregators, direct brokers & composite brokers.
- ✓ There could be a small panel of insurers authorized for taking underwriting decisions where the risk, for whatever reasons does not qualify to be pre-underwritten.

2.6.2 Premium Collection & Quarterly Declarations

- ✓ Premiums collected by the lead insurer could be remitted to other insurers as per timelines in ETASS regulations.
- ✓ There could be a quarterly declaration of policies underwritten by the lead Insurer to other insurers.

3 Claims Processing

- ✓ Representation from different companies on claims matters to enable fair & unbiased processing
- ✓ Such Representatives from three different companies could be nominated on a rotational basis for settlement of claims to ensure a fair, unbiased & non-discriminatory processing.
- ✓ If one of the Insurers on the panel are involved in the claim (i.e insurer & broker being involved in a conflict which triggers the PI policy), the insurer could recuse themselves from claims handling.
- ✓ Decision of the nominated claims representative will be final and binding on all insurers

There needs to be a body to administer the operations of the Market Cooperation Agreement /Pool.

APPENDIX 1: MARKET AGREEMENT ON PROFESSIONAL INDEMNITY POLICY FOR (BROKER'S/CORPORATE AGENT/WEB AGGREGATORS/IMF)

The Market Agreement (hereinafter called "the Agreement") lays down rules, regulations, rates, advantages, terms and conditions, as contained herein, for transaction of Professional Indemnity policy for Brokers, Corporate agent, web Aggregators and Insurance Marketing firms Business.

The Agreement extends to the whole of India.

I N D E X

- I. General Rules and Regulations**
- II. Rating**
- III. Standard Proposal Form**
- IV. Standard Policy Form**
- V. Prospectus**
- VI. Claims form**
- VII. General administration, Premium, Co-Insurance and Claims Processing**

SECTION I

PROFESSIONAL INDEMNITY (BROKER'S/CORPORATE AGENT/WEB AGGREGATORS/IMF)

GENERAL RULES AND REGULATIONS

1. Applicability

This Agreement applies to Broker (Direct, Reinsurance and Composite)/Corporate Agent/Web Aggregators and Insurance Marketing Firms with aggregate limits of indemnity any one year/during the policy period upto the capacity of the Company under its net retention and Automatic Reinsurance facilities.

Any proposals outside the scope of the Market Agreement may be considered by the Companies on merits. Premium, rates and other terms and conditions for such covers may be decided by the Companies and if required, in consultation with their Reinsurers.

In respect of risk for which there are no guiding Market Agreement provisions, the same may be rated by the Companies as per internal underwriting guidelines..

2. Effective date

This Agreement will come into force from _____ .

3. Standard Proposal Form

Lead Insurer shall obtain duly completed Standard Proposal Form from the proposers at inception and subsequent renewals. The specimen proposal form is prescribed in this Market Agreement. No cover shall be granted unless a declaration as provided for in the proposal form is obtained from the proposer to the effect that all statutory requirements relating to the business activities are complied with.

4. Standard Policy Form

All Policies, fresh and renewals, issued under this Agreement shall be in the Standard Policy Form prescribed hereunder.

5. Liabilities Covered

Policies issued under this Agreement Cover all damages resulting from any claim for breach of duty of the insured, fraud and dishonesty of any employee which the Insured becomes legally liable to pay arising out of claims first made in writing against the Insured during the policy period including legal costs and expenses incurred with prior consent of Insurers, subject always to the limits of indemnity and other terms, conditions and exceptions of the policy. It shall not be permissible to issue any Public Liability Insurance Policy with unlimited liability. The ratio of limit of indemnity any one accident to any one year shall not exceed 1:1.

6. Premium

The rates of premium under this Agreement are annual rates. Full premium under the policy shall be paid at inception. It is not permissible to accept premium in installments.

Business Turnover/fees figure wherever required shall be accurately assessed and declared by the proposer at inception of the policy.

7. Retroactive Date

Retroactive Date is the date on which IRDAI has issued a license or certificate of registration to the intermediary. Should the limits under the policy be increased in the subsequent renewal, the date from which higher limits have been obtained shall be considered as the new retroactive date for the increased limits only.

8. Revision in Limits of Indemnity

Mid-term increase/decrease in the limits of indemnity limit during the currency of the policy period will not be allowed.

9. Retention

All Policies issued under this Agreement shall be subject to retention as under :-

	Deductible
India	0.5% of the policy limit
Rest of the World (ROW)	1% of the policy limit
USA & Canada	2.5% of the policy limit

SECTION – II

PROFESSIONAL INDEMNITY (BROKER'S/CORPORATE AGENT/WEB AGGREGATORS/IMF)

RATING

The covers falling within the scope of this Market Agreement have rating structure depending on main components Viz., Limit of indemnity opted under the policies & Turnover

The basic rates are as under:-

Standard Rates:

Intermediary Type		Revenue Band		
		Upto INR 50 Crs	INR 50 Crs - INR 100 Crs	INR 100 Crs & above
Broker	Direct	1.40%	1.55%	1.65%
	RI	1.50%	1.65%	1.75%
	Composite	1.60%	1.75%	1.85%
Corporate Agent		1%	1.20%	1.40%

Web Aggregator	0.65%	0.75%	0.85%
Insurance Marketing Firm	0.50%	0.60%	0.70%

Good Feature Discount:

In the event that a broker/intermediary provides the insurer/Underwriter their IRDA reports for detailed review and underwriting, a Good Feature Discount will be offered to the tune of 25% on standard applicable rate. This will help the insured reduce the premium and the insurer in getting a better understanding of the risk being accepted – making it a mutually beneficial and a long term market practice.

Intermediary Type		Revenue Band		
		Upto INR 50 Crs	INR 50 Crs - INR 100 Crs	INR 100 Crs & above
Broker	Direct	1.05%	1.17%	1.24%
	RI	1.125%	1.24%	1.32%
	Composite	1.2%	1.32%	1.39%
Corporate Agent		0.75%	0.9%	1.05%
Web Aggregator		0.49%	0.57%	0.64%
Insurance Marketing Firm		0.38%	0.45%	0.53%

Discount & Loading:

For Discount & Loading, we will take into consideration various aspects, such as Claims History, Frequency and Severity of Claims, Experience of the Employees and Management, Educational Qualifications of the Employees among others.

DISCOUNT / LOADING

This market agreement shall attract claims experience discounts/loadings based on the incurred claims experience of the Insured for the preceding 36 months excluding the expiring policy period. (If there is any break in insurance, available 36 months experience shall be taken into account) as per the table given below.

Incurred claim ratio for the preceding 36 months excluding the expiring policy period	Discount (%)	Loading (%) *
Upto 5 %	15	--
Above 5% & upto 10%	10	--
Above 10% & upto 15%	-	--
Above 15% & upto 30%	--	--
Above 30% & upto 40%	--	-
Above 40% & upto 55%	--	-
Above 55% & up to 75%	--	10
Above 75% & up to 100%	--	15

Penalty Provision for Non-Purchase or Break in Policy

Since all brokers/intermediaries must mandatorily purchase a professional indemnity policy and the retroactive date being fixed by the committee is also from the date of granting licence to the broker/intermediary by IRDAI, we propose penal provisions in case the prospective insured has not purchased/had a break in policy continuity.

This will help offset the additional liability taken by the insurer by providing a backdated retroactive date, since additional premium will be received for the same. However, the intention of this provision is strictly to penalize and not to provide a back-up option to depend upon – hence we propose to charge the base rate + **18% interest on the premium due** during the gap period subject to no known or reported losses/claims declaration.

Insurers can look at issuing year policy subject to their internal reinsurance treaty arrangements.

SECTION - III

PROFESSIONAL INDEMNITY (BROKERS/CORPORATE AGENT/WEB AGGREGATORS/IMF)

PROPOSAL FORM

Insurance/Re-Insurance Brokers/Corporate Agent/Web Aggregator/ Professional Indemnity Proposal Form

Notice

1. This is a proposal for a contract of Insurance. The proposal must be completed, signed and dated but completion does not bind you or the Insurer to enter into any contract of Insurance. If space is insufficient to answer any questions fully, please attach a signed continuation sheet.
2. All facts material to the proposed insurance must be disclosed, fully and truthfully to the best of your knowledge and belief. Failure to do so may make the contract of Insurance voidable or severely prejudice your rights in the event of a claim.

PROPOSER DETAILS

1. Name of company or entity (Insured):
2. Address of registered or principal office:

3. Type of Intermediary: (√)

Direct Broker	
Re-Insurance Broker	
Composite Broker	
Corporate Agent	
Web Aggregator	
Insurance Marketing Firm (IMF)	

4. Website Address/Official e-mail ID:

5. Year & Date of Establishment:

6. IRDA Licence No. and Validity:

7. State the principal business activities for which insurance is desired:

8. Has any change by way of merger, take-over or change of name occurred in the last 5 years?

If Yes, please provide details

9. Please provide details of Directors, partners or principals of the business

Name	How long a Principal/Director/Partner?	Relevant Qualification and Year of Qualification

10. a. Please provide details of offices or subsidiaries that are to be covered by this insurance:

b. Does the entity own any foreign subsidiary? If Yes, please give details:

11. Holding Pattern of the Entity

Private/Public (%) :
 FDI (%) :
 Institutional/Non-Institutional (%) :

12. Please detail the business's gross Turnover/Fees for the last 3 Financial years and an estimate for the next financial year:

Year	India	USA/Canada	ROW	TOTAL

Estimate for next Financial Year				

13. Please provide an estimate in percentage of total annual fees for the last complete Financial year from the following categories (whichever applicable)

Type of Work	%
Personal Lines (incl. Motor)	
Commercial Motor	
Aviation (Small Aircraft)	
Aviation (Other)	
Marine (Small craft/Cargo)	
Marine (Other)	
Fire & Engg	
Other Property	
Liability	
Others (Pl. specify)	
Reinsurance	
TOTAL	100%.

