

## R. PROFESSIONAL INDEMNITY SCHEME

### Background

The Professional Indemnity Scheme (“**PIS**”) is a statutory scheme which is managed and administered by the Hong Kong Solicitors Indemnity Fund Limited (the “**Company**”). Generally speaking, the PIS provides indemnity to solicitors and employees of Hong Kong law firms in respect of civil liability incurred in connection with the practice of the law firms. All the terms and conditions of the PIS are set out in the Solicitors (Professional Indemnity) Rules (Cap. 159M) (the “**Rules**”).

The limit of indemnity provided under the PIS is set out in paragraph 2(1) of Schedule 3 to the Rules, which says:-

*“The Indemnity covers that part of the indemnified’s loss that exceeds the deductibles referred to in subparagraph (2) up to a sum not exceeding the difference between such deductibles and:-*

- (a) *for all claims first made before 1 October 2019 against persons who are entitled to be provided with Indemnity – HK\$10,000,000 in respect of any one claim;*
- (b) *for all claims first made on or after 1 October 2019 against persons who are entitled to be provided with Indemnity – HK\$20,000,000 in respect of any one claim.”*

When an amount equivalent to the above limit of indemnity (the “**Maximum Amount**”) is paid out for a claim made by an indemnified under the PIS at any point in time, the Company and Managers of the PIS (the “**Managers**”) will cease to be actively involved in the handling of the relevant civil claim made against the indemnified. This will also happen when the indemnified’s exposure under the relevant civil claim will very likely exceed the Maximum Amount and the Company decides to hand over future conduct of the claim to the indemnified’s top-up insurers. In both situations, the Company and Managers will not be privy to information regarding the future developments and conclusion of such civil claims (the “**Claims Information**”).

However, the Claims Information is necessary for the Company and Managers to ascertain the need to seek recovery (e.g. if the relevant civil claim is successfully defended with costs recovery from the claimant) and it is essential for review and future planning of the PIS (including review of its structure and its reinsurance).

### Continuous obligation to provide Claims Information

1. This Practice Direction applies to all Hong Kong law firms, solicitors and registered foreign lawyers who fall within the definition of “indemnified” under Rule 2 of the Rules and who make a claim for indemnity under the PIS for which indemnity has been confirmed by the Company (the “**Indemnified**”).
2. After the Indemnified is informed by the Company or Managers that the Maximum Amount is paid out at the time or the Company decides to hand over future conduct of the claim to the Indemnified’s top-up insurers or to the Indemnified if there is no top-up insurance (the “**Notice**”), the Indemnified must inform the Managers in writing:-
  - (a) on a quarterly basis of (i) the developments of the relevant civil claim (the “**Civil Claim**”) and (ii) the amount of defence costs and disbursements incurred, since the last report until the final conclusion of the Civil Claim; and

- (b) within 28 days after the conclusion of the Civil Claim (e.g. judgment or decision handed down by the court or settlement) or when the relevant information is available, whichever the later, of (i) the result of the Civil Claim; (ii) the total amount of damages, costs and/or disbursements paid to the claimant(s) (if any); (iii) the total amount of defence costs and disbursements incurred after the Notice; and (iv) the total amount of defence costs and disbursements recovered and paid by the claimant(s) (if any).
- 3. If an employee of a Hong Kong law firm falls within the definition of “indemnified” under Rule 2 of the Rules and has made a claim for indemnity under the PIS for which indemnity has been confirmed by the Company (the “**Employee**”), the principals of the Hong Kong law firm shall procure and ensure the Employee to comply with the obligations in paragraph 2 above as if the Employee is the Indemnified.
- 4. This Practice Direction will come into effect on 27 October 2022.