

## Response ID ANON-69MR-XEW6-R

Submitted to Consultation Paper on Professional Indemnity Insurance Fiduciary and Investment Sectors  
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### About you

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### Fiduciary and Investment Sectors

1. Survey of firms

2. Level of cover – the current requirements

3. Cap on the level of PII cover required under the Capital Adequacy Rules and the Fiduciary Rules (together “the Rules”).

Q1 [FIDUCIARY and INVESTMENT] Do you have any comments on the proposal to introduce a cap of £10,000,000 on the required minimum level of PII cover under the Capital Adequacy Rules and the Fiduciary Rules?

Q1:

We welcome the proposed cap.

4. Cover per claim

Q2 [INVESTMENT] Do you have any comments on the proposal to provide greater clarity regarding the level of aggregate and limit for each and every loss?

Q2:

5. Total revenue/ income

Q3 [FIDUCIARY] Do you have any comments on the proposal to include income received from non-regulated activities within “turnover” when calculating the level of PII cover under the Fiduciary Rules?

Q3:

The point of principle the CP makes at 5.2, that gains from proprietary trading don't translate into increased claims risk, seems also to apply here depending on the nature of the unregulated activity. Taking a simple example, if the fiduciary is subletting part of its premises or has other types of property or investment income, there is no additional risk of claims to which the PII policy needs to respond. We see the point that income from non-regulated activities could represent increased claims risk. However because the PII policy will be predicated on regulated activities which require cover, there will also be situations where the risk of additional claims on the policy is low or immaterial.

Q4 [FIDUCIARY and INVESTMENT] Do you have any comments on the proposal to exclude gains or other investment income from a licensee's proprietary investment portfolio when calculating the level of PII cover under the Capital Adequacy Rules and the Fiduciary Rules?

Q4:

Seems logical as outlined in the CP.

6. The minimum PII cover for Pol licensees

Q5 [INVESTMENT] Do you have any comments on the proposal to amend the Capital Adequacy Rules to require DT, DC or DA to hold minimum aggregate PII cover of £1,000,000 or three times turnover, whichever is greater?

Q5:

## 7. Excess and Regulatory Resources

Q6 [FIDUCIARY and INVESTMENT] Do you have any comments on the following proposals: (1) to amend rule 4.1(3) of the Fiduciary Rules from "Any excess must not exceed 3% of turnover from regulated activities." to "Any excess must not exceed 3% of turnover". (2) to deduct a PII excess when calculating "net assets" for the financial resources requirements under the Capital Adequacy Rules.

Q6:

The point at Q3 above applies equally here.

Q7 [FIDUCIARY and INVESTMENT] Are you supportive of consideration of the removal of the absolute excess minimum requirements under the PoI and Fiduciaries frameworks and accompanying review of the applicable financial resources requirements under the respective Rules?

Q7:

Yes very supportive. The absolute excess requirement can force the maximum permitted excess down to a low level, and the FRR is probably a better way to ensure that firms can bear an excess if necessary.

## 8. Dual or multiple licensees

Q8 [FIDUCIARY and INVESTMENT] Do you have any comments on the proposal to provide for a carve out for a fiduciary licensee or a PoI licensee (DT, DC or DA) which is also a bank or a licensed insurer whereby the licensee would only have to comply with the requirements issued under the banking law, IMIIL or IBL as applicable?

Q8:

This seems right in principle although it seems unlikely to have much application in practice.

## 9. Self-insurance

Q9 Do you have any comments on the proposal to no longer accept the use of self-insurance for Fiduciary licensees?

Q9:

We understand why self-insurance (excluding captive or other risk transfer) would be unacceptable unless the firm can show that it actually has the financial resources for the required level of cover.

## 10. Scope of cover

Q10 [FIDUCIARY] Do you have any comments on the additional terms and conditions proposed to the Fiduciary Rules?

Q10:

We understand the reasoning but insurers may see these as bespoke wording which comes at a cost. Insurers are likely to take different approaches to these areas, e.g. some may claim their existing wording provides these heads of cover in substance and may refuse to use this wording. We suggest firms be permitted to decide and record whether cover is equivalent to GFSC's wording, rather than having to try to force all insurers to adopt it. On point 10.2 there is also a substantive issue that we understand "defence costs in addition" is extremely rare and often unavailable. In addition please see Q13 below.

Q11 [INVESTMENT] Do you have any comments on the proposed requirements concerning scope of PII for the Investment sector?

Q11:

## 11. Notification relating to PII

Q12 [INVESTMENT] Do you have any comments on the proposal to add notification requirements relating to PII to the Capital Adequacy Rules?

Q12:

## 12. Run-off PII cover

Next steps

Q13 Do you have any other comments on the regulatory requirements concerning PII for the Investment or Fiduciary sectors?

Q13:

There is no question relating to run off but we agree with the case by case approach. More widely, we have had feedback from members about cost and availability of cover and our concern is that even if insurers do not see changes such as heads of cover at paragraph 10 as being objectionable in principle, the need to review cover and wording for Guernsey firms could trigger further reduction of capacity where insurers are not committed to the Guernsey market. In effect, changes which appear minor could still affect supply which is already creating problems.

Appendix 1 – Scope of cover

Appendix 2 – Summary of the proposals