14. Is this business split representative of the Firm's business over the previous three years? Yes/No
 If No, please provide details:

15. Are any substantial changes in the %amounts shown above likely during the next 12 months? Yes/No
 If yes, please provide details:

16. If the company places Commercial Property Insurance, provide details in respect of the three largest placements

Client	Class of Insurance	Sum Insured

17. If the company places Commercial Lines (excluding Fire & Perils), Marine or Aviation Insurance, provide details in respect of three largest placements

Client	Class of Insurance	Sum Insured

18. Does the company operate any Binding Authority (for RI brokers) arrangement whereby an Insurer or Underwriter has granted the company authority to either quote terms, set rates or handle claims without referral? Yes/No

If Yes, please provide details:

19. In respect of the Binding Authorities referred above:
- a. Are all the Binding Authorities in written form? Yes/No
 - b. Do all the Binding Authorities have a specified renewal date? Yes/No
 - c. Do all the Binding Authorities specify those individuals who have authority to bind risks under the Binding Authority? Yes/No
 - d. Do all the Binding Authorities restrict the territorial limits to those risks based within India? Yes/No
20. Is the business or any partner, principal, or director connected or associated (by way of shareholding, financial interest, contract of employment or otherwise) with any other company or organization? Yes/No
If Yes, please provide details
- 21.
- a. Does the company always obtain written references from former employees while engaging employees? Yes/No
 - b. Are employees receiving cash and cheques in the course of their duties are required to pay in daily? Yes/No
 - c. All cheques drawn for more than INR 50,000 require two signatories Yes/No
 - d. Cash in hand and petty cash are checked independently of the employees responsible at least monthly and additionally, without warning, at least every six months Yes/No
 - e. Bank statement, receipts, and supporting documents are checked at least monthly against the cash book entries independently of the employees making cash book entries or paying into the bank Yes/No
22. Does the company offer and promote continuing training? Yes/No
If Yes, please provide details
23. Claims History
- a. Does any partner, director or principal, after enquiry, aware of any claims ever having been made against the company or their predecessors in business or any of the present or former partners, directors or principals? Yes/No

b. Does any partner, director or principal, after enquiry, aware of any circumstances or occurrences which may give rise to a claim against the company or their predecessors in business or any of the present or former partners, directors or principals? Yes/No

c. Does any partner, director or principal in receipt of any complaints, whether oral or in writing, regarding services performed, products or solutions sold or provided, or advice given by you Yes/No

If Yes to any of the above, please provide full details

d. Where claims have been notified to the Insurer/Insurers, what actions have been taken to prevent occurrence of such claim scenario?

24. Previous Insurance

a. Please give details of existing Professional Indemnity Insurance for the company:

Policy Period :
Insurer :
Limit of Indemnity :
Policy Excess :
Premium (₹) :
Territory/Jurisdiction :

b. Has any proposal for Professional Indemnity Insurance made on behalf of the company or any predecessors in the business, or present partners/directors/principals ever been declined or has such insurance ever been cancelled, renewal refused or special terms imposed? Yes/No

If Yes, please provide details

25. Please provide Limit of Indemnity for which insurance is required.

INR _____ and ratio AOA : AOY = 1 : 1

26. For IMF, List of ISPs (Insurance Sales Person) and FSEs (only in the context of offering insurance services) to be given:

27. Do you have a Cyber policy? Please give details

28. Would you like to cover Computer and Electronic crime under this policy?

29. If yes, please give the Limit of Indemnity.

30. Total Premium :
Add - GST :
TOTAL :

I/We, hereby declare that the particulars contained herein are true and correct and that no material fact has been withheld, misstated or misrepresented and also that this

proposal cum schedule forming part of the company's standard policy shall be basis of contract between me/us and the insurance company.

PLACE :

DATE : **Signature of Authorized representative**

PROHIBITION OF REBATES

The following is the copy of section 41 of the insurance Act,1938.

1. No person shall allow or offer to allow either directly or indirectly as on inducement to any person to take out or renew or continue an insurance in respect of any kind or risk relating to lives or property in India any rebate of the whole or part of commission payable or any rebate or the premium - shown on the policy nor shall any person taking out renewing continuing a policy except any rebate as may be allowed in accordance with the published prospectuses or tables of the insurer.
2. Any person making default in complying with the provisions of this section shall be punishable with fine which may extend to five hundred rupees.

Note: The Liability of the company does not commence until the proposal form has been accepted and full premium has been paid.

SECTION - IV
PROFESSIONAL INDEMNITY
(BROKER'S/CORPORATE AGENT/WEB AGGREGATORS/IMF)
POLICY FORM

Schedule

Policy Number:

ITEMS					
Policyholder					
Policyholder's Main Address					
Professional Services					
Policy Period – 12 months	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center;">From:</td> <td style="width: 60%;"></td> <td style="width: 15%; text-align: center;">To:</td> <td style="width: 10%;"></td> </tr> </table>	From:		To:	
From:		To:			
Limit of Liability (Aggregate)					
Retention (Each and Every Claim)	Amount equal to 5% of the capital employed by the Policy holder. <INR XXX>.				
Retroactive Date	Date of grant of licence / certificate of registration issued by the IRDAI. <DD/MM/YYYY>.				
Premium					
Date Proposal Signed					
Insurer & Address					
Claims Notice					
Endorsements					

Issued at > this > day of > 200

Signed by _____ for and on behalf of the **Insurer**.

.....Authorized Signator

Notice

This is a claims made insurance policy. This policy will only apply to **Claims** first made against the **Insured** by a **Third Party** and reported to the **Insurer** during the **Policy Period**. The limits of liability available to pay judgments or settlements shall be reduced by amounts incurred for legal defence. Further, please note that the amounts incurred for legal defence shall be applied against the **Retention** amount.

In consideration of the payment of the **Premium** and subject to all of the provisions of this policy, the **Insurer** agrees as follows.

Covers

All cover under this policy is afforded solely with respect to **Claims** first made against an **Insured** during the **Policy Period** and reported to the **Insurer** as required by this policy.

Professional Liability The **Insurer** will pay on behalf of any **Insured** all **Damages** resulting from any **Claim** for any **Breach of Duty** of the **Insured**.

Fraud/Dishonesty The **Insurer** will pay on behalf of any **Insured**, who is not the actual perpetrator, all **Damages** resulting from any **Claim** for **Fraud/Dishonesty** of any **Employee**.

Defence The **Insurer** has the right to defend any **Claim** which this policy may respond to under its Covers or Extensions. The **Insurer** shall pay **Defence Costs** incurred in defending such **Claim**.

The **Insurer** is under no obligation to pay **Loss**, unless the **Wrongful Act**: (i) first takes place on or after the **Retroactive Date**; and (ii) is committed solely in the performance of or failure to perform **Professional Services**

Extensions

Court Attendance for any person described in (i) and (ii) below who actually attends court as a witness in connection with a **Claim** notified under and covered by this policy, **Defence Costs** will include the following rates per day for each day on which attendance in court has been required:

- | | |
|--|-------------------|
| (i) for any principal, partner, or director Insured | <u>Rs. 25,000</u> |
| (ii) for any Employee | <u>Rs. 12,500</u> |

No **Retention** shall apply to this Extension.

*Extended
Reporting Period*

If the **Insurer** cancels or does not renew this policy, other than for any breach of the terms of this policy by an **Insured**, the **Policyholder** shall have the right to a period of 30 days following the date of cancellation or expiry in which to give notice of any covered **Claim** first made against the **Insured**. That extended reporting period shall not apply if this policy or its cover has been replaced.

Lost Documents

With respect to a **Third Party's Documents**:

- (i) for which an **Insured** is legally responsible, and
- (ii) that, during the **Policy Period**, have been destroyed, damaged, lost, distorted, erased or mislaid solely in the performance or non-performance of **Professional Services**,

Damages shall also include costs and expenses reasonably incurred by the **Insured** in replacing or restoring such **Documents** provided that:

- (a) such loss or damage is sustained while the **Documents** are either:
 - (i) in transit; or
 - (ii) in the custody of the **Insured** or of any person to whom the **Insured** has entrusted them;
- (b) where the lost or mislaid **Documents** have been the subject of a diligent search by or on behalf of the **Insured**;
- (c) the amount of any **Claim** for such costs and expenses shall be supported by evidence of expenditure that shall be subject to approval by a competent person to be nominated by the **Insurer** with the consent of the **Insured**; and
- (d) the **Insurer** shall not be liable for any **Claim** arising out of wear, tear and/or gradual deterioration, moth and vermin, or other matters beyond the **Insured's** control.

This Extension will be subject to a Sublimit of Liability of Rs. A separate retention of Rs. instead of the **Retention** will apply to each **Claim** covered under this Extension.

