



## **LAUW Financial Institutions**

### **Investment Managers Policy**

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## Why buy Investment Managers Insurance?

Investment Managers are faced on a daily basis with the following exposures:

### Directors & Officers

Directors & Officers of an Investment Managers face the real threat of incurring personal financial liability as a result of their actions in the work arena.

Legal actions are commonly brought against individuals by shareholders, regulatory authorities, creditors, customers and employees.

In addition under Chapter 2D of the Corporations Act a breach of an officer's duties may result in fines of up to AUD \$200,000 and the requirement to pay compensation.

### Professional Indemnity

- **Balance Sheet Protection**

If an award is made in favour of a claimant then the Professional will be required to pay **damages, compensation or costs** in accordance with the judgement of the civil court. Awards can be very large and coupled with the high litigation costs involved in defending the action can significantly impact a Company's balance sheet.

- **Defence Costs & Expenses**

Professionals are often drawn into actions where they strongly deny liability. The costs of defending these actions can be extremely costly to the company's financial health.

- **Reputation Protection**

Reputation is essential for a healthy, profitable trading environment. We commonly hear that "reputation is everything in business". Professional Indemnity Insurance can help protect that precious reputation by giving the Professional / Company the financial assistance in defending spurious actions that may be brought against them.

- **Client Requirements**

It is common in the Professional arena that clients require proof of adequate limits of Professional Indemnity Insurance purchased prior to engaging a Professional / Company.

- **Regulatory**

Government authorities such as ASIC may require minimum levels of Professional Indemnity Insurance to be purchased prior to granting them a licence.

### Crime:

A company's balance sheet is at significant risk to loss of corporate assets as a direct result of **criminal activity** such as theft, dishonesty, fraud or criminal damage. This can be either internal (employee-based) or external (non-employee based). Such perils can have potentially devastating consequences to a company's bottom line and can even threaten solvency.

Even companies claiming the best internal controls and compliance procedures face a real threat of incurring significant loss. Criminal intent can often outsmart the relevant controls and procedures; many companies have found to their detriment that you cannot be sure of the integrity of long-serving or senior employees.

Companies often use the justification that they have highly professional accountants and a statutory audit to not purchase relevant crime coverage. However, whilst auditors may act in a preventative role, their main function is to verify annual accounts. Few losses are discovered by auditors, but rather by chance very often several years later by an inquisitive staff member or following complaints by a client.

## Claims Examples

### Professional Indemnity

#### Allegations of:

- Breach of Duty
- Misleading & Deceptive Conduct under the Trade Practices Act
- Breach of Confidentiality
- Libel or Slander
- Infringement of Intellectual Property Rights
- Loss of documents that results in financial loss

### Directors & Officers

- Directors sued over allegedly misleading statements to the public as to the financial position of the company.
- Regulatory authorities investigating and prosecuting Directors over the same statements.
- Creditors and customers taking action against Directors for insolvent trading.
- Employees bring claims for wrongful termination of employment, failure to employ, discrimination, harassment, and invasion of privacy.
- Directors being sued/prosecuted for breaches by the company of OH&S legislation.
- Class action suits against Directors by disgruntled shareholders and investors.
- Directors and Officers being sued for alleged misuse of confidential or copyrighted information.
- Directors being prosecuted for breaches of the Corporations Law.

### Crime

Crime can be committed through a variety of ways including, but in no way limited to:

- Fake / fraudulent funds transfers.
- Rigging the computer system to deliver inaccurate valuation reports to clients and stealing the balance.
- Employee stealing deposits / client funds over a period and then shuffling funds between accounts to fill the gaps.
- Stolen cheques that are fraudulently changed.

## LAU Investment Managers Policy

LAU have developed a tailored policy for investment managers that is designed to deal with various financial consequences that can arise in relation to a claim. The policy is also designed to comply with ASIC's policy requirements for Responsible Entities.

## **POLICY BENEFITS**

**THE FOLLOWING IS A GUIDE ONLY, FOR FULL PARTICULARS REFERENCE MUST BE MADE TO THE CURRENT POLICY WORDING.**

- Civil liability PI insuring clause
- Company reimbursement where available
- Broad crime coverage (not limited to employee infidelity only)
- Broad definition of Director & Officers
- Broad definition of employee – extended to agent & custodian for acts and omissions arising from appointment by the Insured in relation to a fund
- Definition of Insured extended to include compliance committee members
- EPL cover for D&O's to full policy limit
- Defamation
- Fines & Penalties (D&O Section)
- ODL coverage
- Continuity of cover
- New fund cover – 60 days
- Non-imputation
- Beneficial write backs to 1v1 exclusion (ie Defence Costs)
- Insolvency Exclusion applies to PI Insuring Clause only
- Estates & legal representatives
- New subsidiaries
- Investigation costs and expenses
- Pollution defence costs
- OH&S defence costs
- Advancement of defence costs
- Defence costs extended to costs incurred from attendance or representation at or in connection with examination or proceeding
- Beneficial write-back to breach of contract exclusion
- Causally connected claims considered a single claim

## **Contact**

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