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Definitions

“ Bodily Injury ”	means physical injury, sickness, disease or death; and if arising out of the foregoing, nervous shock, emotional distress, mental anguish or mental injury.
“ Breach of Duty ”	means any actual or alleged negligent breach of duty, act, error, misstatements, misleading statements, breach of confidentiality or omission in the performance of or failure to perform Professional Services .
“ Claim ”	means any: (i) written demand or (ii) civil or administrative proceeding, that seeks Damages from Wrongful Acts .
“ Damages ”	means any amount that an Insured shall be legally liable to pay to a Third Party in respect of judgments rendered against an Insured , or for settlements negotiated by the Insurer with the consent of either the Insured or the Policyholder .
“ Defence Costs ”	means reasonable fees, costs and expenses incurred by or on behalf of the Insured in the investigation, defence, adjustment, settlement or appeal of any Claim . “ Defence Costs ” shall not mean any internal or overhead expenses of any Insured or the cost of any Insured’s time.
“ Documents ”	means all documents of any nature whatsoever including computer records and electronic or digitized data; but does not include any currency, negotiable instruments or records thereof.
“ Employee ”	any natural person who is or has been expressly engaged as an employee under a contract of employment with the Policyholder , including Insurance Sales Persons (ISP) and Financial Service Executives (FSE). “ Employee ” shall not mean any: (i) principal, partner or director; (ii) temporary contract labour, self-employed person or labour-only sub-contractor; or (iii) an Intern .
“ Fraud/Dishonesty ”	means fraudulent or dishonest conduct of an Employee : (i) not condoned, expressly or implicitly; and (ii) that results in liability to; the Policyholder .
“ Infringement ”	means an unintentional infringement of any intellectual property right of any Third Party , other than patents and Trade Secrets .
“ Intern ”	means a student or trainee who works, sometimes without pay, in order to gain work experience or satisfy requirements for a qualification.
“ Insured ”	means: a. the Policyholder ; b. any natural person, who is or has been a principal, partner or director of the Policyholder ; c. any Employee ; d. any temporary contract labour, self-employed persons, labour-only sub-contractors, solely under contract with, and under the direction and direct supervision of the Policyholder ; and e. any estates or legal representatives of any Insured described in (b) and (c) of this definition; but only when providing Professional Services in the foregoing capacities.
“ Insurer ”	means the entity specified as such in the Schedule.
“ Limit of Liability ”	means the amount specified as such in the Schedule.

Definitions (Continued)

“Loss”	means Damages and Defence Costs . “Loss” shall not mean and this policy shall not cover any <ol style="list-style-type: none">taxes;non-compensatory damages, including punitive, multiple, exemplary or liquidated damages;fines or penalties;the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief;compensation, benefits or overhead of, or charges or expenses by any Insured; orany matters which may be deemed uninsurable under the law governing this policy or the jurisdiction in which a Claim is brought.
“Policy Period”	means the period of time specified in the Schedule unless the policy is cancelled in which event the Policy Period will end on the effective date of the cancellation.
“Policyholder”	means the entity or natural person specified as such in the Schedule.
“Pollutants”	means, but is not limited to, any solid, liquid, biological, radiological, gaseous or thermal irritant or contaminant whether occurring naturally or otherwise, including asbestos, smoke, vapour, soot, fibres, mould, spores, fungus, germs, fumes, acids, alkalis, nuclear or radioactive material of any sort, chemicals or waste. “Waste” includes, but is not limited to, material to be recycled, reconditioned or reclaimed.
“Premium”	means the amount specified as such in the Schedule and any premium adjustment reflected in an endorsement to this policy.
“Professional Services”	means the professional services of the Policyholder as specified in the Schedule.
“Property Damage”	means damage to or loss of or destruction of tangible property or loss of use thereof.
“Retention”	means the amount specified as such in the Schedule.
“Retroactive Date”	means the date of grant of licence/certificate of registration issued by the Insurance Regulatory and Development Authority of India and which is specified as such in the Schedule. “Third Party” means any entity or natural person; provided, however, Third Party does not mean: <ol style="list-style-type: none">any Insured; orany other entity or natural person having a financial interest or executive role in the operation of the Policyholder.
“Trade Secret”	means information that derives independent economic value, actual or potential, from not being generally known and not being readily ascertainable through proper means by other persons who can obtain economic advantage from its disclosure or use.
“Wrongful Act”	means any Breach of Duty , Infringement , libel, slander, or Fraud/Dishonesty .

Exclusions

This policy shall not cover **Loss** in connection with any **Claim**:

<i>Antitrust</i>	arising out of, based upon or attributable to any actual or alleged antitrust violation, restraint of trade or unfair competition;
<i>Bodily Injury/ Property Damage</i>	arising out of, based upon or attributable to Bodily Injury or Property Damage unless arising from an actual or alleged failure to achieve the legally required standard of care, diligence and expertise in performing Professional Services ;
<i>Contractual Liability/ Performance Guarantees</i>	arising out of, based upon or attributable to any: contractual liability or other obligation assumed, that goes beyond the duty to use such skill and care as is ordinarily applied to the professional services provided; (i) guarantee or warranty; or (ii) delay in performing, failing to perform or failing to complete any Professional Services , unless such delay or failure arises from a Breach of Duty by an Insured ;
<i>Costs Assessment</i>	arising out of, based upon or attributable to any failure by any Insured or other party acting for the Insured to make an accurate pre-assessment of the cost of performing Professional Services ;
<i>Employment/ Discrimination</i>	arising out of, based upon or attributable to any: (i) actual or alleged employment related: practices, harassment or discrimination; or (ii) intentional or systemic harassment or discrimination;
<i>Insolvency</i>	arising out of, based upon or attributable to the insolvency, administration or receivership of the Insured ;
<i>Infrastructure</i>	arising out of, based upon or attributable to: a. mechanical failure; b. electrical failure, including any electrical power interruption, surge, brown out or black out; or c. telecommunications or satellite systems failure;
<i>Joint Ventures</i>	arising out of, based upon or attributable to work carried out by the Insured for and in the name of any association or joint venture of which an Insured forms part;
<i>Misdeeds</i>	arising out of, based upon or attributable to any act which a judge, jury or other official tribunal or panel finds, or which an Insured admits, to be a criminal, dishonest or fraudulent act; and in such event, the Insurer shall be reimbursed for all Loss paid in connection with such Claim ; provided, however, that this exclusion shall not apply to the Fraud/Dishonesty Cover.
<i>Patent/Trade Secret</i>	arising out of, based upon or attributable to the breach of licences concerning, infringement of or misappropriation of patents or Trade Secrets ;
<i>Pollution</i>	arising out of, based upon or attributable to: (i) the actual, alleged or threatened presence, discharge, dispersal, release, migration or escape of pollutants , or (ii) any direction, request or effort to: (a) test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants , or (b) respond to or assess the effects of Pollutants ;
<i>Prior Claims/ Circumstance</i>	a. made prior to or pending at the inception of this policy; or b. arising out of, based upon or attributable to any circumstance that, as of the inception of this policy, may reasonably have been expected by any Insured to give rise to a Claim ;

Professional Services of FSEs arising directly or indirectly from insured providing or failing to provide investment, financial advice or arrangement in relation to investments, loans or mortgages of any kind

Exclusions (Continued)

Trade Debts arising out of, based upon or attributable to any:

- a. trading debt incurred by an **Insured** or
- b. guarantee given by an **Insured** for a debt;

U.S.A./Canada made or pending within; or to enforce a judgment obtained in, the United States of America, Canada, or any of their territories or possessions; or

War/Terrorism arising out of, based upon or attributable to any war (declared or otherwise), terrorism, warlike, military, terrorist or guerrilla activity, sabotage, force of arms, hostilities (declared or undeclared), rebellion, revolution, civil disorder, insurrection, usurped power, confiscation, nationalisation or destruction of or damage to property by or under the order of, any governmental, public or local authority or any other political or terrorist organisation.

Claims

Notification of Claims The **Insured** shall, as a condition precedent to the obligations of the **Insurer** under this policy, give written notice to the **Insurer** of any **Claim** first made against the **Insured** as soon as practicable, during the **Policy Period** and in any event within 30 days of any **Claim** made against any **Insured** or any circumstances occurring during the **Policy Period** which might reasonably be expected to give rise to a **Claim**. All notifications must be in writing or by facsimile, and addressed as required in the Claims Notice Item on the Schedule.

Related Claims If notice of a **Claim** against an **Insured** is given to the **Insurer** pursuant to the terms and conditions of this policy, then: (i) any subsequent **Claim** alleging, arising out of, based upon or attributable to the facts alleged in that previously noticed **Claim**; and (ii) any subsequent **Claim** alleging any **Wrongful Act** which is the same as or related to any **Wrongful Act** alleged in that previously noticed **Claim**, shall be considered made against the **Insured** and reported to the **Insurer** at the time notice was first given. Any **Claim** or **Claims** arising out of, based upon or attributable to (i) the same cause, or (ii) a single **Wrongful Act**, or (iii) a series of continuous, repeated or related **Wrongful Acts**, shall be considered a single **Claim** for the purposes of this policy.

Circumstances During the **Policy Period**, an **Insured** may become aware of circumstances which may reasonably be expected to give rise to a **Claim**. In such event, an **Insured** may report the circumstances in writing to the **Insurer**. If in doing so, the **Insured** provides: (i) the reasons for anticipating the **Claim**, and (ii) full particulars as to dates, acts and persons involved; then any **Claim** which is subsequently made against an **Insured** and reported in writing to the **Insurer** alleging, arising out of, based upon or attributable to such circumstances, or alleging any **Wrongful Act** which is the same as or related to any **Wrongful Act** alleged or described in the previously notified circumstances, shall be considered first made against the **Insured** and reported to the **Insurer** at the time the facts or circumstances were first reported, if accepted by the **Insurer**.

Claims (Continued)

<i>Defence/Settlement</i>	The Insurer does not assume any duty to defend, and the Insured shall defend and contest any Claim made against them unless the Insurer , in its sole and absolute discretion, elects in writing to take over and conduct the defence and settlement of any Claim . If the Insurer does not so elect, it shall be entitled, but not required, to participate fully in such defence and the negotiation of any settlement that involves or appears reasonably likely to involve the Insurer . The Insurer has the right at any time after notification of a Claim to make a payment to the Insured of the unpaid balance of the Limit of Liability , and upon making such payment, all obligations of the Insurer to the Insured under this policy, including, if any, those relating to defence, shall cease.
<i>Insurer's Consent</i>	As a condition precedent to cover under this policy, no Insured shall admit or assume any liability, enter into any settlement agreement, consent to any judgment, or incur any Defence Costs without the prior written consent of the Insurer . Only those settlements, judgments and Defence Costs consented to by the Insurer , and judgments resulting from Claims defended in accordance with this policy, shall be recoverable as Loss under this policy. The Insurer's consent shall not be unreasonably withheld, provided that the Insurer shall be entitled to exercise all of its rights under the policy.
<i>Insured's Consent</i>	The Insurer may make any settlement of any Claim it deems expedient with respect to any Insured , subject to such Insured's written consent. If any Insured withholds consent to such settlement, the Insurer's liability for all Loss on account of such Claim shall not exceed the amount for which the Insurer could have settled such Claim , plus Defence Costs incurred as of the date such settlement was proposed in writing by the Insurer , less coinsurance (if any) and the applicable Retention .
<i>Co-operation</i>	The Insured will at their own cost: (i) render all reasonable assistance to the Insurer and co-operate in the defence of any Claim and the assertion of indemnification and contribution rights; (ii) use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any Loss under this policy; (iii) give such information and assistance to the Insurer as the Insurer may reasonably require to enable it to investigate any Loss or determine the Insurer's liability under this policy.
<i>Allocation</i>	In the event that any Claim involves both covered matters and matters not covered under this policy, a fair and proper allocation of any cost of defence, damages, judgments and/or settlements shall be made between each Insured and the Insurer taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this policy.
<i>Fraudulent Claims</i>	If any Insured shall give any notice or claim cover for any Loss under this policy knowing such notice or claim to be false or fraudulent as regards amounts or otherwise, such Loss shall be excluded from cover under the policy, and the Insurer shall have the right, in its sole and absolute discretion, to avoid its obligations under or void this policy in its entirety, and in such case, all cover for Loss under the policy shall be forfeited and all Premium deemed fully earned and non-refundable.

Purchase and Administration

Policy Purchase

In granting cover to the **Insured**, the **Insurer** has relied upon the material statements and particulars in the proposal together with its attachments and other information supplied. These statements, attachments and information are the basis of cover and shall be considered incorporated and constituting part of this policy. If the **Insurer** becomes entitled to avoid this policy from inception or from the time of any variation in cover, the **Insurer** may at its discretion maintain this policy in full force but exclude the consequences of and any **Claim** relating to any matter which ought to have been disclosed before inception or any variation in cover.

Administration

The **Policyholder** has acted and shall act on behalf of each and every **Insured** with respect to: (1) negotiating terms and conditions of, binding and amending cover; (2) exercising rights of **Insureds**; (3) notices; (4) **Premiums**; (5) endorsements; (6) dispute resolution; and (7) payments to any **Insured**.

Limit and Retention

Limit of Liability

The total amount payable by the **Insurer** under this policy shall not exceed the **Limit of Liability**. Sub-limits of Liability, Extensions and **Defence Costs** are part of that amount and are not payable in addition to the **Limit of Liability**. The **Limit of Liability** for the period provided in the Extended Reporting Period Extension is part of, and not in addition to, the **Limit of Liability** for the **Policy Period**. The inclusion of more than one **Insured** under this policy does not operate to increase the total amount payable by the **Insurer** under this policy. The Lost Documents Extension Sublimit of Liability shall be part of and not in addition to the **Limit of Liability**.

Retention

The **Insurer** shall only pay for the amount of any **Loss** which is in excess of the **Retention**. For the avoidance of doubt, the **Retention** also applies to **Defence Costs**. The **Retention** is to be borne by the **Insured** and shall remain uninsured. A single **Retention** shall apply to **Loss** arising from all **Claims** alleging the same **Wrongful Act**. **Insurer** may, in its sole and absolute discretion, advance all or part of the **Retention**, and, in that event, such amounts shall be reimbursed to the **Insurer** by the **Insureds** forthwith.

Other Insurance/ Indemnification

Unless otherwise required by law, Cover under this policy is provided only as excess over any self-insurance or other valid and applicable insurance, unless such other insurance is written only as specific excess insurance over the **Limit of Liability**. If such other insurance is provided by the **Insurer** or any member company or affiliate of American International Group, Inc. ("AIG"), then the maximum amount payable by AIG under all such policies shall not exceed the Limit of Liability of that policy referred to above which has the highest applicable Limit of Liability. Nothing contained herein shall be construed to increase the **Limit of Liability** of this policy. To the extent that another insurance policy imposes upon an insurer a duty to defend a **Claim**, **Defence Costs** arising out of such **Claim** shall not be covered under this policy.

General Provisions

Assignment This policy and any rights under or in respect of it cannot be assigned without the prior written consent of the **Insurer**.

Cancellation

By Policyholder: This policy may be cancelled by the **Policyholder** at any time only by mailing written prior notice to the **Insurer**. In such case, if no **Claim** has been made and no circumstance has been notified prior to such cancellation; **Insurer** shall retain the customary short rate proportion (unexpired portion of **Premium** less handling charges) of the **Premium**. Otherwise, **Premium** shall not be returnable and shall be deemed fully earned at cancellation.

By Insurer: This policy may be cancelled by the **Insurer** delivering to the **Policyholder** by registered, certified, other first class mail or other reasonable delivery method, at the address of the **Policyholder** set forth in the Schedule, written notice stating when, not less than thirty (30) days thereafter, the cancellation shall be effective. Proof of mailing or delivery of such notice shall be sufficient proof of notice and this policy shall be deemed cancelled as to all **Insureds** at the date and hour specified in such notice. In such case, the **Insurer** shall be entitled to a *pro-rata* proportion of the **Premium**. Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

Arbitration

Any and all disputes or differences which may arise under, out of, in connection with or in relation to this policy, or to its existence, validity or termination, or to the determination of the amount or any amounts payable under this policy, shall be referred to a sole arbitrator to be appointed by the parties to the dispute within 30 days of any party giving notice of arbitration to the other(s).

In the event that the parties are unable to agree upon the identity of a sole arbitrator, the disputes or differences shall be referred to the decision of 3 arbitrators of whom one shall be appointed in writing by each of the parties within a period of 30 days after the failure to appoint a sole arbitrator and the third (who shall serve as Chairman) shall be appointed by the nominated arbitrators. In case either party shall refuse or fail to appoint an arbitrator within the aforesaid 30 days after receipt of notice in writing requiring an appointment, the other party shall be at liberty to appoint a sole arbitrator who shall thereafter be empowered to conduct the arbitration and determine the disputes or differences referred to him as if he had been appointed a sole arbitrator with the consent of both parties.

The parties shall share the expenses of the arbitrator or arbitral tribunal equally and such expenses, along with the reasonable costs of the parties in the arbitration, shall be awarded by the arbitrator or arbitral tribunal in favour of the successful party in the arbitration or, where no party can be said to have been wholly successful, to the party who has substantially succeeded.

The place of arbitration shall be India, the language of the arbitration shall be English, the law applicable to and in the arbitration shall be Indian law and the arbitration process will be in accordance with the provisions of the Arbitration & Conciliation Act 1996, as amended from time to time.

It is a condition precedent to any right of action or suit upon this policy that the award by such arbitrator or arbitrators shall be first obtained.

In the event that these arbitration provisions shall be held to be invalid then

**PROFESSIONAL INDEMNITY
(BROKER'S/CORPORATE AGENT/WEB AGGREGATORS/IMF)**

SECTION – V

PROSPECTUS

INSURANCE BROKER

1. The insurance policy covers to indemnify an **insurance broker** against
 - a. any error or omission or negligence on their part or on the part of their employees and directors;
 - b. any loss of money or other property in the course of their profession for which the insurance broker is legally liable in consequence of any financial or fraudulent act or omission excluding statutory liability/payments;
 - c. any loss of documents and costs and expenses incurred in replacing or restoring such documents;
 - d. dishonest or fraudulent acts or omissions by insurance brokers' employees or former employees during their tenure with the insurance broker.
2. The indemnity cover —
 - a. shall be on a yearly basis for the entire period of registration;
 - b. shall not contain any terms to the effect that payments of claims depend upon the insurance broker having first met the liability;
 - c. shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred.

Provided that an indemnity insurance cover not fully conforming to the above requirements may be permitted by the Authority in special cases for reasons to be recorded by it in writing.

3. Limit of indemnity for any one claim and in the aggregate for the year in the case of insurance brokers shall be as follows:

Category of insurance broker	Limit of indemnity
(a) Direct broker	Two times remuneration received at the end of every financial year subject to a minimum limit of rupees one crore and atleast Rs 50 crores, if twice the remuneration limit is equal to or more than Rs 50 crores
(b) Reinsurance broker	Two times remuneration received at the end of every financial year subject to a minimum limit of rupees four crore and atleast Rs 75 crores, if twice the remuneration limit is equal to or more than Rs 75 crores
(c) Composite broker	Two times remuneration received at the end of every financial year subject to a minimum limit of rupees five crore and atleast Rs 100 crores, if twice the remuneration limit is equal to or more than Rs 100 crores

4. The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the insurance broker in the business.
5. The AOA: AOY limit shall be 1:1
6. The retroactive date shall begin from the date of grant of license/ certificate of registration.

CORPORATE AGENTS

1. Every corporate agent, where the revenues from their insurance intermediation activities is more than fifty per cent of their total revenue from all the activities, shall take out and maintain at all times a professional indemnity insurance cover throughout the validity of the period of the registration granted to it by the Authority.

Provided that the Authority shall in suitable cases allow a newly registered corporate agent to produce such a policy within twelve months from the date of issue of original registration.

2. The limit of indemnity shall be two times the total annual remuneration of the corporate agent derived from their insurance intermediation activities in a year subject to a minimum of Rupees fifteen lakh and a maximum of Rupees one hundred crore.
3. The scope of cover and other terms and conditions of the Professional Indemnity Policy is specified in Schedule II of these regulations.

WEB AGRREGATORS

1. The insurance cover must indemnify an Insurance Web Aggregator against
 - a. any error or omission or negligence on their part or on the part of their employees and directors;
 - b. any loss of money or other property for which the insurance Web Aggregator is legally liable in consequence of any financial or fraudulent act or omission;
 - c. any loss of documents and costs and expenses incurred in replacing or restoring such documents;
 - d. dishonest or fraudulent acts or omissions by Insurance Web Aggregator employees or former employees.
2. The indemnity cover —
 - a. shall be on a yearly basis for the entire period of certificate of registration;
 - b. shall not contain any terms to the effect that payments of claims depend upon the Insurance Web Aggregator having first met the liability;
 - c. shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred. Provided that an indemnity insurance cover not fully conforming to the above requirements shall be permitted by the Authority in special cases for reasons to be recorded by it in writing.

3. Limit of indemnity for any one claim and in the aggregate for the year in the case of Insurance Web Aggregators shall be two times remuneration received at the end of every financial year subject to a minimum limit of rupees Twenty-five lakhs and a maximum of rupees one hundred crores.
4. The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the Insurance Web Aggregator in the business.
5. The insurance policy shall be obtained from any registered insurer in India who has agreed to — provide the Insurance Web Aggregator with an annual certificate containing the name and address, including the certificate of registration number of the Insurance Web Aggregator, the policy number, the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Authority.

INSURANCE MARKETING FIRMS

Every insurance marketing firm shall take out and maintain at all times a professional indemnity insurance cover throughout the validity of the period of the registration granted to it by the Authority.

Provided that the Authority shall in suitable cases allow a newly registered insurance marketing firm to produce

such a policy within twelve months from the date of issue of original registration and with minimum sum insured of Rs 10 lakhs.

9.2. The limit of indemnity shall be two times the total remuneration of the insurance marketing firm subject to a minimum of Rupees ten lakh. For the purpose of this sub regulation, the total remuneration includes remuneration from their insurance solicitation/procuring activities, insurance servicing activities and marketing of other financial products activities as specified in these regulations.

9.3 The scope of cover and other terms and conditions of the Professional Indemnity Policy is specified at Schedule X of these regulations.

1. The insurance cover must indemnify an insurance marketing firm against:
 - a. any error or omission or negligence on their part or on the part of their employees and directors;
 - b. any loss of money or other property for which the Insurance Marketing Firm is legally liable in consequence of any financial or fraudulent act or omission;
 - c. any loss of documents and costs and expenses incurred in replacing or restoring such documents;
 - d. dishonest or fraudulent acts or omissions by Insurance Marketing Firms' employees or former employees.
2. The indemnity cover:

- a. shall be on a yearly basis for the entire period of registration;
- b. shall not contain any terms to the effect that payments of claims depend upon the insurance marketing firm having first met the liability;
- c. shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred.

Provided that an indemnity insurance cover not fully conforming to the above requirements shall be permitted by the Authority in special cases for reasons to be recorded by it in writing.

- 3. The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the insurance marketing firm in the business.
- 4. The insurance policy shall be obtained from any registered insurer in India who has agreed to:
 - a. provide the Insurance Marketing Firm with an annual certificate containing the name and address, including the registration number of the Insurance Marketing Firm, the policy number, the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Authority;
 - b. send a duplicate certificate to the Authority at the time the certificate is issued to the Insurance Marketing Firm; and
 - c. inform the Insurance Marketing Firm immediately of any case of avoidance, non-renewal or cancellation of cover mid-term.
- 5. Every insurance marketing firm shall—
 - a. inform immediately the Authority should any cover be cancelled or voided or if any policy is not renewed;
 - b. inform immediately the insurer in writing of any claim made by or against it;
 - c. advise immediately the insurer of all circumstances or occurrences that may give rise to a claim under the policy; and
 - d. advise the Authority as soon as an insurer has notified that it intends to decline indemnity in respect of a claim under the policy.

EXCLUSIONS:

This policy shall not cover **Loss** in connection with any **Claim:**

- Antitrust* arising out of, based upon or attributable to any actual or alleged antitrust violation, restraint of trade or unfair competition;
- Bodily Injury/
Property Damage* arising out of, based upon or attributable to **Bodily Injury** or **Property Damage** unless arising from an actual or alleged failure to achieve the legally required standard of care, diligence and expertise in performing **Professional Services**;

<i>Contractual Liability/ Performance Guarantees</i>	arising out of, based upon or attributable to any: contractual liability or other obligation assumed, that goes beyond the duty to use such skill and care as is ordinarily applied to the professional services provided; guarantee or warranty; or delay in performing, failing to perform or failing to complete any Professional Services , unless such delay or failure arises from a Breach of Duty by an Insured ;
<i>Costs Assessment</i>	arising out of, based upon or attributable to any failure by any Insured or other party acting for the Insured to make an accurate pre-assessment of the cost of performing Professional Services ;
<i>Employment/ Discrimination</i>	arising out of, based upon or attributable to any: (i) actual or alleged employment related: practices, harassment or discrimination; or (ii) intentional or systemic harassment or discrimination;
<i>Insolvency</i>	arising out of, based upon or attributable to the insolvency, administration or receivership of the Insured ;
<i>Infrastructure</i>	arising out of, based upon or attributable to: a. mechanical failure; b. electrical failure, including any electrical power interruption, surge, brown out or black out; or (iii) telecommunications or satellite systems failure;
<i>Joint Ventures</i>	arising out of, based upon or attributable to work carried out by the Insured for and in the name of any association or joint venture of which an Insured forms part;
<i>Misdeeds</i>	arising out of, based upon or attributable to any act which a judge, jury or other official tribunal or panel finds, or which an Insured admits, to be a criminal, dishonest or fraudulent act; and in such event, the Insurer shall be reimbursed for all Loss paid in connection with such Claim ; provided, however, that this exclusion shall not apply to the Fraud/Dishonesty Cover.
<i>Patent/Trade Secret</i>	arising out of, based upon or attributable to the breach of licences concerning, infringement of or misappropriation of patents or Trade Secrets ;
<i>Pollution</i>	arising out of, based upon or attributable to: (i) the actual, alleged or threatened presence, discharge, dispersal, release, migration or escape of pollutants , or (ii) any direction, request or effort to: (a) test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants , or (b) respond to or assess the effects of Pollutants ;

<i>Prior Claims/Circumstance</i>	(i) made prior to or pending at the inception of this policy; or (ii) arising out of, based upon or attributable to any circumstance that, as of the inception of this policy, may reasonably have been expected by any Insured to give rise to a Claim ;
<i>Trade Debts</i>	arising out of, based upon or attributable to any: (i) trading debt incurred by an Insured or (ii) guarantee given by an Insured for a debt;
<i>U.S.A./Canada</i>	made or pending within; or to enforce a judgment obtained in, the United States of America, Canada, or any of their territories or possessions; or
<i>War/Terrorism</i>	arising out of, based upon or attributable to any war (declared or otherwise), terrorism, warlike, military, terrorist or guerrilla activity, sabotage, force of arms, hostilities (declared or undeclared), rebellion, revolution, civil disorder, insurrection, usurped power, confiscation, nationalisation or destruction of or damage to property by or under the order of, any governmental, public or local authority or any other political or terrorist organisation.

Claims

Notification of Claims The **Insured** shall, as a condition precedent to the obligations of the **Insurer** under this policy, give written notice to the **Insurer** of any **Claim** first made against the **Insured** as soon as practicable, during the **Policy Period** and in any event within 30 days of any **Claim** made against any **Insured** or any circumstances occurring during the **Policy Period** which might reasonably be expected to give rise to a **Claim**. All notifications must be in writing or by facsimile, and addressed as required in the Claims Notice Item on the Schedule.

Related Claims If notice of a **Claim** against an **Insured** is given to the **Insurer** pursuant to the terms and conditions of this policy, then: (i) any subsequent **Claim** alleging, arising out of, based upon or attributable to the facts alleged in that previously noticed **Claim**; and (ii) any subsequent **Claim** alleging any **Wrongful Act** which is the same as or related to any **Wrongful Act** alleged in that previously noticed **Claim**, shall be considered made

against the **Insured** and reported to the **Insurer** at the time notice was first given. Any **Claim** or **Claims** arising out of, based upon or attributable to (i) the same cause, or (ii) a single **Wrongful Act**, or (iii) a series of continuous, repeated or related **Wrongful Acts**, shall be considered a single **Claim** for the purposes of this policy.

Circumstances

During the **Policy Period**, an **Insured** may become aware of circumstances which may reasonably be expected to give rise to a **Claim**. In such event, an **Insured** may report the circumstances in writing to the **Insurer**. If in doing so, the **Insured** provides: (i) the reasons for anticipating the **Claim**, and (ii) full particulars as to dates, acts and persons involved; then any **Claim** which is subsequently made against an **Insured** and reported in writing to the **Insurer** alleging, arising out of, based upon or attributable to such circumstances, or alleging any **Wrongful Act** which is the same as or related to any **Wrongful Act** alleged or described in the previously notified circumstances, shall be considered first made against the **Insured** and reported to the **Insurer** at the time the facts or circumstances were first reported, if accepted by the **Insurer**.

Defence/Settlement

The **Insurer** does not assume any duty to defend, and the **Insured** shall defend and contest any **Claim** made against them unless the **Insurer**, in its sole and absolute discretion, elects in writing to take over and conduct the defence and settlement of any **Claim**. If the **Insurer** does not so elect, it shall be entitled, but not required, to participate fully in such defence and the negotiation of any settlement that involves or appears reasonably likely to involve the **Insurer**. The **Insurer** has the right at any time after notification of a **Claim** to make a payment to the **Insured** of the unpaid balance of the **Limit of Liability**, and upon making such payment, all obligations of the **Insurer** to the **Insured** under this policy, including, if any, those relating to defence, shall cease.

Insurer's Consent

As a condition precedent to cover under this policy, no **Insured** shall admit or assume any liability, enter into any settlement agreement, consent to any judgment, or incur any **Defence Costs** without the prior written consent of the **Insurer**. Only those settlements, judgments and **Defence Costs** consented to by the **Insurer**, and judgments resulting from **Claims** defended in accordance with this policy, shall be recoverable as **Loss** under this policy. The **Insurer's** consent shall not be unreasonably

withheld, provided that the **Insurer** shall be entitled to exercise all of its rights under the policy.

Insured's Consent

The **Insurer** may make any settlement of any **Claim** it deems expedient with respect to any **Insured**, subject to such **Insured's** written consent. If any **Insured** withholds consent to such settlement, the **Insurer's** liability for all **Loss** on account of such **Claim** shall not exceed the amount for which the **Insurer** could have settled such **Claim**, plus **Defence Costs** incurred as of the date such settlement was proposed in writing by the **Insurer**, less coinsurance (if any) and the applicable **Retention**.

Co-operation

The **Insured** will at their own cost: (i) render all reasonable assistance to the **Insurer** and co-operate in the defence of any **Claim** and the assertion of indemnification and contribution rights; (ii) use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any **Loss** under this policy; (iii) give such information and assistance to the **Insurer** as the **Insurer** may reasonably require to enable it to investigate any **Loss** or determine the **Insurer's** liability under this policy.

Allocation

In the event that any **Claim** involves both covered matters and matters not covered under this policy, a fair and proper allocation of any cost of defence, damages, judgments and/or settlements shall be made between each **Insured** and the **Insurer** taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this policy.

Fraudulent Claims

If any **Insured** shall give any notice or claim cover for any **Loss** under this policy knowing such notice or claim to be false or fraudulent as regards amounts or otherwise, such **Loss** shall be excluded from cover under the policy, and the **Insurer** shall have the right, in its sole and absolute discretion, to avoid its obligations under or void this policy in its entirety, and in such case, all cover for **Loss** under the policy shall be forfeited and all **Premium** deemed fully earned and non-refundable.

RATE OF PREMIUM/PREMIUM CHART

Attached to and forming part of the Policy No.- XXXX

Co-insurance Clause

1. It is hereby declared and agreed that insurers named hereunder severally agree and accept the following for the proportion set against its name:
 - 1.1. In event of any claim being admissible by the insurer towards the liability, to pay or reimburse damages, loss, defence cost or any other amount as provided for under the policy and or ;
 - 1.2. To indemnify the insured against liability at law as provided for under the policy.

2 Co-insurance Schedule:

Policy Currency- INR

Limit of Liability	[Lead Insurer Name] (Lead Insurer)	[Co-insurer Name] (co-insurer)	[Co-insurer Name] (co-insurer)
XXX	X%	X%	X%

URN Number: XXXX

3. Conditions forming part of this clause

It is hereby agreed and understood that:

- 3.1 The Insured in exercise of his option has after having understood the implications, selected the above named lead Insurer and the above named Co-insurers as in point no. 2 of this coinsurance clause
- 3.2 The duties of insured would devolve upon the authorized intermediary licensed by IRDA (referred to as authorized representative here after) where the insured appoints such authorized intermediary to transact on his behalf with the insurer/s.
- 3.3 The panel of lead & co-insurers is set out as per the market cooperation agreement. It shall be the responsibility of the lead insurer or his authorized representative licensed by IRDA to communicate the shares to all such participating co-insurers on a quarterly basis.
- 3.4 The lead Insurer shall finalize the terms and conditions applicable to the risk in the form of an underwriting slip with a unique code to be handed over to the Insured.
- 3.5 It shall be the responsibility of the lead insurer to ensure that all insurers listed in the co-insurance schedule are fully aware of the terms and conditions of this policy and shall secure their unqualified acceptance of

such terms and conditions prior to issuance of cover and inclusion of names of insurers in this co-insurance arrangement.

- 3.6 During the currency of the policy, if there are any material changes in risk or as changes in original terms and conditions such as variation in Sum Insured, changes in premium charged, extension of policy period, etc., the same shall be communicated by the insured or his authorised representative giving sufficient advance notice of 7 days to the leader as well as all other participating co-insurers listed in the co-insurance schedule under paragraph 2 above and procure confirmation thereon. The endorsement to this effect shall be executed by the lead insurer under advice to all other participating co-insurers.
- 3.7 The liability of the insurers shall in no case exceed in respect of each item of the sum expressed in the set schedule to be insured thereon or in the all, the total sum insured hereby or sums as may be substituted thereof by endorsement.
- 3.8 In the event of a claim under this policy, the insured shall give notice of its occurrence to the Lead Insurer with a copy to all the insurers as listed in clause 2 above.
- 3.9 Upon receipt of such notification of claim, all claim related activities including appointment of surveyors, etc., including but not limited to deciding the admissibility as well as quantum of the claim shall be done in accordance with the Market Cooperation Agreement and the lead insurer as well as the co-insurers shall abide by the same.
- 3.10 In the event of any claim being value of more than INR 5 Crores the lead insurer can immediately demand and the following co-insurer shall pay the cash call of their proportionate share of loss.
- 3.11 In all other cases, where the Lead Insurer pays 100% of the assessed loss, the following co-insurer/s shall remit their share of the loss to the Lead Insurers within a maximum period of 21 days from the date on which the Lead Insurer makes the demand.

Lead Insurer's declaration that the Claim and the amount there of was in accordance with terms and conditions of the Policy issued and the Market Cooperation Agreement shall be considered sufficient by the co-insurers for the purpose of remitting their share of the loss to the Lead Insurer.

- 3.12 The co-insurers forming part of this agreement shall be entitled to demand and obtain from the Lead Insurer/Intermediaries copies of all policies, endorsements or other claim related documents relevant to this co-insurance clause as laid down in the Market Cooperation Agreement.

In witness, whereof, this policy has been signed by [Insurer Name] (Lead Insurer) for itself and as authorized agents for other participating insurers named herein

Subject otherwise to the terms, exceptions, conditions and limitations of this policy.

SECTION – VI
PROFESSIONAL INDEMNITY
(BROKER’S/CORPORATE AGENT/WEB AGGREGATORS/IMF)

CLAIM FORM
(INSURANCE INTERMEDIARIES)

CLAIM No. _____

THE ISSUE OF THIS FORM IS NOT TO BE TAKEN AS AN ADMISSION OF LIABILITY

The completion and return of this form to the Company should not be delayed if any of the particulars required cannot be immediately given, they may be forwarded to the Company afterwards as soon as possible (If space found insufficient please attach separate sheet).

1.

- a. Name of Insured/Corporation :
 - b. Address :
 - c. Type of intermediary :
 - d. IRDA Registration No./Validity :
 - e. Policy Number :
 - f. Period of Policy :
 - g. Limits of Indemnity under the policy :
-

2. Particulars of Incident

- a. Date of Occurrence :
 - b. Place of Occurrence :
 - c. Date of Discovery :
 - d. Who is directly responsible for the Loss?
 - e. Details of incident:
-

3.

- a. Who has made the claim on you?
(If claim has been made in writing, attach a copy of the demand/legal notice received and of the bill, if any, submitted).
- b. Name and Address of the applicant.
- c. Occupation:
- d. Description of work you were retained to do, leading to loss:

- e. When did you perform work out of which claim has arisen?
 - f. Please provide the name of employee actually handling the work
 - g. Give full particulars of any other relevant aspect
-

4. Amount claimed as damage from you :

5.

- a. Describe your comment in response to the claim or fact or circumstance that might give rise to a claim:
 - b. What are your comments on the quantum surrounding the claim (if any)? What is your estimate of the potential monetary liability arising from this incident due to the claimant?
 - c. Details of any action taken from your end till date:
-

Give particulars of other insurance if any, in respect of the same risk. :

6. Has any claim been made upon you before this claim? If Yes, please provide details.

I/We, the above named, do hereby, to the best of my/our knowledge and belief, warrant the truth of the foregoing statements in every respect; and I/We agree that if I/We have made, or in any further declaration the Company may require in respect of the said accident shall make any false or fraudulent statement, or any suppression or concealment my/our claim shall be absolutely forfeited, and the Policy shall be null and void.

Witness:

Signature:

Date:

Insured' s Signature:

Name:

Date:

Address:

SECTION – VII

PROFESSIONAL INDEMNITY (BROKER'S/CORPORATE AGENT/WEB AGGREGATORS/IMF)

GENERAL ADMINISTRATION, PREMIUM AND CLAIMS PROCESSING CLAUSE

General Administration:

It is proposed to have market underwriting capacity of INR 150 Crores per risk. The capacity to be deployed shall be finalized by consortium of Insurers at the beginning of every financial year.

The Consortium shall contain a Lead Insurer and following coinsurers which will be declared before the start of every new financial year. Leader & coinsurers can be determined in the proportion of the capacity deployed by them.

The Lead Insurer will issue the policy as per the terms and conditions stated in this agreement.

The sharing so specified shall not be changed during the term of the policy (other than at renewal of policy).

Members of the insuring party/co-insurers shall severally agree and be liable towards the proportion of the risk as agreed and set on the policy issued by the lead insurer against name of such insurer.

Premium:

The lead Insurer shall collect final premium payable subject to rules and regulation already in force and ensure collection of premium in full before assumption of risk as prescribed under Section 64VB of the Insurance Act and the corresponding insurance rules and any other rules as may be made/are applicable from time to time.

Premiums collected by the lead insurer shall be remitted to other co-insurers as per timelines in the coinsurance agreement. Declaration of policies underwritten by the lead Insurer to other insurers shall be made on quarterly basis.

The policies are to be booked directly by the proposer and no intermediaries shall be involved.

GST

The lead Insurer shall be responsible for collection of GST applicable on the 100% premium and for the remittance of the same to the Govt. and also for submission of necessary statutory returns.

The Lead insurer shall be entitled to collect and the coinsurer/s shall be liable to pay 1% of the total premium, of their respective share of premium or as otherwise mutually

agreed to, towards administrative expenses to be incurred by the leader throughout the currency of the policy. This will be recovered at the first instance from and out of the premium earned and only the balance premium will be apportioned. It shall be the responsibility of the Lead insurer to ensure deduction of TDS/Payment of service tax on these to the tax authorities.

Claims Handling

The lead insurer shall have the authority to settle claims upto INR 1 cr. For claims over 1 Cr, the lead Insurer shall settle the claim in accordance with the process laid out as per the *market cooperation agreement*. In the event of a loss, the Insured will intimate the loss to the leader with a copy to the following co-insurers as per co-insurance clause. The lead insurer shall immediately share the details of the loss with all following Co-insurers as per the standard format prescribed in this agreement.

For claims in excess of INR 1 Crore, a committee constituting of claims personnel - one from lead Insurer and two from coinsurers shall be formed to manage and settle claims in an impartial & fair manner. If one of the Insurers on the panel are involved in the claim (i.e. insurer & broker being involved in a conflict which triggers the PI policy), the insurer shall recuse themselves from that claim and another Insurer would be nominated to join the committee. The members on the committee shall be rotated on an annual basis. However, the lead capacity provider/ Insurer shall continue to have representation on the committee at all times.

The claims committee shall appoint the surveyor and decide the admissibility of the claim and its payment and the coinsurers shall abide by the decision of the committee

- The claim amount and all claim related expenses including appointment of surveyors, investigators and other related expenses, if any, will be paid by the Lead Insurers at the first instance and recovered from the coinsurer/s in terms of this agreement. The responsibility for effecting TDS on these payments shall be upon the Lead Insurer and the necessary credit shall be obtained from the following coinsurers.
- Following payment of claim and claim related expenses by the lead Insurer on behalf of the participating Insurers, each of the Co-insurers shall remit their share of claim amount and claim related expenses to the lead Insurer within a maximum period of 21 days from the date of demand made by the Lead Insurer.
- In case of loss exceeding INR 25 lacs the Lead Insurer shall provide to the co-insurer/s supporting documents for the claim prior to reimbursing the Lead Insurer its/ their share of the claim.
- In the event, a claim amount to be paid is for more than Rs.5 Crores, the Lead Insurer can immediately demand from the following co-insurers, a cash call of their respective share of the claim amount and the Co-insurers shall pay the Lead Insurer the said amount before remittance to the Insured.

- The Lead insurer shall take all reasonable steps to recover the loss from other parties who are liable for the loss and shall be at liberty to incur necessary expenditure, which shall be recoverable by the Lead Insurer from the recovery, if any, made. In the event of expenses being in excess of recovery or no recovery, the balance payable to the coinsurers or recoverable from the coinsurers will also be apportioned proportionately amongst the coinsurers.
- In the event of a claim being repudiated, the Lead insurer shall take all steps necessary to defend any action initiated against the Insuring party and the coinsurer/s shall cooperate with Lead insurer in such action and shall be liable to share such expenses in the same proportion in which the business is shared
- No ex-gratia settlement of any claim under any policy or circumstances is to be recommended by the Committee without the written approval of all coinsurer/s. In the absence of approval by the coinsurers, such payment, if any, shall be wholly at the risk of the Lead insurer without any recourse to the coinsurers.

Claims under Dispute:

In case a claim is disputed by the insured and the dispute is referred by the insured to a judicial/quasi-judicial/regulatory body for arbitration, the claims committee shall intimate to the Co-insurer about the proceedings as and when it is commenced and concluded.

Reinsurance

All participating insurers shall take care of their own re-insurance placements.

Attached- Revised Coinsurance Clause.

Attached - **No Known or Reported Claims Declaration:**

I / We hereby certify that that there are no pending claims or actions or investigations against the company and/or against any person proposed for insurance. Further any of the directors or officers of the company, the General Counsel of the company and the risk manager of the company do not have any knowledge or information of any act, error or omission which could reasonably give rise to a claim, investigation or action under the proposed policy.

Signed :

Company Stamp :

APPENDIX 2: VIEWS OF BROKERS AND REINSURERS

The Committee held discussions with stakeholders - Brokers & Reinsurers (GIC & FRB's) to elicit their views on the contours of the Committee's proposals.

Brokers & Reinsurers were given an overview of the recommendations being made by the Committee in two areas-

- a. Standardisation of Policy to meet the regulatory requirement
- b. Market Co-operation arrangement to address the issue of conflict of Interest

IBAI had the following observations & requirements-

	Requirements / Observations from IBAI	Committee's Response
1	Coverage not available as per Regulations	A new standardised policy wording has been drafted by the committee to address this concern. The coverage will be in line with the Regulatory requirement.
2	Terms and conditions are not as per the risk perceived by the intermediaries	Regulatory requirement has been addressed which takes care of intermediaries' professional risk exposure.
3	"Show Cause Notice" issued by the Authority not covered which entails costs and expenses.	Show Cause Notice which involves cost and expenses due to non-compliance/breach of regulatory and statutory law are uninsurable. However the term "Claim" is defined broadly to include any "(i) written demand or (ii) civil or administrative proceeding that seeks damages from wrongful act.
4	The Legal costs and expenses should be with minimum or no deductible as against the court awards.	Standard policy deductible will apply to all claims including legal costs and expenses.
5	Court Attendance fees should form a part of the cover	Proposed to be covered under the new policy
6	The Professional Services definition should cover all function performed by the brokers, which is not the case in many policies.	Insurer/Underwriter will define the Professional Services covered on the face of policy schedule.
7	Insurers are reluctant to add specific coverage's (relating to loss of money, documents, dishonesty by employees) as they state that are not part of the approved product	Incorporated in the new standardized wording

8	The AOA: AOY should necessarily be 1: 1 which is not followed by certain insurers	Incorporated in the new standardized wording
9	The coverage should be from the date of grant of license /certificate of registration. (the retro date has to be specific as it is a regulatory requirement.	Incorporated in the new standardized wording
10	The Current Excess: Not more than 5% of capital employed	Incorporated in the new standardized wording
11	The policy shall indemnify all claims made during the period of the insurance regardless of the time at which event giving rise to the claim may have occurred.	Retroactive date has been offered since grant of license
12	Unintentional / breach which leads to violation Regulations/Insurance Act should be necessarily covered	Insurable risk which are unintentional and permitted by the law is taken care of in the revised policy wording
13	Rename the policy as Professional Indemnity ("Error & Omission") for Insurance Intermediaries.	The policy can be called as Professional Indemnity (Error & Omission) for Insurance Intermediaries

The Reinsurers shared their views as under-

- Conflict of interest is not seen as a major issue and it has no bearing on the risk profile or pricing or claims handling.
- In general, the PI policy for intermediaries are treaty fit (not an exclusion under treaty) and are permissible for cedants (insurers) to form part of the liability / casualty treaty. Only MNC intermediaries are excluded under direct cession due to accumulation issue.
- The Risk profiling in India is though influenced by the fact that in Indian market, it's a common practice that the same broker is representing the insured (on direct side) for placing the risk with Insurer(s) and the same broker (or grp company) is representing the insurer(s) (on RI side) for reinsurance placement. This has risk factors associated and hence the PI policy needs to adequately factor that in terms of pricing and ring-fencing issues arising out of information sharing on both stages of intermediation.

- Pricing average is usually 0.5-1% range depending on AOA/AOY limits
- Complete Proposal form, Financials of Intermediaries is usually a challenge seen in our market. If the quality of information to Insurers improves, the PI policy can also be strengthened and covers could be expanded. More often the information is not adequate and hence insurers tend to exclude/put conditions. The market is also very competitive on price and at times covers also get restricted due to lower price/cost desire.

APPENDIX 3: ANALYSIS OF CASE STUDIES PERTAINING TO CLAIMS

S.NO	Incident	Cause of Loss	Remarks
1	RI broker had sent a cash call payment to a wrong account. RI broker received an email from the reinsurer to send the money to a specific account which was different from the account in which first cash call was sent	Fraud	Repudiated
2	IDFC bank wanted to merge a subsidiary with its main policy midterm. The insurer refused this as the ICR of subsidiary policy was too high. IDFC lodged a claim on broker	Failure to effect insurance or issue of policy	Withdrawn as bank has cancelled policy with insurer and moved the both the policies to a new insurer
3	GMC policy was cancelled by insurer as TPA had given the MIS and broker had forwarded it which was erroneous. Insured lodged a claim on broker	Negligence	Documents awaited
4	Marine policy terms were not conveyed properly to insured. Claim was rejected by insurer. Insured lodged claim on broker	Failure in duty to notify insured regarding coverage	Settled with negotiation
5	Similar case in a Hudhud fire claim where broker forgot to intimate change of address of insureds good own	Failure in communication	Repudiated as negligence was on part of insured also for 5 years they did not see that address was not changed. Broker also did not pay anything to Insured who had claimed the loss amount on them
6	Broker forgot to intimate claim to insurer although insured had given the documents in time. The matter came to light when additional documents insured gave to broker	Breach of Duty	Negotiations on
7	Broker dishonestly did not have the RI protection as he had committed and Reliance claim did not have RI support. ICICI lodged a claim on broker.	Fraud	Repudiation

8	Loss of Information	Breach of Cyber security network	Data restoration cost is payable
9	Violation of NDA agreement	Breach of confidentiality	Notification Stage only
10	There was also Selling of insurance policy without Broker Mandate and Appointment of Surveyors by Intermediaries in violation to Regulation 12 ISLA 2015	Breach of Regulations	Claim repudiated
11	In 2019 information was received from an insurer alleging that 324 commercial vehicle insurance policies were erroneously booked by a broker, through their online portal, under "MISC-D" category. However as per insurer, all these vehicles were supposed to be booked under the GCV category.		
	Broker has booked these policies under MISC-D category based on the expiring policies or other supporting data available at the time of booking. This data is punched into the online portal of Insurer. The portal in question requires the user to manually select the category of vehicle instead of auto selection on the basis of vehicle description punched in. The user, thus, selected the category which was mentioned in the expiring policy/other supporting information provided to broker, leading to the gap.	As per Insurer, this error has led to a difference of ₹1.23 cr., which has been claimed against broker by insurer and Broker is like to lodge a claim under the PI policy	CONFLICT OF INTEREST as the broker had their own PI policy through that Insurer only

Case Studies

S No	Incident	Cause of Loss	Remarks
1	Web Aggregator violated regulations by entering into a partnership with non-insurance entity for offering consultation and OPD services to new customers. According to the IRDAI, this is akin to offering incentives to customers for buying policies. It also advertised about the services offered by the entity on its website. Furthermore, IRDAI also penalised the aggregator for sharing customer data with a third party,	Breach of Regulations	Financial penalty imposed by regulator with warning.
2	Another broker alleges fraud, bribery, unethical practice and corruption against broker insured.1. Choice of TPA decided by broker.2. Large number of off-roll employees are padded with kick back amount, required to fund government and client kick back.3. Funds from real estate is diverted to bribe government officials and clients.4. Client procurement employees are lavishly entertained, given gifts, roadshows are held in foreign countries with other pleasantries.	Libel/Slander	
3	Web aggregator used logo and trademark of Insurer to sell policies	Breach of Regulations	Financial penalty imposed by Court with warning.
4	Corporate agent claimed from the Insurance co and Insurance company paid huge amount towards the Infrastructure facility charges , Auditorium Charges, Car parking, Rent for Corporate Agents office and utility charges for this Office, etc., in violation of Clause 21 of the Guidelines on Licensing of Corporate Agents dated 14/7/2005 and Section 40	Breach of Regulations	
5	The corporate agent collected renewal premium at the time of issue of a three-year policy issued by the general Insurer. To fund this amount of three-year policy premium plus another three-year renewal premium, the corporate agent provided loan to the policyholders and charged interest at 12.25 / 13% p.a. in respect of some policies picked up on sample basis during inspection.	Fraud	

6	The insurance broker was paid claim consultancy fee as a percentage of claim value by claimant, which is in violation to IRDA regulations.	Breach Regulations	of
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APPENDIX 4: ORDER CONSTITUTING THE COMMITTEE

Order																	
Ref. No:IRDA/INT/ORD/MISC/103/05/2020	Date:04-05-2020																
Constitution of Committee for Standardization of Professional Indemnity Insurance Policy – Insurance Intermediaries																	
Office Order																	
Ref: IRDA/INT/ORD/MISC/103/05/2020 . Dt. 04 th May 2020																	
<u>Sub:Constitution of Committee for Standardization of Professional Indemnity Insurance Policy – Insurance Intermediaries</u>																	
<p>1. The Insurance Intermediaries engaged in solicitation and distribution of Insurance products, viz., Insurance Brokers, Insurance Web Aggregators, Corporate Agents&Insurance Marketing Firms are required to take Professional Indemnity Insurance Policies in order to get themselves indemnified from the claims lodged against them, arising out of the contingencies mentioned in the Regulations governing them. The following Regulations deal with the Professional Indemnity Insurance Policy for the Intermediaries:</p> <table border="1"> <thead> <tr> <th>SI No</th> <th>Intermediary</th> <th>Concerned Regulation</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Insurance Brokers</td> <td>Regulation 24 – Schedule II- Form S of the Insurance Regulatory and Development Authority of India (Insurance Brokers) Regulations, 2018</td> </tr> <tr> <td>2</td> <td>Corporate Agents</td> <td>Regulation 19 – Schedule II of the Insurance Regulatory and Development Authority of India (Registration of Corporate Agents) Regulations, 2015</td> </tr> <tr> <td>3</td> <td>Insurance Web Aggregators</td> <td>Regulation 18 – Schedule III- Form K of the Insurance Regulatory and Development Authority of India (Insurance Web Aggregators) Regulations, 2016</td> </tr> <tr> <td>4</td> <td>Insurance Marketing Firm</td> <td>Regulation 9 – Schedule X of the Insurance Regulatory and Development Authority of India (Registration of Insurance Marketing Firm) Regulations, 2015</td> </tr> </tbody> </table>			SI No	Intermediary	Concerned Regulation	1	Insurance Brokers	Regulation 24 – Schedule II- Form S of the Insurance Regulatory and Development Authority of India (Insurance Brokers) Regulations, 2018	2	Corporate Agents	Regulation 19 – Schedule II of the Insurance Regulatory and Development Authority of India (Registration of Corporate Agents) Regulations, 2015	3	Insurance Web Aggregators	Regulation 18 – Schedule III- Form K of the Insurance Regulatory and Development Authority of India (Insurance Web Aggregators) Regulations, 2016	4	Insurance Marketing Firm	Regulation 9 – Schedule X of the Insurance Regulatory and Development Authority of India (Registration of Insurance Marketing Firm) Regulations, 2015
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<p>2. While the above Regulations clearly stipulate the indemnity limit, coverage, excess, Retroactive date etc., the Authority, through onsite inspections and offsite monitoring has come across a number of instances where the policies taken by intermediaries do not comply with Regulatory provisions.</p>																	
<p>3. In order to examine the issues around Professional Indemnity insurance policy for Insurance Intermediaries, a committee is constituted with the following members:</p> <ol style="list-style-type: none"> i. Mrs. Yegnapiya Bharat – CGM (Non Life), IRDAI – Chairperson ii. Mr. Umesh Rathod- Chief Manager, The New India Assurance Co. Ltd. – Member iii. Ms. Kasturi Sengupta- Chief Manager, National Insurance Co. Ltd. – Member iv. Ms. Surbhi Goel - Head- Reinsurance & Liability Underwriting - HDFC ERGO General Insurance Co. Ltd. – Member v. Mr. Najim. B - Head- Financial Lines - TATAAIG General Insurance Co. Ltd. - Member vi. Mr. Sasidhar Katari, Assistant Manager, IRDAI –Convener vii. The above Committee may also include Special Invitees, as permitted by the Chairperson. 																	
<p>4. The terms of reference of the Committee are as follows:</p> <ol style="list-style-type: none"> i. To prepare a Standard Professional Indemnity policy which covers all the contingencies and conditions (Retroactivedate, Indemnity Limits, Excess etc.) mentioned in theRegulations which can be issued by all insurers. ii. Any other matter relating to the Professional Indemnity insurance policy as stipulated in the Regulations. 																	
<p>5. The Committee shall submit its report to the Chairman, IRDAI within a period of one month from the date of this order.</p>																	
<p>6. This is issued with the approval of the Competent Authority.</p>																	
<p>TL ALAMELU Member (Non Life)</p>																	